

Board of Education Regular Meeting
Monday, January 12, 2026 5:30 PM Central

Tekamah-Herman Public Schools
112 N 13th St
Tekamah, NE 68061

Chris Booth: Present

Abby Mathistad: Present

Mandyn Pruess: Present

Burt Rogers: Present

Bill Skinner: Absent

Sheryl Stansberry: Present

Present: 5, Absent: 1.

Bill Skinner: Present

Present: 6.

1. Call the meeting to order

2. Open Meetings Law

3. Roll Call

4. Consent Agenda

4.1. Approval of Minutes

4.2. Approval of General Fund Bills

4.3. Approval of Board Member Absence

5. Treasurer's report

6. Recognition of Students and Staff

7. Recognition of Visitors/Public Comment

8. ACTION ITEMS

8.1. Elect Board Officers for 2026

8.2. Set Board Committee Assignments for 2026

8.3. Select Board Representative to the Tekamah-Herman School Foundation for 2026

8.4. Approve the 2026-2027 THEA Negotiated Agreement

- 8.5. Approve the annual lease for a skid loader
- 8.6. Approve a resolution to use the Construction Manager at Risk construction method for an elementary school construction project
- 8.7. Consideration and adoption of a resolution authorizing the creation of the Tekamah-Herman Educational Facilities Leasing Corporation and authorizing the District to enter into one or more lease purchase financings with said Corporation in an aggregate principal amount of not to exceed \$3,500,000, for the purpose of leasing certain educational facilities and equipment from the Corporation
- 8.8. Discuss, consider, and take all necessary action to enter into an agreement with Carlson West Povondra Architects for professional design services for a track and field complex project
- 8.9. Discuss, consider, and take all necessary action to enter into an agreement with Carlson West Povondra Architects for professional design services for an elementary classroom addition project
- 8.10. Approve Superintendent Evaluation and Contract

9. DISCUSSION ITEMS

- 9.1. Discussion regarding THS facilities use
10. Principal Reports
 - 10.1. Elementary Principal
 - 10.2. Secondary Principal
11. Board Reports
 - 11.1. Building, Grounds, and Transportation Committee Report
12. Superintendent Report
13. Possible Executive Session: for the purpose of principal evaluations and compensation and to protect the reputation of the principals
14. Next meeting date and time: Monday, February 9th, 2026, at 5:30 pm
15. Adjournment

Board of Education Regular Meeting
Monday, December 8, 2025 5:30 PM Central

Tekamah-Herman Public Schools
112 N 13th St
Tekamah, NE 68061

Chris Booth: Absent
Abby Mathistad: Present
Mandyn Pruess: Present
Mandyn Pruess: Present
Burt Rogers: Absent
Bill Skinner: Present
Sheryl Stansberry: Present

Present: 5, Absent: 2.

Chris Booth: Present

Present: 6, Absent: 1.

1. Call the meeting to order

2. Open Meetings Law

3. Roll Call

4. Consent Agenda

The motion to approve the Consent Agenda as presented Passed with a motion by Sheryl Stansberry and a second by Abby Mathistad.

Chris Booth: Yea, Abby Mathistad: Yea, Mandyn Pruess: Yea, Mandyn Pruess: Yea, Bill Skinner: Yea, Sheryl Stansberry: Yea

4.1. Approval of Minutes

4.2. Approval of General Fund Bills

4.3. Approval of Board Member Absence

5. Treasurer's report

Mr. Kjar reviewed the October 2025 Treasurer's report with the Board.

6. Recognition of Students and Staff

Mrs. Beck recognized the November students of the month. Also recognized were Beck's special education staff as November is full of MDT, IEP and department meetings.

Mr. Heitz recognized volleyball, football, softball, choir and One-Act postseason honors.

7. Recognition of Visitors/Public Comment

There was no public comment.

8. ACTION ITEMS

8.1. Approve Susan Fowler as a substitute teacher

The motion to approve Susan Fowler as a substitute teacher Passed with a motion by Chris Booth and a second by Abby Mathistad.

Chris Booth: Yea, Abby Mathistad: Yea, Mandyn Pruess: Yea, Mandyn Pruess: Yea, Bill Skinner: Yea, Sheryl Stansberry: Yea

9. DISCUSSION ITEMS

9.1. Facilities Use Discussion

Mr. Kjar visited with the Board asking for guidance on the use of our facility. We are starting to see individuals asking to use the facility more and more. These individuals have personal gain during the use of our gyms/batting cage/auditorium. The Board asked the administration to draft up an agreement for review.

10. Principal Reports

10.1. Elementary Principal

Mrs. Beck reported enrollment is a 290 students for pre-k through 6th. Beck also reported that her and Mackenzie Kahlandt are participating in professional development for literacy instruction that includes instructional coaching. This professional learning is provided by NDE, and is part of the larger grant-funded Nebraska Literacy Project by NDE.

10.2. Secondary Principal

Mr. Heitz reported that he is continuing to develop the student leadership group. He has started working on the senior work release and work-based learning. Heitz attended the State Principals Conference. He also introduced the mid-term graduates: Byrson Anderson, Brea Babler, Miley Bergman, Sam Hart, Lindsey Hueser, Eli Jones and Jesse Vargas.

11. Board Reports

11.1. Buildings, Grounds, and Transportation Committee Report

Mr. Kjar reported that he has talked to Bob Sokup with Carlson West Povondra. Bob will be in the building on January 5th to visit with staff regarding the development of the elementary addition. The initial plan is to connect the 1955 addition (fine arts wing) to the existing 5/6th grade classrooms. The architect will be looking to hear all what the staff thinks are our greatest needs for the additional space.

11.2. Negotiations Committee

The negotiation committee is scheduled to meet on December 10th and 6:00pm.

12. Superintendent Report

Mr. Kjar reported that he is finished with Board Policy clean-up. All updated policies may be found on the school's website.

13. Next meeting date and time: Monday, January 12th, 2026 at 5:30 pm

14. Possible Executive Session: for the purpose of protecting the superintendent's reputation, evaluation, and contract. The scope of the discussion will be limited to these topics only.

The motion to go into executive session: for the purpose of protecting the superintendent's reputation, evaluation, and contract at 6:09pm Passed with a motion by Chris Booth and a second by Bill Skinner.

Chris Booth: Yea, Abby Mathistad: Yea, Mandyn Pruess: Yea, Mandyn Pruess: Yea, Bill Skinner: Yea, Sheryl Stansberry: Yea

The motion to close executive session and return to open session at 7:44pm Passed with a motion

by Chris Booth and a second by Bill Skinner.

Chris Booth: Yea, Abby Mathistad: Yea, Mandyn Pruess: Yea, Mandyn Pruess: Yea, Bill Skinner: Yea, Sheryl Stansberry: Yea

15. Adjournment

The motion to adjourn meeting at 7:46pm Passed with a motion by Bill Skinner and a second by Sheryl Stansberry.

Chris Booth: Yea, Abby Mathistad: Yea, Mandyn Pruess: Yea, Mandyn Pruess: Yea, Bill Skinner: Yea, Sheryl Stansberry: Yea

145515	12/11/2026	First National Bank	2,259.50
145516	01/12/2026	ACCESS SYSTEM LEASING	2,406.70
145517	01/12/2026	AHA ECC DISTRIBUTION	181.08
145518	01/12/2026	AJ'S SERVICE AND REPAIR	520.00
145519	01/12/2026	AMAZON CAPITAL SERVICES, INC	144.49
145520	01/12/2026	APRYL BECK	599.00
145521	01/12/2026	MANNI BELFRAGE	42.00
145522	01/12/2026	BOMGAARS SUPPLY INC	839.47
145523	01/12/2026	BRANIFF SERVICE	853.73
145524	01/12/2026	BREAKOUT INC	239.00
145525	01/12/2026	BRUMMOND DISPOSAL LLC	425.00
145526	01/12/2026	BURT COUNTY INDEPENDENT	179.08
145527	01/12/2026	CAPITAL SANITARY SUPPLY	2,185.32
145528	01/12/2026	CENTURYLINK	554.63
145529	01/12/2026	CITY OF TEKAMAH	838.00
145530	01/12/2026	CITY OF TEKAMAH	75.00
145531	01/12/2026	CITY WIDE FACILITY SOLUTIONS	11,760.00
145532	01/12/2026	CRAIG RESOURCES INC, DBA CRAIG	2,589.84
145533	01/12/2026	DIETZ MUSIC HOUSE, INC	54.00
145534	01/12/2026	ESU #2	3,000.00
145535	01/12/2026	ESU #2	85.00
145536	01/12/2026	BRI HANSEN	102.90
145537	01/12/2026	JASON HEITZ	599.00
145538	01/12/2026	J.W. Pepper & Son, Inc.	42.14
145539	01/12/2026	Jaymar Business Forms Inc.	154.65
145540	01/12/2026	BRAD KJAR	599.00
145541	01/12/2026	JARED KRAUSE	196.00
145542	01/12/2026	KSB SCHOOL LAW, PC LLO	3,423.00
145543	01/12/2026	BROOKE CHELEEN	818.00
145544	01/12/2026	HEIDI LINDBERG	84.00
145545	01/12/2026	HOLLY LOFTIS	168.00
145546	01/12/2026	MATHESON TRI-GAS, INC	250.97
145547	01/12/2026	MEMORIAL COMMUNITY HOSPITAL	350.00
145548	01/12/2026	Midwest Service Co.	1,155.22
145549	01/12/2026	NE COUNCIL SCHOOL ADMINISTRATORS	120.00
145550	01/12/2026	Nebrasaka Association of School Boards	700.00
145551	01/12/2026	NEBRASKA MACHINERY COMPANY	4,650.00
145552	01/12/2026	NEBRASKA PUBLIC POWER	6,800.00
145553	01/12/2026	NORTHEAST COMMUNITY COLLEGE	224.08
145554	01/12/2026	NORTHEAST INSTANT RAIN	330.00
145555	01/12/2026	OLSON'S PEST TECHNICIANS	160.00
145556	01/12/2026	RISE BROADBAND	240.38
145557	01/12/2026	SAVEMORE MARKET	178.85
145558	01/12/2026	SHAMBURG AUTO SUPPLY, INC	97.99
145559	01/12/2026	SPARQDATA SOLUTIONS	4,900.00
145560	01/12/2026	TEACHER SYNERGY LLC	11.20
145561	01/12/2026	Tekamah Chamber of Commerce	300.00
145562	01/12/2026	VERIZON WIRELESS	90.32
145563	01/12/2026	VESTIS	388.48
145564	01/12/2026	WALTER LYDICK	6,625.00
145565	01/12/2026	West Harrison School	8,535.25
145566	01/12/2026	WOODRIVER ENERGY LLC	3,148.95
	01/12/2026	BRIDGET ABRAHAM	180.60
	01/12/2026	VANESSA BRAND	168.00
	01/12/2026	CARRIE BRANIFF	43.12
	01/12/2026	BRIDGETTE BRAYMEN	136.50
	01/12/2026	Abra Bridges	147.00
	01/12/2026	CARI BRODERSEN	147.00
	01/12/2026	JAMIE BRUMMOND	168.38
	01/12/2026	SARAH BRUSEGAARD	149.24
	01/12/2026	WES OR LISA BURT	126.00
	01/12/2026	SABINA CAMERON	105.00
	01/12/2026	ERIC OR CLARITY DEVNEY	231.00
	01/12/2026	KENDAL DORN	39.90
	01/12/2026	ROBERT & BREANNE EVASIC	111.30
	01/12/2026	ASHLEY FISHER	126.00
	01/12/2026	DEANNA GOODWIN	189.00
	01/12/2026	JOEL HAMAN	174.30
	01/12/2026	AMANDA HANSEN	64.68
	01/12/2026	CHELSEA HANSEN	98.70
	01/12/2026	JON HANSEN	107.10
	01/12/2026	LINDSEY HANSEN	84.00
	01/12/2026	KATHY HUESER	161.70
	01/12/2026	CONNIE JARZYNKA	98.00
	01/12/2026	MACKENZIE KAHLANDT	284.20
	01/12/2026	JAMES KELLY	147.00

01/12/2026	PAIGE KNAUSS	252.00
01/12/2026	KATIE LEICHLITER	252.00
01/12/2026	TIFFANY MARQUARDT	113.40
01/12/2026	ABBY MATHISTAD	147.00
01/12/2026	LAURA MCELMURAY	77.70
01/12/2026	CARISSA OR ANDY OLIGMUELLER	29.40
01/12/2026	RYANN PAGELS	176.40
01/12/2026	JACOB OR TIFFANY PETTIT	189.00
01/12/2026	JODIE SCHUETT	138.60
01/12/2026	AARON SNOW	84.00
01/12/2026	JILL SPENNER	168.00
01/12/2026	SEAN THIEMANN	162.68
01/12/2026	MICHELLE TOBIN	195.30
01/12/2026	ASHLEY TYSON	168.00
01/12/2026	ASHLEY WIMER	54.60
01/12/2026	HAILEY WOLF	<u>266.70</u>
	Total	<u>78,777.22</u>

Depreciaton

1078	01/12/2026	RIDDELL ALL AMERICAN SPORTS	1,685.60
1079	01/12/2026	SCHUTT SPORTS LLC	<u>1,480.00</u>
	Total		3,165.60

GENERAL FUND		
Nov-25		
CASH ON HAND	\$ 2,105,310.34	
GENERAL REIMBURSEMENT FUND	\$ 26,174.83	
PAY FLEX	\$ 18,482.18	
CASH BALANCE		\$ 2,131,485.17
BURT COUNTY TAXES	\$ 25,523.52	
WASHINGTON COUNTY TAXES	\$ 7,002.24	
IDEA 6406	\$ 1,787.00	
TITLE 2A	\$ 16,318.00	
TITLE I	\$ 103,756.00	
REAP	\$ 48,470.00	
ESU2 RECEIPTS	\$ 1,041.57	
MIPS	\$ 431.16	
JOSLYN ART MUSEUM BUS REIMBURSEMENT	\$ 150.00	
INTEREST	\$ 2,379.39	
	T. REVENUE	\$ 206,858.88
		\$2,338,344.05
PAYROLL	\$ 637,990.39	
EXPENDITURES	\$ 122,967.59	
	T. EXPENDITURES	\$ 760,957.98
Ending Balance 11/30/2025		\$1,577,386.07
DEPRECIATION FUND		
Nov-25		
CASH ON HAND	\$ 193,041.42	
CASH BALANCE		\$ 193,041.42
TRANSFER		
INTEREST	\$ 370.22	\$ 370.22
	TOTAL REVENUE	\$193,411.64
EXPENDITURES		
	TOTAL EXPENDITURES	\$ -
Ending Balance 11/30/2025		\$193,411.64
EMPLOYEE BENEFIT FUND		
Nov-25		
CASH ON HAND	\$ 48,703.44	
CASH BALANCE		\$ 48,703.44
INTEREST	\$ 93.40	
NON-REVENUE RECEIPTS (REFUND)		

		\$ 93.40
	TOTAL REVENUE	\$ 48,796.84
EXPENDITURES		
	TOTAL EXPENDITURE	\$ -
ENDING BALANCE 11/30/2025		\$48,796.84
ACTIVITY FUND		
Nov-25		
CASH ON HAND	\$ 127,198.09	
CASH BALANCE		\$ 127,198.09
DEPOSITS	\$ 23,871.07	
TRANSFER IN		
INTEREST	\$ 245.20	
		\$ 24,116.27
TOTAL REVENUE		\$151,314.36
EXPENDITURES	\$ 34,620.91	
	TOTAL EXPENDITURE	\$ 34,620.91
Ending Balance 11/30/2025		\$116,693.45
LUNCH FUND		
Nov-25		
CASH ON HAND	\$ 86,683.53	
CASH BALANCE		\$ 86,683.53
DEPOSITS	\$ 10,412.70	
INTEREST	\$ 175.79	
		\$ 10,588.49
	TOTAL REVENUE	\$ 97,272.02
PAYROLL	\$ 9,809.20	
EXPENDITURES	\$ 25,716.08	
		\$ 35,525.28
Ending Balance 11/30/2025		\$61,746.74
BOND FUND		
Nov-25		
CASH ON HAND	\$ 1,131,517.87	
CASH BALANCE		\$ 1,131,517.87

BURT COUNTY TAXES	\$	1,336.67	
WASHINGTON COUNTY TAXES	\$	580.95	
INTEREST	\$	1,825.46	
			\$ 3,743.08
		TOTAL REVENUE	\$1,135,260.95
EXPENDITURES	\$	212,300.00	
		TOTAL EXPENDITURE	\$ 212,300.00
Ending Balance 11/30/2025			\$922,960.95
BUILDING FUND			
Nov-25			
CASH ON HAND	\$	2,342,736.10	
CASH BALANCE			\$ 2,342,736.10
BURT COUNTY TAXES	\$	589.22	
WASHINGTON COUNTY TAXES	\$	256.79	
INTEREST	\$	3,515.36	
			\$ 4,361.37
		TOTAL REVENUE	\$ 2,347,097.47
EXPENDITURES	\$	-	
		TOTAL EXPENDITURE	\$ -
Ending Balance 11/30/2025			\$ 2,347,097.47

Tekamah-Herman Board Meeting
Elementary Report

1/12/26

Staff and Student Recognition

- Students of the month for December were: Charlie Jackson, Oliver Krause, Sutton Hansen, Maesyn Herting, Bucky Jansen, Colt Snow, Vivian Hopp, Evalyn Spenner, Anna Larsen, Piper Welte, Kai Stierwalt, Adalynn Abraham, Anthony Belgarde, Kahla McElmuray, and Solyn Gladwin
- We have THE BEST group of substitute teachers here at Tekamah! Thank you to some of our more regular substitute teachers on the elementary side: Joan Andrew, Pam Tonjes, Jennifer Miller, Kathy Ray, Kendal Dorn, and Janelle Ray. I am so grateful for everything they do for our students and staff. We could not do it without them!

Principal's Report

- Our current enrollment is 286. There were quite a few students who moved out of the district, with one new family moving in from Blair, and an addition in preschool that was expected.
- Last month I attended a legislative preview hosted by NCSA (Nebraska Council of School Administrators) that included Governor Pillen as a speaker, along with the director of Open Sky Policy Institute. Great information was shared during the preview, and it seems likely that the 2026 legislative session may include several bills that will impact K-12 education in Nebraska.

Tekamah-Herman Board Meeting
Secondary Report

1/12/26

Staff and Student Recognition

- Tiger Pride “Get On Our Bus” award winners:
7th grade: Ivy Johnson, Layne Bromm; **8th grade:** Emily Loftis, Bryx Leichter;
Freshmen: Georgia Johnson, Cooper Kjar; **Sophomores:** Kalli Moore, Owen Larsen
Juniors: Isabella Evasic, Ryan Roche; **Seniors:** Brock Paul, Tessa Jones
- “Teacher of the Semester” Winner: Casey Harper
- NSAA Fall Activities Academic All-State:
Cross-Country: Edyn Goodwin, Sam Oligmueller, Ryan Roche; **Football:** Kaleb Kjar, Wade Lytle; **Play Production:** Simon Heitz, Brock Paul; **Softball:** Isabella Evasic, Sarina Redding; **Volleyball:** Addison Stansberry, Emily Stansberry
- Doane Honor Choir: Jager Leichter, Brock Paul, Addison Stansberry, LilyAnn Willing
- Nebraska Middle School Honor Choir: Taylor Brummond, Jersey Nathan, Mya Santiago

Principal’s Report

- Tiger Pride expectations reviewed
- Tiger Pride ticket prizes–PTO
- Ag Career and Leadership Day, Jan. 7
- MAP testing for jr. high (preparing for NSCAS tests)
- ACT testing day, March 24, 2026
- Practice-ACT test for Juniors, Feb. 4

Board Officers

January 2026

PRESIDENT: Mandyn Pruess

VICE PRESIDENT: Burt Rogers

SECRETARY/TREASURER: Heidi Lindberg (appointed)

TEKAMAH-HERMAN SCHOOLS FOUNDATION BOARD REP: Sheryl Stansberry

BOARD COMMITTEE ASSIGNMENTS

American Civics

1. Burt Rogers
2. Chris Booth
3. Sheryl Stansberry

Policy

1. Mandyn Pruess
2. Bill Skinner
3. Sheryl Stansberry

Budget/Finance

1. Bill Skinner
2. Mandyn Pruess
3. Sheryl Stansberry

Building/Grounds/Transportation

1. Burt Rogers
2. Chris Booth
3. Sheryl Stansberry

Curriculum/Instruction/Technology

1. Mandyn Pruess
2. Sheryl Stansberry
3. Abby Mathistad

Negotiations

1. Bill Skinner
2. Chris Booth
3. Abby Mathistad

Board Officers

January 2026

PRESIDENT: Mandyn Pruess

VICE PRESIDENT: Burt Rogers

SECRETARY/TREASURER: Heidi Lindberg (appointed)

TEKAMAH-HERMAN SCHOOLS FOUNDATION BOARD REP: Sheryl Stansberry

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1. Mandyn Pruess
2. Sheryl Stansberry
3. Abby Mathistad

Negotiations

1. Bill Skinner
2. Chris Booth
3. Abby Mathistad

TEKAMAH-HERMAN COMMUNITY SCHOOLS
NEGOTIATED AGREEMENT

Developed by the

Tekamah-Herman Board of Education
And the
Tekamah-Herman Education Association

2026-2027

ARTICLE I

NEGOTIATED AGREEMENT

This Agreement is made and entered into by and between the Tekamah-Herman Education Association and Tekamah-Herman Board of Education.

WHEREAS, representatives of the parties have conducted negotiations; and

WHEREAS, the parties have reached a mutually binding agreement, which has, been reduced to writing and signed by each party;

NOW, THEREFORE, the parties do hereby stipulate and agree that the following items have been agreed upon.

ARTICLE II

STRUCTURE OF SALARY SCHEDULE

- A. See Schedule A

The BA+36 column will be eliminated from the negotiated agreement starting the 2025-2026 school year. Beginning with the 2025-26 school year, new hires will not be eligible for the BA+36 column. Teachers currently on the column will be compensated on that column and movement until they leave the district (2025-2026)

- B. Base salary will be negotiated on a yearly basis. See Article X for the current base salary.

- C. The vertical steps and horizontal lanes of the schedule are shown on Schedule A attached hereto and made a part of this Agreement.

ARTICLE III

GENERAL PROVISIONS OF SALARY SCHEDULE

A. The salary of each teacher will be according to the index as indicated by educational preparation and experience.

B. Contracts will be offered with salary for the next year figured on the projected level of preparation. If a teacher plans to reach the next higher preparation column before September 1, this must be indicated in writing to the Superintendent and Negotiations Committee at the time of negotiations. Should the teacher not reach the indicated level, the salary will be adjusted accordingly September 1 to coincide with the proper column. Official transcripts of all courses completed must be on file in the school office before September 15.

C. When a teacher moves from one vertical column to the next, only one vertical step will be allowed in that year and each succeeding year.

D. A teacher must gain nine (9) hours of credit in order to advance horizontally on this schedule. Vertical advancement is based only on years of experience, allowing one step of advancement per year of employment in the Tekamah-Herman Schools.

All hours to be allowed on this schedule must be for the benefit of students in the Tekamah-Herman Schools. All hours must be in a teacher's major teaching field, directly related to his or her classroom activity, or towards an administrative degree. (2002-2003) A total of nine (9) undergraduate hours will be permitted for horizontal advancement, if hours are in their major teaching field and completed with prior approval after June 1, 1981, and after employment for one year in the Tekamah-Herman School System.

A committee composed of a principal and one teacher from each school (elementary and secondary) shall make recommendations to the Superintendent, who shall approve all hours before they can be used for advancement on this schedule. If the committee is not available, the principal may make a recommendation to the Superintendent.

E. Normal progress on the schedule shall be considered to be one step per year; horizontal progress can be more than one column.

F. Graduate hours will be counted above and after a Masters Degree (changed 2012-13)

G. The schedule and base pay are subject to annual review by the Board of Education and Negotiations Committee.

H. Teaching staff members holding administrative and supervisory certificates and fulfilling administrative duties shall be exempt from this schedule.

I. Initial Placement on Salary Schedule - All newly hired certificated teachers will be credited with all years of teaching experience and placed on the salary schedule accordingly. (Changed 2023-24)

J. Teachers that fall under the Career and Technical Education Certification, who do not have a bachelor's degree, will fall under Schedule B (see Schedule B). Any CEC certified teacher with a minimum of a bachelor's degree will be placed appropriately on Schedule A. Outside professional experience will be considered by the district, beyond actual teaching experience (vertical movement)(2025-2026)

K. The administration reserves the right to assign teachers in accordance with the recommendation set forth by the Nebraska Department of Education. (2002-2003)

L. Payroll Deductions: Subject to the law.

M. Long-term Disability: The long-term disability insurance will be eliminated as a fringe benefit. A stipend will be added to each teacher's salary concurrent with the rate of coverage for the disability insurance. Coverage will include costs of health insurance, with this cost being paid for by the individual teacher (changed 1990-91). See Article X for the current rate.

ARTICLE IV

FRINGE BENEFITS

A. Insurance

1. Hospitalization and Medical- The Board of Education will offer two options for health insurance. The employee of the district will have the choice of either option. Option 1: Blue Cross/Blue Shield of Nebraska Educators Health Alliance – PPO Blue Preferred \$1,050 deductible (changed 2019-20)
Option 2: EHA \$3,800 Deductible HSA-Eligible (Dual Choice Only) An employee choosing the \$3,800 deductible (HSA) plan will have their premiums paid at the same \$1,050 deductible premium rate and will receive the difference between the two premiums. The employer will place these funds in the employee's (HSA) account. (offered 2018-19)

All teachers hired after the 1987-88 contract year with a FTE of .5 or higher will receive benefits equal to their FTE. Teachers employed with the district in 1987-88 and before with an FTE of .5 or higher will receive full benefits (changed 1990-91).

2. Dental - The Board of Education will provide single coverage. This coverage will be provided by Blue Cross/Blue Shield of Nebraska. This coverage is the Standard Plan--PPO—100% A, 75% B, 50% C, Coverage-Option 2 (revised 2018-19) A teacher's spouse, also employed at least one-half time by the Tekamah-Herman School District will also receive

single coverage. The premium for single coverage of the spouse can be applied toward family coverage if requested (changed 1990-91).

3. Term Life Insurance - Full insurance premium of a \$20,000 term life insurance policy shall be paid by the Board of Education. The current insurer is One America.

B. Leave Policies

1. Sick Leave – At the beginning of each school year each teacher will be credited with ten (10) days of paid sick leave. Ten (10) days will be granted for every year of employment thereafter accumulating to forty-five (45) days. (Revised 21-22).

2. Teachers will be paid \$55 per day for all days above the 45-day accumulated sick leave. Revised (2018-2019)

Example: If an employee has 45 days in the bank and has 8 unused sick days at the end of the year. They will be paid out for those unused 8 sick days and be granted another 10 days of sick leave at the start of the next school/contract year: $8 \times \$55 = \440

In addition, teachers who have a minimum of 20 years of experience in the Tekamah-Herman Community Schools District, upon leaving the District, the individual's unused, accumulated sick leave will be bought back by the District at a rate of \$55 per day.

Example: A teacher who has been in the District for 20 years leaves with 45 accumulated sick days. $45 \text{ days} \times \$55 = \$2,475$. The maximum benefit a teacher could receive would be \$2,475. Revised (2018-2019)

3. If a teacher is absent for illness more than ten (10) school days, a letter from the attending physician may be requested by the school explaining that the person is unable to perform his or her task. Each 2-week period following the initial notice, a reevaluation by the doctor may be requested (changed 2012-13)

4. If a teacher fails to present a written statement from their doctor after ten (10) consecutive school days of absence, their salary will be deducted until a written statement from the doctor is received. This deduction will be per diem based on total contract days, from the 10th day until notification is received. This will be waived as long as the teacher is confined in a medical facility.

C. Borrowing of Days

(Borrowing of sick days was eliminated at the beginning of the 1996-97 contract)

D. Teacher Coverage for Other Teachers

1. If a teacher is ill for a day or two, it is felt that other teachers could go into this teacher's class when they do not have one of their own. Who takes these classes should be left to the discretion of the administration.

2. If a faculty member is ill for more than two (2) consecutive days an attempt should be made to hire a substitute teacher.

3. It is almost impossible to have teacher coverage in the elementary school (K-6). This should be held to a minimum in this area and a substitute teacher should be hired if at all possible.

4. Compensation of \$15.00 for coverage of a class will be given if it eliminates all free periods. (Revised 21-22).

E. Professional Leave

1. In-Service: The Board agrees in principle with the request of released time for improvement and coordination of various teaching activities. Therefore, the Board agrees to permit the administration to dismiss school at least once per month, provided a useful meeting can be arranged each month and agreed upon by a committee of faculty and administration. This released time will, under direction of the principal, be used to coordinate various disciplines. (Changed 2023-24)

2. In-Service: A committee composed of the two administrators (93-94) and a committee of teachers shall be responsible for planning all in-service meetings. In-service shall not be scheduled the day before Thanksgiving, Christmas, or Easter breaks. (Revised 2023-24)

3. Attendance of seminars, clinics, etc.: The decision to allow faculty members to attend the various meetings, etc. should be left with administration. (revised 2012-13)

F. Personal Leave

1. Bereavement Leave

Upon request, a faculty member shall be given permission to take time off from school without reduction of pay due to death occurring in their own or their spouse's immediate family. The immediate family is meant to include their own and spouse's, children, parents, brothers, sisters, grandparents, grandchildren, aunts, uncles, nephews and nieces. The time allowed shall be as follows without reduction in pay (revised 2012-13):

(a) For spouse, parents or children - 5 school days

(b) For brothers, sisters, grandchildren or grandparents - 3 school days

(c) For nieces, nephews, aunts or uncles - 2 school days

(d) If a teacher is required to travel over 300 miles to attend the funeral, 2 travel days will be allowed.
(revised 2018-2019)

The amount of time may be extended by the administration due to circumstances beyond the control of the people involved.

2. Family Sick Leave

Sick leave may be used for absence when the teacher is required to be with a member of the immediate family. The immediate family is meant to include their own and spouse's children, parents, brothers, sisters, grandparents, grandchildren, aunts, uncles, nephews and nieces. (revised 2018-19)

3. Personal Leave

At the beginning of each school year each teacher shall be credited with three (3) days of personal leave. Unused personal leave days may carry over to the next school year allowing a teacher up to a maximum of (6) total days personal leave per year. This leave may be granted upon submission of the written form and submitted to the teacher's principal/superintendent at least seven (7) days before taking such leave (except in emergencies) and will be contingent upon securing a substitute or staff member. A maximum of (4) consecutive days may be taken. This leave may not be taken immediately preceding or immediately following any legal or school holiday or vacation period unless approved by the administration. (2009-2010) The maximum number of personal days a teacher may have in a school year is (6). At the end of the school year, if a teacher has accumulated (6) personal days, (3) personal days will be bought back at a rate of \$55.00 a day.

Example: If a teacher has (3) days that need to be bought back: $3 \times \$55 = \165 paid to the teacher. Revised (2018-2019)

G. Other Types of Leave

Staff may access up to 1 day of sick leave per year, 8 hours of sick leave time, to attend a Tekamah-Herman Schools activity in which their child is participating. Their child must be a student at Tekamah-Herman schools.(2025-2026)

Any other type of leave that is not covered in this policy is subject to approval by the administration.

H. The school district will make available a 125 Flexible spending account beginning during the 2000-01 school year. All certified employees might participate in this program with the district paying the administrative costs.

ARTICLE V

COMPENSATION FOR EXTRA-DUTY

A. Compensation for extra duties shall be determined by the Board of Education and the THEA. See Schedule C

B. Certificated staff will provide ticket takers for all home activities. Ticket takers will be paid 10 dollars per event per person. (revised 2019-2020)

The administration shall appoint faculty members to work each event and they shall perform the appointed task or secure another certified faculty member to perform their duty and inform the office of the change. Faculty members and spouses shall be admitted free to events.

C. Faculty members employed for more than the regular school term will have their compensation determined by the Board of Education and Superintendent.

D. Sponsorship of other extracurricular activities or duties to be assigned by the administration that are fulfilled during the regular school day are not to be considered as extra duties, and therefore no additional compensation shall be awarded for such activities.

ARTICLE VI

JOB SECURITY

The procedure for dismissal is set by law. Therefore, the Board of Education must follow this procedure. However, the principal will be directed to notify teachers, in most cases by January 15, of areas of deficiency, as well as a tentative rating as to their ability and success in a classroom. Each teacher so notified should be provided definite, positive assistance to correct professional difficulties and time to incorporate the recommended changes. All evaluation of the teacher's activities should be conducted openly with the teacher's full knowledge and awareness.

If the Board releases a teacher, under the law this teacher has the right of a hearing and it will be granted if the proper procedures are followed.

ARTICLE VII

MISCELLANEOUS PROVISIONS

A. Administrative Approval of All Classroom Materials

It was a unanimous consensus that an administrative policy shall state, "all materials used in a classroom shall be approved by the administration."

B. Set Vacations

At the beginning of the school year, the administration will establish a calendar of vacations so the definite dates will be set up for Thanksgiving, Christmas, and Easter vacations.

C. The school calendar shall be set to conclude before June 1 of each school year. The only exception to this closing day will be if conditions beyond the control of the administration re: sickness or snow warrant an extension beyond June 1.

D. Employee Personnel Files

Any teacher, administrator or full time employee of Tekamah-Herman Schools shall have access to his or her personal files or may permit any other designated person access to files if permission is granted in writing. Letters of recommendation solicited by the employer are exempted from the above policy. Likewise, he or she may attach a written response regarding any item in the personal file at any time. No other person shall have access to the file except school officials or Board of Education when engaged in fulfilling their professional or legal duties.

E. Whenever a teacher is assigned to a duty, which requires the use of the teacher's personal automobile, such teacher shall be reimbursed for such use. See Article X for rate per mile.

ARTICLE VIII

GRIEVANCE PROCEDURE

The purpose of this grievance procedure is to secure, at the lowest possible level, equitable solutions to the problems, which may from time to time arise concerning the interpretation, application, or meaning of the terms and conditions of employment in this school district. An underlying principle of the grievance procedure is to ensure fair and equitable treatment to the district's employees.

I. Definition

- A. Grievance - Any claim or claims by a teacher, a group of teachers, or the Association that there has been a violation, misinterpretation, or misapplication of terms and conditions of employment, including but not limited to, the terms of this agreement. (93-94)
- B. Grievant - Teacher, group of teachers, or Association making the claim as provided in Paragraph 1.A.

C. Time Limits - All time limits herein shall consist of teacher working days except when a grievance is submitted after the end of the school year; the time limits shall consist of all weekdays Monday through Friday. The number of days indicated at each level should be considered maximum and every effort shall be made at all levels to expedite the process. Failure of any grievant to comply with the time limits contained herein shall constitute a waiver of the right to appeal to the next step. Failure of the Board or its representatives to comply with the time limits at any level shall permit the grievant to appeal the grievance to the next level.

D. Grievance Meetings or Hearings - All meetings and hearings under this procedure up to and including Step 2 shall be conducted in private and shall include only the administration's representatives, the grievant, and the grievant's designated representatives. If the grievant chooses to not have a representative assist them, the Association shall have the right to be present as provided in Section II of this procedure. All parties shall have the right to record the proceedings of any hearing or meeting at all formal levels of the grievance procedure. The grievant may request that hearings before the Board be closed.

II. Association Representation - A grievant shall have the right to have Association representatives present to represent the grievant at each level of the grievance procedure. Where a grievant chooses to not have a representative assist them, the Association, at its discretion, may have representatives present for any meetings, appeals or other proceedings relating to a grievance, which has been formally presented. Nothing herein shall be construed as limiting the right of any teacher to discuss their grievance informally with their immediate supervisor and having the grievance adjusted informally. The grievant shall be notified in writing of the issues and the settlement before any settlement becomes effective. (A courtesy copy will be given to the President of the THEA) The settlement shall not be inconsistent with the terms of the negotiated Agreement.

III. Reprisals - No reprisals of any kind shall be taken against any employee who utilizes this grievance procedure.

IV. Withdrawal of a Grievance - An employee may withdraw at any level of the procedure without fear of reprisal from any party. Where the Association feels that the issues involved should be resolved, the Association may assume the grievance at the point discontinued by the individual and proceed through the remainder of the procedure.

V. Advanced Step Filing - The grievance shall be initially filed at the level where the decision resulting in the grievance was made.

VI. Procedures - The parties believe that it is usually most desirable for an employee and their immediate supervisor to resolve problems through free and informal communications. When requested by the teacher, a representative of the Association may assist in this

resolution. However, when the grievance remains unresolved, then the grievance shall be processed as follows:

STEP 1 - The grievant shall present the grievance in writing to the employee's principal. A hearing shall be held within three (3) working days. Within two (2) days of the hearing the principal shall provide a written answer to the grievant.

STEP 2 - The grievant may appeal the decision in Step 1 within six (6) days of receipt of the answer. The superintendent shall arrange for a hearing with the grievant within five (5) days of the appeal. Each party shall have the right to call such witnesses as deemed necessary to develop the facts pertinent to the grievance. The superintendent will have four (4) days from the date of the hearing to provide the grievant and the Association a written decision.

STEP 3 - If the grievance is not resolved at step 2, the grievant may appeal the grievance in writing to the Board President if done within five (5) days. Within ten (10) days from the date the appeal is received the Board President shall schedule a hearing on the grievance before the Board of Education: The hearing shall be held not later than thirty (30) days from receipt of the appeal. Each party shall have the right to call such witnesses, as it deems necessary to develop facts pertinent to the grievance. The Board will have five (5) days from the date of the hearing to notify, in writing, the grievant and the Association of the Board's decision.

School administration or the Board of Education, through the superintendent of schools, can initiate and process grievances through the proposed grievance machinery by excluding unnecessary lower steps in the grievance procedure. The Tekamah-Herman Education Association will cooperate to attain an equitable resolution of the Board grievances.

ARTICLE IX

TOTALITY OF AGREEMENT

The parties acknowledge that this agreement represents all of the understandings and agreements arrived at through collective bargaining; and that it shall constitute the entire Agreement between the parties for the 2026-2027 school year, and until a new agreement is reached. If an agreement is not reached by the beginning of the school year being negotiated, employment will continue under the expired agreement. When a new agreement is reached, it will be retroactive to the beginning of the school year being negotiated. During the term of this Agreement, neither party shall be required to bargain collectively concerning any subject matter, whether or not it is referred to or covered by this Agreement. Nothing herein shall preclude the parties from mutually agreeing to supplement or amend any of the provisions of this Agreement. (Changed 1990-91)

ARTICLE X

Base salary for the 2026-2027 school year \$40,000.00

Income Protection rate for 2026-2027: .40 per \$100.00

Mileage rate for 2026-2027: paid at state rate

The annual employment period for bargaining unit teachers shall be 185 contract days including no more than 180 days with students in attendance (unless state requirements for student attendance are not met for the school year). (2003-2004) (revised 2012-13)

DATED this 12th day of January 2026



President
Tekamah-Herman Education Association

President
Tekamah-Herman Board of Education

Schedule A

Base Salary

	BA		BA +9		BA +18		BA +27		BA +36		MS		MS + 18		MS +27		MS/MS +36			
1	1.00	\$40,000.00	1.05	\$42,000.00	1.10	\$44,000.00	1.14	\$45,600.00	1.180	\$47,200.00	1.20	\$48,000.00	1.25	\$50,000.00	1.30	\$52,000.00	1.35	\$54,000.00	1.35	\$56,000.00
2	1.05	\$42,000.00	1.10	\$44,000.00	1.15	\$46,000.00	1.19	\$47,600.00	1.230	\$49,200.00	1.25	\$50,000.00	1.30	\$52,000.00	1.35	\$54,000.00	1.40	\$56,000.00	1.40	\$58,000.00
3	1.10	\$44,000.00	1.15	\$46,000.00	1.20	\$48,000.00	1.24	\$49,600.00	1.280	\$51,200.00	1.30	\$52,000.00	1.35	\$54,000.00	1.40	\$56,000.00	1.45	\$58,000.00	1.45	\$60,000.00
4	1.15	\$46,000.00	1.20	\$48,000.00	1.25	\$50,000.00	1.29	\$51,600.00	1.330	\$53,200.00	1.35	\$54,000.00	1.40	\$56,000.00	1.45	\$58,000.00	1.50	\$60,000.00	1.50	\$62,000.00
5	1.20	\$48,000.00	1.25	\$50,000.00	1.30	\$52,000.00	1.34	\$53,600.00	1.380	\$55,200.00	1.40	\$56,000.00	1.45	\$58,000.00	1.50	\$60,000.00	1.55	\$62,000.00	1.55	\$64,000.00
6	1.25	\$50,000.00	1.30	\$52,000.00	1.35	\$54,000.00	1.39	\$55,600.00	1.430	\$57,200.00	1.45	\$58,000.00	1.50	\$60,000.00	1.55	\$62,000.00	1.60	\$64,000.00	1.60	\$66,000.00
7	1.26	\$50,400.00	1.34	\$53,600.00	1.39	\$55,600.00	1.43	\$57,200.00	1.470	\$58,800.00	1.49	\$59,600.00	1.54	\$61,600.00	1.59	\$63,600.00	1.64	\$65,600.00	1.64	\$67,200.00
8			1.36	\$54,000.00	1.43	\$57,200.00	1.47	\$58,800.00	1.510	\$60,400.00	1.53	\$61,200.00	1.58	\$63,200.00	1.63	\$65,200.00	1.68	\$67,200.00	1.68	\$68,800.00
9			1.36	\$54,400.00	1.44	\$57,600.00	1.44	\$57,600.00	1.550	\$62,000.00	1.57	\$62,800.00	1.62	\$64,800.00	1.67	\$66,800.00	1.72	\$68,800.00	1.72	\$70,400.00
10			1.37	\$54,800.00	1.45	\$58,000.00	1.45	\$58,000.00	1.590	\$63,600.00	1.61	\$64,400.00	1.66	\$66,400.00	1.71	\$68,400.00	1.76	\$70,400.00	1.76	\$72,000.00
11			1.38	\$55,200.00	1.46	\$58,400.00	1.46	\$58,400.00	1.630	\$65,200.00	1.65	\$66,000.00	1.70	\$68,000.00	1.75	\$70,000.00	1.80	\$72,000.00	1.80	\$73,600.00
12			1.39	\$55,600.00	1.47	\$58,800.00	1.47	\$58,800.00	1.670	\$66,800.00	1.69	\$67,600.00	1.74	\$69,600.00	1.79	\$71,600.00	1.84	\$73,600.00	1.84	\$75,200.00
13					1.48	\$59,200.00	1.55	\$62,000.00	1.680	\$67,200.00	1.72	\$68,000.00	1.77	\$70,000.00	1.82	\$72,000.00	1.87	\$74,000.00	1.87	\$75,600.00
14							1.56	\$62,400.00	1.690	\$67,600.00	1.74	\$68,400.00	1.79	\$70,400.00	1.84	\$72,400.00	1.89	\$74,400.00	1.89	\$76,000.00
15									1.700	\$68,000.00	1.76	\$70,400.00	1.81	\$72,400.00	1.86	\$74,400.00	1.91	\$76,400.00	1.91	\$78,000.00
16									1.710	\$68,400.00	1.78	\$71,200.00	1.83	\$73,200.00	1.88	\$75,200.00	1.93	\$77,200.00	1.93	\$78,800.00
17									1.720	\$68,800.00	1.80	\$72,000.00	1.85	\$74,000.00	1.90	\$76,000.00	1.95	\$78,000.00	1.95	\$79,600.00
18									1.725	\$69,000.00	1.81	\$72,400.00	1.86	\$74,400.00	1.91	\$76,400.00	1.96	\$78,400.00	1.96	\$80,000.00
19									1.730	\$69,200.00	1.82	\$72,800.00	1.87	\$74,800.00	1.92	\$76,800.00	1.97	\$78,800.00	1.97	\$80,400.00
20									1.735	\$69,400.00	1.83	\$73,200.00	1.88	\$75,200.00	1.93	\$77,200.00	1.98	\$79,200.00	1.98	\$80,800.00
21									1.740	\$69,600.00	1.84	\$73,600.00	1.89	\$75,600.00	1.94	\$77,600.00	1.99	\$79,600.00	1.99	\$81,200.00
22									1.745	\$69,800.00	1.85	\$74,000.00	1.90	\$76,000.00	1.95	\$78,000.00	2.00	\$80,000.00	2.00	\$81,600.00
23									1.750	\$70,000.00	1.86	\$74,400.00	1.91	\$76,400.00	1.96	\$78,400.00	2.01	\$80,400.00	2.01	\$82,000.00
24									1.755	\$70,200.00	1.87	\$74,800.00	1.92	\$76,800.00	1.97	\$78,800.00	2.02	\$80,800.00	2.02	\$82,400.00
25									1.760	\$70,400.00	1.88	\$75,200.00	1.93	\$77,200.00	1.98	\$79,200.00	2.03	\$81,200.00	2.03	\$82,800.00
26									1.765	\$70,600.00	1.89	\$75,600.00	1.94	\$77,600.00	1.99	\$79,600.00	2.04	\$81,600.00	2.04	\$83,200.00
27									1.770	\$70,800.00	1.90	\$76,000.00	1.95	\$78,000.00	2.00	\$80,000.00	2.05	\$82,000.00	2.05	\$83,600.00
28									1.775	\$71,000.00	1.91	\$76,400.00	1.96	\$78,400.00	2.01	\$80,400.00	2.06	\$82,400.00	2.06	\$84,000.00
29									1.780	\$71,200.00	1.92	\$76,800.00	1.97	\$78,800.00	2.02	\$80,800.00	2.07	\$82,800.00	2.07	\$84,400.00
30									1.785	\$71,400.00	1.93	\$77,200.00	1.98	\$79,200.00	2.03	\$81,200.00	2.08	\$83,200.00	2.08	\$84,800.00
31									1.790	\$71,600.00	1.94	\$77,600.00	1.99	\$79,600.00	2.04	\$81,600.00	2.09	\$83,600.00	2.09	\$85,200.00
32									1.795	\$71,800.00	1.95	\$78,000.00	2.00	\$80,000.00	2.05	\$82,000.00	2.10	\$84,000.00	2.10	\$85,600.00
33									1.800	\$72,000.00	1.96	\$78,400.00	2.01	\$80,400.00	2.06	\$82,400.00	2.11	\$84,400.00	2.11	\$86,000.00
34									1.805	\$72,200.00	1.97	\$78,800.00	2.02	\$80,800.00	2.07	\$82,800.00	2.12	\$84,800.00	2.12	\$86,400.00
35									1.810	\$72,400.00	1.98	\$79,200.00	2.03	\$81,200.00	2.08	\$83,200.00	2.13	\$85,200.00	2.13	\$86,800.00
36									1.815	\$72,600.00	1.99	\$79,600.00	2.04	\$81,600.00	2.09	\$83,600.00	2.14	\$85,600.00	2.14	\$87,200.00
37									1.820	\$72,800.00	2.00	\$80,000.00	2.05	\$82,000.00	2.10	\$84,000.00	2.15	\$86,000.00	2.15	\$87,600.00
38									1.825	\$73,000.00	2.01	\$80,400.00	2.06	\$82,400.00	2.11	\$84,400.00	2.16	\$86,400.00	2.16	\$88,000.00
39									1.830	\$73,200.00	2.02	\$80,800.00	2.07	\$82,800.00	2.12	\$84,800.00	2.17	\$86,800.00	2.17	\$88,400.00
40									1.835	\$73,400.00	2.03	\$81,200.00	2.08	\$83,200.00	2.13	\$85,200.00	2.18	\$87,200.00	2.18	\$88,800.00
41									1.840	\$73,600.00	2.04	\$81,600.00	2.09	\$83,600.00	2.14	\$85,600.00	2.19	\$87,600.00	2.19	\$89,200.00
42									1.845	\$73,800.00	2.05	\$82,000.00	2.10	\$84,000.00	2.15	\$86,000.00	2.20	\$88,000.00	2.20	\$89,600.00
43									1.850	\$74,000.00	2.06	\$82,400.00	2.11	\$84,400.00	2.16	\$86,400.00	2.21	\$88,400.00	2.21	\$90,000.00
44									1.855	\$74,200.00	2.07	\$82,800.00	2.12	\$84,800.00	2.17	\$86,800.00	2.22	\$88,800.00	2.22	\$90,400.00
45									1.860	\$74,400.00	2.08	\$83,200.00	2.13	\$85,200.00	2.18	\$87,200.00	2.23	\$89,200.00	2.23	\$90,800.00

Base Salary	Schedule B		Teachers that fall under the Career and Technical Education Certification, who do not have a bachelor's degree, will fall under Schedule B. Any CEC certified teacher with a minimum of a bachelor's degree will be placed appropriately on Schedule A. Outside professional experience will be considered by the district, beyond actual teaching experience (vertical movement)(2025-2026)
\$40,000.00	1	1.00	\$40,000.00
	2	1.05	\$42,000.00
	3	1.10	\$44,000.00
	4	1.15	\$46,000.00
	5	1.20	\$48,000.00
	6	1.25	\$50,000.00
	7	1.29	\$51,600.00
	8	1.34	\$53,600.00
	9	1.38	\$55,200.00
	10	1.42	\$56,800.00
	11	1.46	\$58,400.00
	12	1.50	\$60,000.00
	13	1.53	\$61,200.00
	14	1.55	\$62,000.00
	15	1.57	\$62,800.00
	16	1.59	\$63,600.00
	17	1.61	\$64,400.00
	18	1.62	\$64,800.00
	19	1.63	\$65,200.00
	20	1.64	\$65,600.00
	21	1.65	\$66,000.00
	22	1.66	\$66,400.00
	23	1.67	\$66,800.00
	24	1.68	\$67,200.00
	25	1.69	\$67,600.00
	26	1.70	\$68,000.00
	27	1.71	\$68,400.00
	28	1.72	\$68,800.00
	29	1.73	\$69,200.00
	30	1.74	\$69,600.00



11002 SAPP BROS. DRIVE, OMAHA, NE 68138

RENTAL AGREEMENT

Agreement #

Date Out: 12/17/2025
 Est. Date In: 12/17/2026
 Delivery Date: 12/17/2025

Bill to: Customer:	Brad Kjar	Jobsite:	shop
NAME		Contact:	Brad K
ACCOUNT #	N009370	Phone:	402-374-2156
ADDRESS	112 N 13th St		
ADDRESS	Tekamha, NE 68061	Written By:	Josh Barker
		Sales Rep:	josh barker
Ordered by:		PO#:	NA

QTY DESCRIPTION	1 YEAR
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Rental Items		ID#	Ser #	
Cat	ID#	Ser #	EQN228695	5L602299 <u>\$ 4,650.00</u>
Cat Bucket ID#	Ser#	TBD		TBD

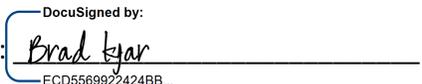
This is a 1 year 250-hour rental that will be billed one time at time of delivery for the listed amount. Customer will only receive a single bill remit to NMC

Overtime Usage

Term is one-year max allotted hours are 250. Any hours over 250 will be billed at 25.00 dollars per overage hour. HRS OUT. 10.00

1. Subject to the terms and conditions herein, Nebraska Machinery Company ("NMC") agrees to the rental of machine listed above (1) 250.00 service meter hours
2. To maintain the rental agreement, the renter agrees to the following conditions and limitations:
 - a. The Equipment must be maintained in accordance with the manufacturer's recommended maintenance schedule as per the manufacturer's manual(s) provided with the Equipment. Renter agrees to maintain adequate maintenance records, and to allow access to those records to NMC upon request.
 - b. The Equipment must be in a normal physical and operating condition. At the time of rental return, the Equipment must:
 - i. have all glass intact and without cracks;
 - ii. have no missing parts or sheet metal;
 - iii. have no significant sheet metal damage or any structural damage to frame;
 - iv. have no damage or modification done to the Rollover Protective Structure (ROPS) that voids certification;
 - v. have all machine functions in working order, including, but not limited to, power train systems, hydraulic systems, and electrical systems;
 - vi. have all hinges, doors, grills, steps, attachments, buckets, blades and grab irons in good, workable condition;
 - vii. if applicable, have 50% remaining tire wear, as determined by a generally accepted measuring device, with no cords showing from cuts to the sidewalls or tread of the tire; recaps not acceptable; all tires must be of the same size, make and configuration as originally supplied;
 - viii. if applicable, have 50% remaining undercarriage wear, as determined by a generally accepted measuring device; undercarriage must be of the same make as originally supplied;
 - ix. be returned with all attachments, accessories or upgrades originally sold with equipment;
 - c. Renter agrees not to alter or modify the Equipment in any manner without NMC's prior written consent.
 - d. All repairs to the Equipment shall be made utilizing only original manufacturer's parts.
3. The condition of the Equipment shall be determined by an inspection report completed by NMC prior to its return

Customer Name: Brad Kjar

Signature: 
Signature: Brad Kjar
ECD5569922424BB...

Title: Superintendent

Date Signed: 12/22/2025 | 3:39 PM EST

TERMS AND CONDITIONS

1. **NATURE OF AGREEMENT.** This Agreement is for the rental of the equipment described on page 1, including all parts and accessories ("Equipment"). For purposes of this Agreement, "NMC" means Nebraska Machinery Company, a Nebraska corporation, and "Customer" means the person or entity identified as such on page 1, including any representative, agent, officer or employee of Customer. To the extent not inconsistent with this Agreement, the account application submitted by Customer to NMC is made a part of this Agreement.

2. **TERM.** NMC rents the Equipment to Customer for the term (the "Term") commencing on the date the Equipment is picked up by Customer, or is delivered to Customer by NMC, and ending upon the first to occur of: (a) the date the Equipment is returned to NMC at its place of business, provided Customer has otherwise complied with this Agreement and the Equipment is in the condition required herein; or (b) the payment by Customer of the applicable Machine Buyout Price.

3. **RENTAL CHARGES.** Customer shall pay rent for the Equipment at the rate noted on page 1 of this Agreement, as well as all service charges, transportation charges, refueling charges, and other charges and sums in accordance with this Agreement, and all sales and use taxes or tax reimbursement imposed with respect to the Equipment and this Agreement. No allowance will be made for weekends, holidays, weather conditions, time in transit or any other period of time during which the Equipment is not being used. Customer shall not be entitled to abatement or reduction of rent or set-off against rent for any reason whatsoever, unless specifically agreed in writing by NMC.

4. **EXCESS USAGE CHARGE.** Rental rates are based on the normal use of the Equipment on a single shift basis. Should the Equipment be used longer, Customer shall pay the overtime rates set forth on page 1 of this Agreement.

5. **DELIVERY AND ACCEPTANCE OF EQUIPMENT.** Customer acknowledges that (a) it received the Equipment with a full fuel tank and fluid levels, (b) it has inspected the Equipment (or had the opportunity to inspect) prior to delivery, (c) the Equipment is in good condition and repair, and (d) the Equipment is fit for its intended use. If the Equipment is not already in Customer's possession, Customer's failure to notify NMC of any problems or deficiencies in writing within 24 hours of delivery constitutes Customer's acceptance and acknowledgement that the Equipment is fit for its intended use and has been received in good condition and repair.

6. **DELAYS IN DELIVERY.** NMC will use reasonable efforts to deliver the Equipment at the time requested. Customer releases and discharges NMC from any and all liabilities (including consequential and special damages) which might be caused by NMC's failure or inability to deliver any of the Equipment by any specified time or date.

7. **OWNERSHIP.** Title to the Equipment shall at all times remain with NMC and, notwithstanding any other language in this Agreement, Customer shall have no right, title or interest in the Equipment except upon purchase thereof by Customer. All accessories, parts and replacements which are added to or become attached to the Equipment shall immediately become NMC's property and be deemed part of the Equipment and subject to this Agreement. NMC has the right to file financing statements (UCC-1) for informational purposes. NMC may assign this Agreement without notice to or consent from Customer. Customer shall NOT, without NMC's prior written consent: (a) assign or transfer this Agreement or any interest hereunder; (b) sublease, transfer or dispose of the Equipment; (c) pledge, grant a lien or otherwise encumber the Equipment; or (d) surrender or part with the possession, custody or control of the Equipment. Customer must give NMC immediate notice if the Equipment is levied upon or subject to threat of seizure.

8. **USE.** Customer is familiar with the proper operation and use of the Equipment. Customer agrees to comply with all federal, state or local laws, rules or regulations ("Law") which may apply to the use of the Equipment, including without limitation, the Occupational Safety and Health Administration Act. Customer shall not allow the Equipment to be used for any illegal purpose. The Equipment shall only be used: (a) for commercial purposes in the ordinary course of Customer's business, and in a safe and careful manner; (b) in accordance with the manufacturer's operating manuals (receipt of which Customer hereby acknowledges) and within its rated capacity. The Equipment may be operated only by Customer, persons in the regular course of their employment with Customer, or those approved by NMC in writing ("Operator(s)"). All Operators must be at least 21 years old; be properly trained and qualified to operate the Equipment; and have a valid operator's license with respect to the Equipment where required by applicable Law. Customer acknowledges that NMC has not provided Customer or any Operator with any training, and that Customer is solely responsible for all Operator training and instructions. Customer agrees to use and keep the Equipment at the job site set forth on page 1 of this Agreement unless NMC approves otherwise in writing. Customer must protect the Equipment and keep it in a secure location until properly retrieved by NMC.

9. **LOSS OR DAMAGE TO EQUIPMENT.** Until returned to or retrieved by NMC, Customer holds the Equipment at all times at its sole risk and expense and all loss or damage to the Equipment from any cause whatsoever ("Casualty Loss"), whether or not due to the fault of Customer, (including, without limitation, fire, flood, theft, collision, rollover, acts or omissions of third parties, and Acts of God) is Customer's

sole responsibility. Customer and Operator assume all risk of loss or damage, and waive all claims against NMC. If there is a Casualty Loss, Customer must immediately notify NMC, the police (if a possible criminal issue) and Customer's insurance carriers. If the Equipment is damaged or NMC determines that repairs exceeding ordinary wear and tear are necessary, Customer shall pay NMC the cost of repair and pay rental on the Equipment at NMC's regular rates until all repairs are completed. The cost of repair will be either (a) NMC's then prevailing rates for labor, parts and supplies, or (b) the rates charged NMC by the repairer plus a retail mark-up. Accrued rental charges shall not be applied against the cost of repair. If the Equipment is lost, stolen, or damaged beyond repair, Customer will pay NMC the then current Machine Buyout Price along with all other amounts due hereunder.

10. **MAINTENANCE.** Customer shall, at its expense, maintain the Equipment in proper condition by: (a) performing all normal periodic and other basic maintenance including, without limitation, (i) on a daily basis checking and maintaining all hydraulic, transmission, cooling and fluid systems, tire pressure, and all battery fluid and charge levels, (ii) on a daily basis checking teeth, cutting edges and tire conditions, and (iii) repairing and replacing damaged tires as needed; and (b) using the manufacturer's lubricants, filters, grease, anti-freeze, and other parts and materials in the manner prescribed by the manufacturer. Except for the normal, periodic and basic maintenance described above, Customer shall not permit anyone to service the Equipment other than NMC. Customer shall make no alterations to the Equipment without the prior written consent of NMC.

11. **REPAIR.** Should the Equipment become unsafe, damaged, defective, or require repair, Customer must immediately stop using the Equipment and immediately notify NMC. If such condition is the result of conditions which are not responsibility of Customer hereunder nor caused by the fault or negligence of Customer or its employees or agents and Customer is not in default under this Agreement, NMC will, at its option and without any further liability or responsibility to Customer: (a) repair or replace the Equipment within a reasonable time during NMC's normal business hours, with the rental charges tolled for the period the Equipment is not usable by Customer; or (b) terminate this Agreement, recover the Equipment, and refund or credit the rental charges, if any, for the time the Equipment is not operational, less any amount due NMC for damage to or maintenance of the Equipment that is Customer's responsibility and less any other amounts due NMC. Customer shall provide full access to the Equipment to NMC.

12. **ACCESS AND INSPECTION.** NMC may at all reasonable times enter upon any job site, building or place where the Equipment is located to inspect the Equipment and, if in NMC's opinion, Customer is using the Equipment inconsistent with its capacity or design, or otherwise improperly using, maintaining, or operating the Equipment, NMC may remove the Equipment immediately without notice.

13. **REMOTE MONITORING.** In the event remote monitoring equipment is installed on the Equipment, Customer acknowledges that data concerning the Equipment, its condition, and its operation may be transmitted to the manufacturer and NMC. The information transmitted may include: serial number, Equipment location, and operational data. Customer agrees to allow this data to be accessed by the manufacturer and NMC and that Customer has no rights in any NMC or manufacturer-maintained data compilations.

14. **RETURN OF EQUIPMENT.**

A. At the end of the Term or upon NMC's demand pursuant to Section 23, Customer must return Equipment to NMC in the same condition in which it was originally rented, ordinary wear and tear excepted, fully fueled, properly cleaned, and free of hazardous materials and contaminants. If Equipment is not returned in this condition, rental charges shall continue to accrue and Customer shall pay NMC all costs and expenses incurred by NMC to bring the Equipment into the required condition. Damage which is not "ordinary wear and tear" includes, without limitation, damage due to overturning, overloading, or exceeding rated capacities, breakage, abuse or improper use; or, dirtying of the Equipment by paint, mud, plaster, concrete, rosin or any other material. If the Equipment is returned with less than full fuel, and/or in a dirty or contaminated condition, Customer will pay for refueling and cleaning the Equipment, as applicable, at NMC's then prevailing rates for such services.

B. The Equipment must be returned to the same store location it was rented from during normal business hours. Customer shall be liable for all damages to or loss of the Equipment occurring because it was not returned within NMC's normal business hours. For Equipment that is to be picked up, Customer must call NMC by 5:00 pm CST the business day prior to the date that the Equipment is ready to be picked up and obtain a "pick-up" number from NMC evidencing such call ("Pick Up Number"), which Pick Up Number Customer should keep as proof of the call. Customer will be charged rental charges for the day following the date the Pick Up Number is given or the last day of rental, whichever is later. No pickups will be made on Saturdays, Sundays or holidays. Customer is obligated to care for and protect the Equipment from loss, damage or theft until the Equipment is picked up.

15. **LATE CHARGES AND RETURNED CHECK FEES.** If Customer fails to pay any rental charge or other sum owed under this Agreement after it is due, Customer shall pay a late charge on the delinquent payment of 1.5% per month or the maximum

permitted by Law, whichever is less. Customer may also be charged a returned check fee of \$35.00 for any check returned unpaid.

16. RENTAL EQUIPMENT PROTECTION. Rental Equipment Protection ("REP") is NOT insurance. If Customer accepts the REP by initialing the "Accept" box on page 1 of this Agreement and provided Customer uses the Equipment in accordance with this Agreement, gives NMC immediate notice of any loss or damage to the Equipment, and pays the charges for the REP when due, NMC will waive, subject to the exclusions set forth below, Customer's responsibility for loss or damage to the Equipment, less the deductible per occurrence. For Equipment with a replacement value of \$25,000 or above, the deductible is \$2,500 per item of Equipment; for Equipment with a replacement value of less than \$25,000, the deductible is \$1,000 per item of Equipment. NMC RESERVES THE RIGHT TO DENY REP TO CUSTOMER. Customer agrees to pay for the REP until appropriate evidence of insurance is received by NMC. Notwithstanding the foregoing, THE FOLLOWING CONDITIONS ARE NOT COVERED BY THE REP and Customer will remain liable for all damage or loss to the Equipment, and all of NMC's expenses, resulting from: (a) intentional abuse, improper use, or negligent use; (b) failure to secure during transportation, or improper loading or unloading of the Equipment; (c) overturning, or striking overhead objects with the Equipment; (d) vandalism, theft or malicious mischief that is not reported to the law enforcement authorities; (e) electric current, or exposure to contaminated or other hazardous materials; (f) overloading or exceeding the rated capacity of Equipment; (g) use by unqualified operator; (h) use of the Equipment in violation of any Law; (i) failure to perform the maintenance as provided in Section 10 above; (j) failure to properly secure or restrict access to the Equipment, including leaving the keys readily available to an unauthorized or unqualified operator; or (k) failure to comply with any other provision of this Agreement. Customer will also remain responsible for all damage to tires, tubes and wheels sustained in the use of the Equipment. If REP charges are unpaid, the REP will not be in effect, regardless of whether the "Accept" box is initialed, and Customer shall remain liable for all loss and damage to the Equipment.

17. INSURANCE. At all times during this Agreement, Customer shall maintain, at its own expense, the following minimum insurance coverage: (a) general liability insurance of not less than \$1,000,000 per occurrence, including coverage for Customer's contractual liabilities herein such as the release and indemnification clause contained in Section 18; (b) property insurance against loss by all risks to the Equipment, in an amount not less than full replacement value of the Equipment, unless REP is elected and paid for; (c) automobile liability insurance (including comprehensive and collision coverage, a non-owned vehicle endorsement and uninsured/underinsured motorist coverage) of not less than \$1,000,000 per occurrence, if the Equipment is to be used on any roadway. Such policies shall be primary, non-contributory, on an occurrence basis, contain a waiver of subrogation, name NMC as an additional insured (including an additional insured endorsement) and loss payee, and provide for NMC to receive at least 30 days prior written notice of any cancellation or material change. Customer shall provide NMC with certificates of insurance evidencing the coverages required above prior to any rental and any time upon NMC's request. To the extent NMC carries any insurance, NMC's insurance will be considered excess insurance. The insurance coverage provided for above will not act to limit Customer's liability under this Agreement.

18. RELEASE AND INDEMNITY. Customer RELEASES AND DISCHARGES and agrees to INDEMNIFY, DEFEND AND HOLD HARMLESS NMC, its affiliates, and each of their officers, employees and other agents, from and against all liabilities, obligations, losses, damages, penalties, injuries, claims, actions, suits, demands, costs and expenses of whatever kind and nature, relating to, or arising out of (a) the selection, manufacture, condition, dismantling, erection, maintenance, operation, possession, servicing, transportation, or use of the Equipment regardless of where, how and by whom operated including, without limitation, claims as a result of latent, patent or other defects, whether or not discoverable by Customer or NMC and torts of any kind, including, without limitation, claims for injury or damage to property, or injury or death to any person, or (b) Customer's breach of this Agreement, whether or not caused in part by the active or passive negligence or other fault of any party indemnified herein and any of the foregoing arising or imposed in accordance with the doctrine of strict or absolute liability. Customer will at all times protect and defend, at its expense, NMC's title to the Equipment and keep the Equipment free and clear of all claims, liens and encumbrances. NMC shall have the right to select its own counsel, at Customer's expense, to defend NMC against any claims relating to this Agreement or the Equipment.

19. WARRANTY DISCLAIMER. NMC IS NOT THE MANUFACTURER OF THE EQUIPMENT AND NMC MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NMC MAKES NO WARRANTY OF SUITABILITY, MERCHANTABILITY, FITNESS, FUNCTION, DESIGN, CAPACITY, OR FREEDOM FROM DEFECTS (LATENT OR PATENT). THE EQUIPMENT IS RENTED TO CUSTOMER "AS IS" AND ALL RISK, AS BETWEEN CUSTOMER AND NMC, SHALL BE BORNE BY CUSTOMER AT ITS EXPENSE.

20. LIMITATION OF LIABILITY. NMC's maximum liability under or in connection with this Agreement shall be limited to the rental charges actually paid by Customer hereunder. IN NO EVENT SHALL NMC BE RESPONSIBLE TO CUSTOMER OR ANY OTHER PARTY FOR ANY LOSS OR DAMAGE (INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL AND CONSEQUENTIAL DAMAGES) CAUSED BY, RESULTING FROM OR IN ANY WAY CONNECTED WITH THE EQUIPMENT, ITS OPERATION OR ITS USE, NMC'S LATE DELIVERY, OR NMC'S FAILURE TO REPAIR OR REPLACE NON-WORKING EQUIPMENT.

21. FINANCIAL INFORMATION. Customer shall deliver to NMC, promptly upon request, written statements, schedules or reports, in the form and containing such information and accompanied by such documents satisfactory to NMC from time to time concerning the Equipment, or Customer's financial condition or business operations including, without limitation, copies of federal, state and local tax returns.

22. DEFAULT. Customer is in default if: (a) Customer fails to pay any rental charges when due; (b) Customer fails to comply, observe or perform any term or condition of this Agreement or of any other agreement with NMC; (c) Customer or any guarantor provide any incorrect or misleading information to NMC; (d) the Equipment, in NMC's opinion, is being damaged in excess of ordinary wear and tear due to improper use or failure to properly maintain the Equipment; (e) Customer or any guarantor of this Agreement ceases doing business as a going concern, makes an assignment for the benefit of creditors, or becomes insolvent; (f) there is filed by or against Customer or any guarantor a proceeding in bankruptcy, or of reorganization, receivership, insolvency, liquidation, dissolution or similar relief; (g) a trustee, receiver, or liquidator is appointed for Customer or any guarantor of this Agreement, or of all or any substantial part of their assets or properties; (h) Customer attempts to remove, sell, transfer, encumber, part with possession or sublet the Equipment; (i) there is a levy, attachment or seizure of the Equipment, or any loss, theft, substantial damage, or destruction of the Equipment, or any material impairment of its value, other than ordinary wear and tear; (j) NMC determines, in its sole discretion, that any material adverse change has occurred in Customer's financial condition; or (k) any individual guarantor dies.

23. REMEDIES. If a default occurs, NMC has the right to exercise any one or more of the following remedies: (a) terminate this Agreement and all of Customer's rights under this Agreement with respect to the Equipment and/or terminate any line of credit agreement (but nothing herein implies such an agreement exists); (b) demand that Customer return the Equipment; (c) retake possession of the Equipment, with or without demand or notice to Customer and as permitted by applicable Law; (d) enter the premises where the Equipment is located, as permitted by applicable Law, and render it inoperable or remove it; (e) take legal action to recover possession of the Equipment; or (f) to exercise any of its other rights and remedies pursuant to this Agreement or by applicable Law. If NMC retains an attorney to represent it and enforce its rights and remedies under this Agreement or applicable Law or to appear in, evaluate or monitor any bankruptcy, receivership or assignment for benefit of creditors litigation (whether or not a default has occurred), NMC is entitled to recover from Customer attorney's fees or other professional fees incurred by NMC.

24. NOTICES. All notices hereunder shall be in writing and shall be deemed duly given if delivered personally or mailed, by first class or certified mail, return receipt requested, to the respective addresses of the parties set forth on page 1 of this Agreement or any other address designated by notice.

25. ENTIRE AGREEMENT. This Agreement contains the entire agreement and supersedes all prior understandings, representations or agreements between the parties, whether written or oral. No amendment or modification of this Agreement is effective unless it is in writing and signed by both parties. Time is of the essence of Customer's obligations this Agreement. A photo or fax copy of this Agreement is as valid as the original.

26. NON-WAIVER. No course of conduct or dealing and no delay or failure by NMC in exercising any right or remedy under this Agreement or applicable Law shall operate to amend, modify or waive any provision of this Agreement.

27. SEVERABILITY. The provisions of this Agreement are severable, if any provision of this Agreement is held invalid, illegal or unenforceable in whole or in part, the provision shall be ineffective only to the extent that it is invalid, illegal, or unenforceable without affecting or impairing the remaining provisions.

28. GOVERNING LAW/JURY TRIAL WAIVER. This Agreement in all respects shall be governed by and construed in accordance with the laws of the State of Nebraska and any litigation under this Agreement shall be commenced in an appropriate state or federal court in Douglas County, Nebraska. Customer waives any and all objections to lack of jurisdiction or venue of any such court. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF THIS AGREEMENT OR RELATING TO ANY DOCUMENT OR TRANSACTION TO WHICH NMC AND CUSTOMER ARE A PARTY.

29. SURVIVAL. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement, including, without limitation, all provisions with respect to limitation on liabilities, indemnification and governing law, shall survive any termination or expiration of this Agreement and continue in full force and effect.

30. EQUIPMENT PURCHASE OPTION. NMC is and shall remain owner of the Equipment, and no sale is intended or effective until Customer delivers to NMC full payment of the Machine Buyout Price. The sale of Equipment pursuant to the purchase option will be governed by the terms and conditions of NMC's purchase order in effect at the time of the transaction, unless agreed otherwise in writing by both parties. The Equipment will be sold "As Is, Where Is" with no warranties express or implied. NMC will transfer the remaining portion of the manufacturer's warranty, if any. NMC and Customer agree that the Machine Buyout Price at the time of purchase is equal to the current market value of the Equipment. If the Equipment is purchased, notice is hereby given that NMC has assigned to NMC Exchange LLC its rights to sell the Equipment.

31. USURY. In the event and to the extent that Monthly Carrying Charges are deemed interest, it is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary in this Agreement, in no event shall this Agreement require, the payment or permit the collection of interest or any amount in the nature of interest or fees in excess of the maximum amount permitted by applicable law. Any such excess interest or fees shall be refunded to Customer. In determining whether the interest paid or payable exceeds the highest lawful rate, the total amount of interest shall be spread through the purchase option term so that the interest is uniform through such term.

32. ENVIRONMENTAL FEE. To help defray waste disposal and other environmental related costs, NMC charges an environmental fee in connection with rentals. This fee is not a tax or governmentally mandated charge. It is not designated for any particular use or placed in an escrow account. Rather, it is a fee that NMC collects as revenue and uses at its discretion.

[End of Terms and Conditions]

Certificate Of Completion

Envelope Id: 888A0D5B-38AF-4315-ADF4-C189A3F9465A

Status: Completed

Subject: NMC Request: Please sign the GOV Rental Contract

Source Envelope:

Document Pages: 5

Signatures: 1

Envelope Originator:

Certificate Pages: 5

Initials: 0

Josh Barker

AutoNav: Enabled

11002 Sapp Bros Dr

Envelopeld Stamping: Enabled

Omaha, NE 68138

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

joshuabarker@nmccat.com

IP Address: 64.253.160.242

Record Tracking

Status: Original

Holder: Josh Barker

Location: DocuSign

12/16/2025 2:11:58 PM

joshuabarker@nmccat.com

Signer Events

josh barker

jbarker@nmccat.com

Security Level: Email, Account Authentication
(None)

Signature

Completed

Using IP Address: 64.253.160.242

Timestamp

Sent: 12/16/2025 2:12:31 PM

Viewed: 12/16/2025 2:13:51 PM

Signed: 12/16/2025 2:16:51 PM

Electronic Record and Signature Disclosure:

Accepted: 12/16/2025 2:13:51 PM

ID: 6e5d3a34-14f5-4451-af48-c9a2ecbb644e

Brad Kjar

bkjar@thtigers.org

Superintendent

Security Level: Email, Account Authentication
(None)

DocuSigned by:

ECDS5569922424BB...

Signature Adoption: Pre-selected Style

Using IP Address: 205.202.37.162

Sent: 12/16/2025 2:16:52 PM

Resent: 12/22/2025 9:06:52 AM

Viewed: 12/22/2025 9:16:20 AM

Signed: 12/22/2025 12:39:30 PM

Electronic Record and Signature Disclosure:

Accepted: 12/22/2025 9:16:20 AM

ID: c12bf3a8-1296-4726-a788-c202818cf0d5

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent

Hashed/Encrypted

12/16/2025 2:12:31 PM

Certified Delivered

Security Checked

12/22/2025 9:16:20 AM

Signing Complete

Security Checked

12/22/2025 12:39:30 PM

Completed

Security Checked

12/22/2025 12:39:30 PM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, NMC Group, Inc. (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact NMC Group, Inc.:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: CustomerService@nmc-corp.com

To advise NMC Group, Inc. of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at CustomerService@nmc-corp.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from NMC Group, Inc.

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to CustomerService@nmc-corp.com and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with NMC Group, Inc.

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to CustomerService@nmc-corp.com and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify NMC Group, Inc. as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by NMC Group, Inc. during the course of your relationship with NMC Group, Inc..

**RESOLUTION OF THE BOARD OF EDUCATION TO SELECT THE
CONSTRUCTION MANAGER AT RISK CONTRACT DELIVERY SYSTEM**

WHEREAS, the Board of Education (“Board”) for **Burt County School District 11-0001**, commonly known as **Tekamah-Herman Schools** (the “School District”) believes it is in the School District’s best interest to use the construction manager at risk contract delivery system under the *Nebraska Political Subdivisions Construction Alternatives Act*, NEB. REV. STAT. §§ 13-2901 to 13-2914 (the “Act”) to complete a School Facilities Improvement Project, that is likely to include but not necessarily limited to a combination of renovation, remodeling, addition, and/or new construction that may result in, but not necessarily limited to, additional classrooms, administrative offices, special education, vocal music space, career and technical education facilities, storage, commons space, supporting facilities, and/or related infrastructure and improvements (the “Project”) (the “Project”); and

WHEREAS, the Board will adopt Policy 3042 on “Construction Management at Risk Contracts.”

NOW, BE IT THEREFORE RESOLVED that the Board assigns the following percentage of total points for evaluation of proposals:

Criteria	Weight
Financial resources of the construction manager to complete the project (maximum of 10%)	10%
Ability of the proposed personnel of the construction manager to perform (maximum of 30%)	15%
Character, integrity, reputation, judgment, experience, and efficiency of the construction manager (maximum of 30%)	15%
Quality of performance on previous projects (maximum of 30%)	20%
Ability of the construction manager to perform within the time specified (maximum of 30%)	10%
Previous and existing compliance of the construction manager with laws relating to the contract (maximum of 10%)	10%
Such other information as may be secured having a bearing on the selection (maximum of 20%)	20%
Total (must equal 100%)	100%

BE IT FURTHER RESOLVED that the Board hereby selects the construction manager at risk contract delivery system to complete the Project.

BE IT FURTHER RESOLVED that the Board directs the School District’s administration to prepare a request for proposals and publish notice of the

same in a newspaper of general circulation within the School District and file it with the Nebraska Department of Education.

BE IT FURTHER RESOLVED that the Board hereby authorizes, empowers, and directs the School District's administration to take all actions necessary to comply with the terms of the Act in proceeding with the construction manager at risk contract delivery system.

BE IT FURTHER RESOLVED that the following individuals are designated as members of the Construction Manager at Risk Selection Committee:

- (1) Member(s) of the school board: Sheryl Stansberry, Burt Rogers, and Chris Booth.
- (2) Member(s) of the school administration or staff: Brad Kjar.
- (3) The school's architect or engineer: Bob Soukup.
- (4) Individual(s) having special expertise relevant to selection of a construction manager under the Act: Luke Wakehouse
- (5) A resident of the school district other than an individual included in subdivisions (1) through (4): Kevin Brenneis

BE IT FURTHER RESOLVED that all proposals received in response to the request for proposals are hereby referred to the Construction Manager at Risk Selection Committee.

Dated: _____, 2026.

President of the Board of Education

ATTEST:

Secretary of the Board of Education

ACKNOWLEDGMENT OF RECEIPT
OF NOTICE OF MEETING

The undersigned members of the Board of Education of Burt County School District 0001 (Tekamah-Herman Community Schools) in the State of Nebraska hereby acknowledge receipt of advance notice of a meeting of said body, and the agenda for such meeting, held at _____ p.m. on Monday, January 12, 2026, in the Board Room of the District's school building located at 112 North 13th Street, in Tekamah, Nebraska.

DATED January 12, 2026.

I hereby certify that _____ was/were absent from the meeting but that, to my personal knowledge, he/she/they received advance notice of the meeting.

Secretary

January 12, 2026
Bartlett, Nebraska

A meeting of the Board of Education (the “Board”) of Burt County School District 0001 (more commonly referred to as Tekamah-Herman Community Schools) in the State of Nebraska (the “District”) was held at _____ p.m. on Monday, January 12, 2026, in the Board Room of the District’s school building located at 112 North 13th Street, in Tekamah, Nebraska. Advance publicized notice of such meeting was given in strict accordance with the provisions of Article 14, Chapter 84, Reissue Revised Statutes of Nebraska, as amended (the “Open Meetings Act”), and set forth (a) the time, date, and place of this meeting, (b) that this meeting would be open to the attendance of the public and (c) that an agenda of then known subjects to be taken up at the meeting could be obtained from the office of the Superintendent of Schools (the “Superintendent”). A copy of said advance publicized notice (in the form of an affidavit of publication) was ordered annexed to the minutes of this meeting as Attachment 1. Each Board Member was previously furnished with a copy of said advance publicized notice, the same having been transmitted to each Board Member simultaneously with its publicizing, and a copy of their collective acknowledgment of receipt of such notice is attached to these minutes as Attachment 2. Additionally, reasonable efforts were made to provide advance notification of the meeting to all news media requesting the same of the time, date, and place of the meeting.

The President of the Board, _____, presided, and the Secretary of the Board, _____, recorded the proceedings. On roll call the following Board Members were present: _____

_____.

The following Board Members were absent: _____.

A quorum being present and the meeting duly commenced, the following proceedings were had and done.

The President of the Board publicly stated to all in attendance that a current copy of the Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was being held. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

* * * * *

(Other Proceedings)

* * * * *

Board Member _____ introduced the following resolution and moved for its adoption, the full text of which is attached hereto as Attachment 3:

A RESOLUTION RATIFYING, CONFIRMING AND APPROVING THE FORMATION OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION AND THE ASSISTANCE OF SUCH CORPORATION IN PROVIDING FOR THE FINANCING OF EDUCATIONAL FACILITIES FOR USE BY THE DISTRICT; AUTHORIZING THE DISTRICT TO UNDERTAKE ONE OR MORE LEASE OR LEASE-PURCHASE FINANCINGS FOR THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES FOR USE BY BURT COUNTY SCHOOL DISTRICT 0001 (TEKAMAH-HERMAN COMMUNITY SCHOOLS) IN THE STATE OF NEBRASKA; AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT AND THE CORPORATION OF DOCUMENTS RELATING TO SUCH FINANCINGS; AUTHORIZING DISTRICT OFFICERS AND CORPORATION OFFICERS TO DETERMINE THE AMOUNT, PAYMENTS AND DATES, EFFECTIVE INTEREST RATES, PREPAYMENT PROVISIONS AND OTHER TERMS AND DETAILS OF SUCH FINANCINGS, ALL SUBJECT TO THE PARAMETERS SET FORTH HEREIN; DESIGNATING THE FINANCINGS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST-ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE FINANCINGS; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO.

The foregoing Resolution having been read, Board Member _____ seconded the motion for its passage and adoption, and after discussion the roll was called and the

following Board Members voted in favor of the passage and adoption of said Resolution:

_____.

The following Board Members voted against the same: _____.

The following Board Members were absent or did not vote: _____.

Said Resolution having been voted upon favorably by a majority of all Board Members, the same was by the President declared passed and adopted.

* * * * *

(Other Proceedings)

* * * * *

Moved to adjourn.

DATED January 12, 2026.

ATTEST:

President, Board of Education

Secretary, Board of Education

ATTACHMENT 1

AFFIDAVIT OF PUBLICATION OF NOTICE OF MEETING

ATTACHMENT 2

ACKNOWLEDGMENT OF RECEIPT OF NOTICE OF MEETING

ATTACHMENT 3
AUTHORIZING RESOLUTION

A RESOLUTION RATIFYING, CONFIRMING AND APPROVING THE FORMATION OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION AND THE ASSISTANCE OF SUCH CORPORATION IN PROVIDING FOR THE FINANCING OF EDUCATIONAL FACILITIES FOR USE BY THE DISTRICT; AUTHORIZING THE DISTRICT TO UNDERTAKE ONE OR MORE LEASE OR LEASE-PURCHASE FINANCINGS FOR THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES FOR USE BY BURT COUNTY SCHOOL DISTRICT 0001 (TEKAMAH-HERMAN COMMUNITY SCHOOLS) IN THE STATE OF NEBRASKA; AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT AND THE CORPORATION OF DOCUMENTS RELATING TO SUCH FINANCINGS; AUTHORIZING DISTRICT OFFICERS AND CORPORATION OFFICERS TO DETERMINE THE AMOUNT, PAYMENTS AND DATES, EFFECTIVE INTEREST RATES, PREPAYMENT PROVISIONS AND OTHER TERMS AND DETAILS OF SUCH FINANCINGS, ALL SUBJECT TO THE PARAMETERS SET FORTH HEREIN; DESIGNATING THE FINANCINGS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST-ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE FINANCINGS; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO.

BE IT RESOLVED BY THE BOARD OF EDUCATION OF BURT COUNTY SCHOOL DISTRICT 0001 (TEKAMAH-HERMAN COMMUNITY SCHOOLS) IN THE STATE OF NEBRASKA:

Section 1. The Board of Education (the “**Board**”) of Burt County School District 0001 (Tekamah-Herman Community Schools) in the State of Nebraska (the “**District**”) hereby makes the following findings and determinations:

(a) The District is duly organized as a Class II school district pursuant to Sections 79-102 and 79-407, Reissue Revised Statutes of Nebraska, as amended; the District maintains both elementary and high school grades under the direction of a single board of education; and the District embraces territory having a population of 1,500 or more inhabitants but less than 5,000 inhabitants, including such adjacent territory as may be included therein for school purposes.

(b) The District presently has need to improve certain of its educational facilities and to utilize certain additional educational facilities, all for use by the District.

(c) Pursuant to Section 79-10,105, Reissue Revised Statutes of Nebraska, as amended (the “**Act**”), the District is authorized to enter into a lease or lease-purchase agreement for the exclusive use of its individual jurisdiction for such buildings or equipment as the Board determines necessary. Such lease or lease-purchase agreements

may not exceed a period of seven years, and all payments pursuant to such leases shall be made from current funds in the District's building fund and/or its general fund.

(d) It is necessary, desirable, advisable and in the best interest of the District to facilitate the financing of all or a portion of the costs of (a) improving and renovating certain District facilities, including renovation of the District's vocal music space, (b) constructing certain additions to the District's property, including additional classrooms, a special education room, additional storage space, and related infrastructure and improvements, (c) acquiring and installing certain furniture, equipment and apparatus for such renovations and additions, and (d) certain professionals associated with the foregoing, which may be completed as a single project or as multiple projects, which may be completed as a single project or as multiple projects (each, a "**Project**" and collectively, the "**Projects**").

(e) The Tekamah-Herman Educational Facilities Leasing Corporation (the "**Leasing Corporation**"), a nonprofit corporation duly organized and existing under the Nebraska Nonprofit Corporation Act, Chapter 21, Article 19, Reissue Revised Statutes of Nebraska, as amended (the "**Nonprofit Act**"), has been organized to benefit and carry out the purposes of the District by providing for the acquisition, construction, improvement, repair, renovation and financing of public sites, buildings, facilities, furnishings and equipment for use by the District, including the Projects.

(f) Under applicable Internal Revenue Code of 1986, as amended (the "**Code**"), and related regulations and rulings thereunder, and under the statutes of the State of Nebraska (the "**State**") relating to sales taxation and real property taxation, approval by the Board of the formation of the Leasing Corporation and to enter into the financings described herein is required in order that (i) the interest on such financings be exempt from federal income taxes, which exemption will reduce the Leasing Corporation's interest costs and thereby reduce the lease payments to be made by the District pursuant to a hereinafter-described Lease Agreement, (ii) the purchase of any building materials and equipment will be exempt from State sales taxation and (iii) those portions of the Projects consisting of real property will not be subject to State real property taxation.

(g) The Code further provides that in order for the interest on any financing described herein to be exempt from federal income taxes, the Board must agree that the District will accept delivery of full legal and unencumbered title to each Project upon the final maturity of the financing (or sooner, upon the exercise of the purchase option set forth in each lease or lease-purchase agreement).

(h) To finance one or more of the Projects, it is in the best interest of the District to (i) enter into one or more lease or lease-purchase agreements with the Leasing Corporation or, if determined by the Board President, Vice President, Secretary and Treasurer, and the Superintendent (each, including any person authorized to act on his or her behalf, an "**Authorized Officer**"), or each individually, to be in the best interest of the District, one or more banks or other financial institutions (each, including the Leasing Corporation, a "**Lessor**"), pursuant to which such Lessor will acquire, construct, furnish and equip one or more Projects and lease said Projects to the District in exchange for lease or lease-purchase payments to be made by the District, all in accordance with the Act, (ii)

enter into one or more lease or lease-purchase financings with one or more Lessors, pursuant to which such Lessor or Lessors will issue certificates of participation (the “**Certificates**”), representing proportionate interests in the lease or lease-purchase payments to be made by the District pursuant to a lease or lease-purchase agreement, and will acquire the Equipment relating to any Project (the “**Equipment**”) using the proceeds from the sale of the Certificates, and/or (iii) enter into one or more lease or lease-purchase agreements with the Leasing Corporation, pursuant to which the Leasing Corporation shall obtain a loan or other financing from one or more banks or other financial institutions (each, a “**Lender**”) in order to acquire, construct, equip and improve one or more of the Projects, shall acquire the Equipment relating any Project and shall lease said Projects and Equipment to the District, but subject to the terms, parameters and conditions set forth herein. Such lease or lease-purchase agreements are referred to herein as a “**Lease Agreement**” or “**Lease Agreements**”.

(i) Pursuant to each Lease Agreement, the District shall make payments to each Lessor (the “**Lease Payments**”) from current building funds and/or general funds of the District. Each Lease Agreement will provide the District with a right of non-appropriation in any fiscal year with respect to the Lease Payments. If for any fiscal year the District fails to appropriate moneys to make Lease Payments in connection with a Lease Agreement, such Lease Agreement will terminate and the District will lose the right to operate and occupy such Project and/or to use such Equipment.

(j) It is necessary that the District adopt (i) policies and procedures to satisfy all applicable requirements of federal income tax law in order to preserve, post-issuance, the tax-exempt status of the Lease Agreements and (ii) policies and procedures to satisfy the issuance and post-issuance disclosure requirements of Rule 15c2-12 promulgated under the Exchange Act.

(k) All conditions, acts, and things required by law to exist or to be done precedent to the District undertaking the financing described herein pursuant to the Act do exist and have been done as required by law.

Section 2. The Board hereby ratifies, confirms and approves all actions previously taken with respect to the financing of the Projects, including the Equipment. The Board further authorizes the District to undertake the financing of one or more of the Projects, subject to the parameters set forth herein.

Section 3. The Board ratifies, confirms and approves the formation of the Leasing Corporation, including all action previously taken with respect thereto, and delegates to Authorized Officers, or each individually, the authority to take any and all additional actions necessary relating to such formation. The Leasing Corporation will engage in activities that are essentially public in nature; the purposes and activities of the Leasing Corporation are those permitted under the Nonprofit Act; and any Project financed by the Leasing Corporation will be located within the geographic limits of the District. The District will have a beneficial interest in the Leasing Corporation and will have exclusive beneficial possession and use of each Project so long as any Lease Agreement relating thereto is unpaid and/or outstanding. The Leasing Corporation will perform certain activities which otherwise would be the responsibility of the District.

Section 4. The Authorized Officers, or each individually, are hereby authorized, empowered and directed to (i) execute and deliver one or more Lease Agreements, one or more Site Leases, License and Easements, Quit Claim Deeds or similar agreements, pursuant to which the District may lease or deed to the Lessor or Lessors the real property on which the Project or Projects will reside, or grant to the Lessor or Lessors a license and easement with respect to such real property, one or more Federal Tax Certificates, pursuant to which the District will make certain representations and covenants related to the exclusion of the interest portion of the Lease Payments from gross income for purposes of federal income taxation, and all other necessary documents in connection with undertaking the lease-purchase financing as permitted by the Act (collectively, the “**Lease Documents**”), for and on behalf of the District, including any necessary counterparts, in form and substance acceptable to the Authorized Officers, or each individually, but subject to the terms, parameters and conditions set forth herein and (ii) approve the form and content of any request from a Lessor of the terms and parameters associated with the lease-purchase financing of the Project or Projects and or any offering document relating to the offering of Certificates to finance any Equipment, if applicable. The Authorized Officers, or each individually, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of such documents as executed.

Section 5. The Board hereby authorizes and directs the Authorized Officers, or each individually, to determine (a) the description of each Project, (b) the principal amount of each Lease Agreement, provided that the aggregate principal amount of all Lease Agreements authorized by this Resolution shall not exceed \$3,500,000, (c) the term of each Lease Agreement, which shall not be greater than 7 years, (d) the amounts and the dates of the Lease Payments due thereunder, (e) the effective rate or rates of interest to be carried by the principal installment of each Lease Payment such that the true interest cost of any Lease Agreement shall not exceed 7.00%, (f) the prepayment provisions, if any, (g) the terms and provisions of the Lease Documents, (h) the identity of the Lessor or Lessors, if other than the Leasing Corporation, and the Lender, if applicable (i) the terms and provisions of any Certificates and (j) such other terms and provisions relating to the Lease Agreement; provided that the Lease Agreement and the other Lease Documents may not have such terms and conditions which conflict with or exceed the parameters set forth in this Resolution. Such determinations and approvals shall be set forth in the particular Lease Agreement.

Section 6. With respect to any Lease Agreement to which the Lessor is the Leasing Corporation, for the purpose of providing funds to acquire, construct, equip and furnish the Projects, the Board does hereby approve the Leasing Corporation entering into one or more loans with one or more Lenders and/or issuing Certificates, as applicable, and one or more Lease Agreements with the District and the execution by the officers of the Leasing Corporation of all documents relating to such loans and/or Certificates, but subject to the parameters set forth in Section 5 hereof.

Section 7. Payment by the District to the Lessors of the Lease Payments due from time to time pursuant to each Lease Agreement is hereby authorized and directed, subject, however, to annual budgeting and appropriation by resolution of this Board as provided by each Lease Agreement. Such payments shall be made from current building funds and/or general funds derived from property taxes and other available funds.

Section 8. Each Lessor, Lender and any participant shall be a financial institution authorized to exercise trust powers within the State, a commercial leasing entity authorized to transact business in the State, or the Leasing Corporation or other State nonprofit leasing corporation created under the Nonprofit Act. As necessary, the Lessors and/or Lenders shall accept the assignment from the District of all construction contracts, design/builder contracts, purchase orders and other related contracts and shall further agree to assume the obligations to make payments to the contractors, materialmen and equipment suppliers under such contracts and related subcontracts and purchase orders relating to the Project or Projects and/or Equipment, as applicable, provided that the District shall retain the authority to supervise the construction and equipping of the Project or Projects to the extent that such functions are to be performed by the “Owner” under any such contracts.

Section 9. The Board hereby agrees that the District will accept delivery of full legal and unencumbered title to the Projects upon the payment in full or earlier redemption of the Lease Agreements.

Section 10. Northland Securities, Inc., whether acting in the capacity of a placement agent in connection with a private placement of each Lease Agreement or the capacity of an underwriter in connection with a public offering of the Certificates, shall receive a fee or discount that is mutually agreeable to the District and Northland Securities, Inc., which amount shall not exceed 2.00% of the face or par amount of any Lease Agreement.

Section 11. The Authorized Officers, or each individually, and, if applicable, each officer of the Leasing Corporation, is authorized to execute and deliver for and on behalf of the District any and all additional certificates, documents, opinions or other papers and perform all other acts, including, without limitation, only to the extent as permitted by State law the execution, delivery and filing of any financing statements or any other documents to create and maintain a security interest in the properties and revenues pledged under each Lease Agreement and any related documents as may be required by the documents set forth above or as they may deem necessary or appropriate in order to implement and carry out the intent and purpose of this Resolution.

Section 12. The obligations of the District under any Lease Agreement shall not constitute an indebtedness of the District or any agency thereof within the meaning of any constitutional or statutory limitation and shall not constitute a liability of or a lien or charge upon moneys or property of the District or any agency thereof, except those lawfully available moneys which the Board has budgeted and appropriated therefor during any annual fiscal period, as provided by each such Lease Agreement.

Section 13. The District hereby designates the Lease Agreements as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In connection therewith, the District hereby represents that:

- (a) the aggregate face amount of all tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the District and all subordinate entities thereof, including the Leasing

Corporation, during any single calendar year is not reasonably expected to exceed \$10,000,000; and

(b) the District and all subordinate entities thereof, including the Leasing Corporation, will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) during any single calendar year, including the Lease Agreements, in excess of \$10,000,000, without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the designation of the Lease Agreements as “qualified tax-exempt obligations” will not be adversely affected by such issuance.

The Authorized Officers, or each individually, are authorized to take such other action as may be necessary to make effective the designation in this Section 13.

Section 14. (a) The District (i) shall comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, and all related Regulations, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest portion of each of the Lease Payments and (ii) will not use or permit the use of any proceeds of any of the Lease Agreements or any other funds of the District nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest portion of any of the Lease Payments.

(b) The District hereby adopts the Post-Issuance Tax Compliance Procedures attached to this Resolution as Exhibit A to ensure that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of each of the Lease Agreements are met. The District reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The District also reserves the right to change such policies and procedures from time to time, without notice.

Section 15. The provisions of this Resolution are hereby declared to be separable and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 16. All resolutions, orders and other instruments, or parts thereof, in conflict with this Resolution are hereby repealed only to the extent of such conflict.

Section 17. This Resolution shall be in force and take effect from and after its passage as provided by law.

DATED January 12, 2026.

ATTEST:

President, Board of Education

Secretary, Board of Education

EXHIBIT A

POST-ISSUANCE TAX COMPLIANCE PROCEDURES

General

In connection with the execution and delivery of each of the Lease Agreements, Burt County School District 0001 (Tekamah-Herman Community Schools) (the “**District**”) will execute a tax compliance certificate (the “**Tax Certificate**”) that describes the requirements and provisions of the Internal Revenue Code of 1986, as amended (the “**Code**”) that must be followed in order to maintain the tax exempt status of interest portion of each of the Lease Payments. In addition, the Tax Certificate will contain the reasonable expectations of the District at the time of execution and delivery of each of the Lease Agreements with respect to the use of the gross proceeds of such Lease Agreements and the assets to be financed or refinanced with the proceeds thereof. These Procedures supplement and support the covenants and representations made by the District in the Tax Certificate related to specific issues of tax-exempt obligations. In order to comply with the covenants and representations set forth in each of the Lease Agreement documents and in the Tax Certificate, the District tracks and monitors the actual use of the proceeds of each of the Lease Agreements, the investment and expenditure of the proceeds and the assets financed or refinanced with the proceeds of each such Lease Agreement over its life.

Designation of Responsible Person

The Superintendent of Schools (the “**Superintendent**”) shall maintain an inventory of the assets financed which contains the pertinent data to satisfy the District’s monitoring responsibilities. Any transfer, sale or other disposition of Lease Agreement-financed assets must be reviewed and approved by the Superintendent.

Post-Issuance Compliance Requirements

External Advisors/Documentation

The District shall consult with bond and/or tax counsel and other legal counsel and advisors, as needed, throughout the Lease Agreement execution process to identify requirements and to establish procedures necessary or appropriate so that each of the Lease Agreements will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the Tax Certificate and/or other documents finalized at or before execution of each of the Lease Agreements. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of each of the Lease Agreements.

The District also shall consult with bond and/or tax counsel and other legal counsel and advisors, as needed, following execution of each Lease Agreement to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of each Lease Agreement-financed or refinanced assets.

The District shall train and employ or otherwise engage expert advisors (a “**Rebate Analyst**”) to assist in the calculation of arbitrage rebate payable in respect of the investment of proceeds, unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement.

Unless otherwise provided by the resolution or other authorizing documents relating to each Lease Agreement, unexpended proceeds shall be held in a segregated account by a trustee, and the investment of

proceeds shall be managed by the District. The District shall prepare (or cause the trustee to prepare) regular, periodic statements regarding the investments and transactions involving proceeds.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement, the District shall be responsible for:

- engaging the services of a Rebate Analyst and, prior to each rebate calculation date, causing the trustee or other account holder to deliver periodic statements concerning the investment of proceeds to the Rebate Analyst;
- providing to the Rebate Analyst additional documents and information reasonably requested by the Rebate Analyst;
- monitoring efforts of the Rebate Analyst;
- assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Lease Agreement, and no later than 60 days after the last installment payment is paid;
- during the construction period of each capital project financed in whole or in part by bonds, monitoring the investment and expenditure of proceeds and consulting with the Rebate Analyst to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of each of the Lease Agreements; and
- retaining copies of all arbitrage reports and account statements as described below under “Record Keeping Requirements”.

The District, in the Tax Certificate and/or other documents finalized at or before the execution of each Lease Agreement, has agreed to undertake the tasks listed above (unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement).

Use of Proceeds and Lease Agreement-Financed or Refinanced Assets:

The District shall be responsible for:

- monitoring the use of proceeds and the use of each Lease Agreement-financed or refinanced assets (*e.g.*, facilities, furnishings or equipment) throughout the term of each Lease Agreement to ensure compliance with covenants and restrictions set forth in the Tax Certificate;
- maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each Lease Agreement, including a final allocation of proceeds as described below under “Record Keeping Requirements”;
- consulting with bond and/or tax counsel and other legal counsel and advisers in the review of any contracts or arrangements involving use of each Lease Agreement-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate;
- maintaining records for any contracts or arrangements involving the use of each Lease Agreement-financed or refinanced assets as described below under “Record Keeping Requirements”;

- conferring at least annually with personnel responsible for each Lease Agreement-financed or refinanced assets to identify and discuss any existing or planned use of each Lease Agreement-financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate; and
- to the extent that the District discovers that any applicable tax restrictions regarding use of proceeds and each Lease Agreement-financed or refinanced assets will or may be violated, consulting promptly with bond and/or tax counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified Lease Agreements, if such counsel advises that a remedial action is necessary.

The District, in the Tax Certificate and/or other documents finalized at or before the execution of each Lease Agreement, has agreed to undertake the tasks listed above.

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirements

The District shall be responsible for maintaining the following documents for the term of each Lease Agreement (including refunding obligations, if any) plus at least three years:

- a copy of the Lease Agreement closing transcript(s) and other relevant documentation delivered to the District at or in connection with closing of each Lease Agreement, including any elections made by the District in connection therewith;
- a copy of all material documents relating to capital expenditures financed or refinanced by proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for proceeds and evidence as to the amount and date for each draw down of proceeds, as well as documents relating to costs paid or reimbursed with proceeds and records identifying the assets or portion of assets that are financed or refinanced with proceeds, including a final allocation of proceeds;
- a copy of all contracts and arrangements involving the use of each Lease Agreement-financed or refinanced assets;
- copies of all trustee statements and reports, including arbitrage reports, prepared with respect to each Lease Agreement; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any investment agreements, and copies of all bidding documents, if any.

EXHIBIT B

DISCLOSURE POLICIES AND PROCEDURES

Purpose of Disclosure Policies and Procedures

The issuance and sale of certain municipal bonds, notes, certificates of participation or other obligations (collectively, “**Obligations**”) are subject to certain federal and state securities laws, including Rule 15c2-12 (the “**Rule**”) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”). The Rule requires that an underwriter, prior to purchasing or selling an issue of Obligations in a principal amount over \$1,000,000, obtain a written agreement from the issuer of such Obligations to provide certain financial information or operating data on an annual basis and notices of the occurrence of certain enumerated events with the Municipal Securities Rulemaking Board (“**MSRB**”) using the MSRB’s Electronic Municipal Market Access system (“**EMMA**”).

Burt County School District 0001 (Tekamah-Herman Community Schools) in the State of Nebraska (the “**District**”) has previously issued or may in the future issue Obligations subject to the Rule, and in connection with such issuances the District has entered and/or will enter into one or more Continuing Disclosure Certificates or Continuing Disclosure Undertakings (collectively, the “**Undertakings**”) in accordance with the Rule. Pursuant to such Undertakings, the District has covenanted or will covenant to comply with the Rule by timely making the required filings. These Policies and Procedures are intended to assure that all filings required under the Rule are made timely and completely and meet all requirements of the Rule.

Designation of District Representative; Maintenance of List and Files

The “**District Representative**” for the District shall be the Superintendent of Schools of the District and any alternate or assistant as such Superintendent shall appoint. The District Representative is directed to employ the policies and procedures described herein. The District Representative shall be knowledgeable and familiar with the provisions of each Undertaking as to the type, format and content of the financial information or operating data to be included in each Annual Report required to be made thereunder, the instances in which notice of the occurrence of certain events must be given, and the timing requirements for the filing thereof. The District and the District Representative recognize and acknowledge that the terms, requirements and filing deadlines may vary by Undertaking.

The District Representative shall maintain a current list for each fiscal year identifying each issue of Obligations of the District outstanding during such fiscal year setting forth the name, original principal amount, date of issuance and CUSIP numbers for each such issue and the dates by which the Annual Reports are required to be submitted to the MSRB using EMMA, such list to be accompanied by copies of the related Undertakings.

Dissemination Agents

The District and the District Representative may utilize the services of a financial institution or other provider to act as dissemination agent (each, a “**Dissemination Agent**”) in filing the disclosures and notices described herein and performing the duties of the Dissemination Agent in accordance with the terms of the applicable Undertaking. The Dissemination Agent shall review and be familiar with the contents and filing requirements of the particular Undertaking and with the procedures for making the filings required under such Undertaking with the MSRB using the EMMA system. The District Representative shall coordinate the preparation and submission of the required information with such Dissemination Agent to ensure full compliance with the requirements of the Rule and the applicable

Undertakings.

Annual Financial Filings

The District Representative will review the Undertaking related to each outstanding issue of Obligations to determine the financial information required to be included in the Annual Report (i.e., the District's audited financial statements and certain other financial information or operating data with respect to the District, if applicable (the "**Annual Report**")) required to be filed annually with the MSRB using the EMMA system, and the deadline by which such information must be filed. Unless required otherwise by an Undertaking and as permitted by EMMA filing procedures, the District Representative may file identical Annual Reports with respect to each issue of the District's Obligations. The District Representative shall be knowledgeable and familiar with the specific requirements for the filing of a Notice of Failure to File the Annual Report by the date(s) required under the terms of each Undertaking, if applicable.

The District Representative shall timely initiate the process of preparing the financial information or operating data required to be submitted under each Undertaking as part of the Annual Report. The District Representative shall assemble the information as soon as it becomes available and determine the scope of additional information to be required and also contact the auditors to establish a schedule for completion and submission for the Audited Financial Statements.

The District Representative will timely file the Annual Report, or will cause the Dissemination Agent to file the Annual Report, with the MSRB using the EMMA system. If the Audited Financial Statements are not then available, unaudited financial information may be filed with the MSRB using EMMA and the Audited Financial Statements shall be filed within 10 business days of their receipt and acceptance.

Listed Event Filings

The District Representative will review the Undertaking related to each outstanding issue of Obligations for the listed events which, upon the occurrence thereof, require prompt notices to be filed with the MSRB using the EMMA system. The District Representative will monitor the Obligations and the District's operations for occurrences of any such events and will actively evaluate whether an event may be a listed event as set forth in the District's outstanding Undertakings. After obtaining actual knowledge of such an event, the District Representative will promptly contact the District's bond counsel and the Dissemination Agent, if any, to determine whether the District must file notice of the event with the MSRB under one or more of its Undertakings. Upon a determination that the District must file such notice, the District Representative will file the appropriate notice, or will cause the Dissemination Agent to file such notice, with the MSRB using the EMMA system within ten (10) business days after the occurrence of the listed event or as the District's bond counsel may otherwise direct.

Reports of District Representative; Record Retention

The District Representative shall provide to the School Board of the District, any Dissemination Agent and the underwriter of each issue of Obligations confirmation from EMMA received upon the filing of each Annual Report and any other filings made with the MSRB using the EMMA system promptly upon receipt of each such confirmation.

The District Representative shall maintain records with respect to the filings with the MSRB using EMMA, including, but not limited to, EMMA posting receipts showing the dates and nature or contents of

all filings for each issue of Obligations outstanding during each fiscal year. Such records shall be kept for at least 5 years after the respective issue of Obligations is no longer outstanding.

Familiarity with EMMA Submission Process

The District Representative shall register with EMMA and review the on-line process of filing with EMMA located at www.emma.msrb.org in order to submit the required information. The MSRB market Information Department can also be contacted at 703.797.6668. A tutorial is available at the website and a practice submission is available as well. The District Representative also shall enroll the District in EMMA's reminder system to ensure timely performance of its responsibilities and obligations.

Notwithstanding the foregoing, if the District has retained a Dissemination Agent to assist with making the filings required by the District's Undertakings and to remind the District of its filing deadlines, the District Representative need not register with EMMA or enroll in EMMA's reminder system.

Training

To ensure adequate resources to comply with the Rule, the District Representative shall develop a training process aimed at providing additional assistance in preparing required information. The training process shall be conducted at least annually and shall encompass a review of the EMMA submission process and an understanding of the timing requirements necessary for full compliance. The retention by the District of a Dissemination Agent to assist it with compliance under its Undertakings and the Rule may be deemed part of such training process.

Review of Offering Document in Connection with Primary Offerings

In connection with a new issue of Obligations, the District Representative, together with such District officials as the District Representative deems appropriate, shall promptly review upon receipt the offering document by which such Obligations shall be offered and sold. For any issue of Obligations subject to the Rule, prior to the distribution of the related offering document the District shall deem the information concerning the District in such offering document as accurate and complete in all material respects (except for such information as permitted to be omitted by the Rule) as of the date of such offering document. The District shall confirm prior to the final pricing of the Obligations that the information concerning the District in the offering document does not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

**MINUTES AND UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS
OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES
LEASING CORPORATION**

Section 21-1981, Reissue Revised Statutes of Nebraska, as amended, provides that Nebraska nonprofit corporations, such as the Tekamah-Herman Educational Facilities Leasing Corporation (the "Corporation"), may take any action required to be taken at a meeting of the directors of such a corporation, or any action which may be taken at a meeting of the directors of such a corporation, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by all of the directors.

In accordance with the foregoing, the undersigned, constituting all of the members of the Board of Directors of the Corporation, unanimously approved and consented to the adoption of the following resolutions:

1. Resolution No. 1 of the Board of Directors of the TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION; and

2. Resolution No. 2 of the Board of Directors of the TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION.

Brad Kjar, Director

Burt Rogers, Director

Chris Booth, Director

Sheryl Stansberry, Director

**RESOLUTION NO. 1 OF THE BOARD OF DIRECTORS
OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES
LEASING CORPORATION**

WHEREAS, on or about January 12, 2026, the Articles of Incorporation for the Tekamah-Herman Educational Facilities Leasing Corporation (the “Corporation”) were filed and recorded with the Secretary of State of the State of Nebraska; and

WHEREAS, Section 21-1925, Reissue Revised Statutes of Nebraska, as amended, provides that the initial bylaws of a nonprofit corporation shall be adopted by its incorporator; and

WHEREAS, the sole incorporator of the Corporation adopted the Corporation’s bylaws by written action effective December 9, 2026; and

WHEREAS, the initial bylaws of the Corporation provide that the officers of said Corporation shall consist of a President, a Vice President, a Secretary and a Treasurer, and the Board of Directors of the Corporation desires to elect such officers.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION:

THAT, the following individuals are elected as the officers of the Corporation and in addition, that the following shall be the designated method of giving advance notice of Board of Directors meetings:

President:	Brad Kjar
Vice President:	Burt Rogers
Secretary:	Chris Booth
Treasurer:	Sheryl Stansberry

AND THAT, the designated method of giving advance notice of Board of Directors meetings of the Corporation shall be by posting or publication a reasonable time in advance of such meetings.

**RESOLUTION NO. 2 OF THE BOARD OF DIRECTORS
OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES
LEASING CORPORATION**

WHEREAS, the Tekamah-Herman Educational Facilities Leasing Corporation (the “**Corporation**”) is a nonprofit corporation duly organized and existing under the Nebraska Nonprofit Corporation Act, Chapter 21, Article 19, Reissue Revised Statutes of Nebraska, as amended (the “**Nonprofit Act**”) and other laws, for the purpose of benefitting and carrying out the purposes of Burt County School District 0001 (Tekamah-Herman Community Schools) in the State of Nebraska (the “**District**”), a duly organized Class II school district under the laws of the State of Nebraska (the “**State**”), by providing for the acquisition, construction, improvement, repair, renovation and financing of buildings, facilities, furnishings and equipment for use by the District; and

WHEREAS, the District is authorized pursuant to Sections 79-10,105 and 79-10,107, Reissue Revised Statutes of Nebraska, as amended (the “**Leasing Act**”) and other laws, to enter into contracts of one or more years for the lease or the lease-purchase of real or personal property for any purpose for which the District is authorized by law to purchase property or construct improvements; and

WHEREAS, it has been proposed and deemed desirable that the Corporation enter into one or more leasing arrangements with the District pursuant to the Leasing Act for the purpose of financing all or a portion of the costs of (a) improving and renovating certain District facilities, including renovation of the District’s vocal music space, (b) constructing certain additions to the District’s property, including additional classrooms, a special education room, additional storage space, and related infrastructure and improvements, (c) acquiring and installing certain furniture, equipment and apparatus for such renovations and additions, and (d) certain professionals associated with the foregoing, which may be completed as a single project or as multiple projects, which may be completed as a single project or as multiple projects (each, a “**Project**” and collectively, the “**Projects**”);

WHEREAS, the Board of Directors (the “**Board**”) of the Corporation has heretofore determined and does now find and determine that it is necessary and desirable for the District, and that it is within the authority and the purposes of the Nonprofit Act, the Leasing Act, and other laws, that the Corporation lease or license from the District certain real property and enter into one or more loans (each, a “**Loan**”) with one or more banks or other financial institutions (each, a “**Lender**”) in such an amount or amounts as set forth herein for the purpose of providing funds to acquire, construct, furnish and equip such Projects, and that the Corporation lease the Projects to the District; and

WHEREAS, the Board further finds and determines that it is necessary and desirable in connection with acquiring the Loans that the Corporation enter into certain documents, take certain other actions and approve the execution of certain other documents as provided herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEKAMAH-HERMAN EDUCATIONAL FACILITIES LEASING CORPORATION, AS FOLLOWS:

Section 1. All previous action of the Corporation or the District taken in connection with the formation of the Corporation and the development and financing of the Projects is hereby approved, ratified and authorized.

Section 2. In order to provide funds to pay the costs of acquiring, constructing, furnishing and/or equipping the Projects, the Corporation is hereby authorized to enter into one or more Loans in an aggregate principal amount not to exceed \$3,500,000, the term of each Loan not to exceed 7 years and bearing interest at a rate such that the true interest cost of any such Loan shall not exceed 7.00%. The President, the Vice President, the Secretary, the Treasurer or any other officer of the Corporation (each, including any person authorized to sign on his or her behalf, an “**Authorized Officer**”) is hereby authorized, empowered and directed to approve of the final amount, maturity date, principal amount, payment provisions, payment price, the rate of interest and such other terms and provisions relating to each Loan, subject to the parameters set forth herein and in that certain resolution adopted by the District’s Board of Education on January 12, 2026, (the “**District Resolution**”), and such terms and provisions shall be set forth in the herein-authorized Loan Agreement relating to such Loan.

Section 3. Each Loan and the interest thereon shall be limited obligations payable solely out of the rents, revenues and receipts received by the Corporation pursuant to the herein-authorized Lease Agreements, and such rents, revenues and receipts shall be pledged and assigned to the Lender as security for the payment of the Loan as provided in the related Loan Agreement. Each Loan and the interest thereon shall not constitute a debt or liability of the State or any political subdivision thereof, including the District, and such Loan shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Section 4. The Authorized Officers, or each individually, are hereby authorized, empowered and directed to execute and deliver for and on behalf of the Corporation, including any necessary counterparts, in form and substance acceptable to the Authorized Officers, or any individually, but subject to the terms, parameters and conditions set forth herein, (i) one or more loan agreements (each, a “**Loan Agreement**”) between the Corporation and the Lender, (ii) one or more lease agreements (each, a “**Lease Agreement**”) between the Corporation and the District, (iii) one or more site or ground leases (each, a “**Site Lease**”) between the Corporation and the District, (iv) one or more license and easements, if necessary, whereby the District would grant the Corporation a license and easement with respect to such real property (each, a “**License and Easement**”), (v) one or more quit claim deeds, if necessary, whereby the District would deed the such real property to the Corporation (each, a “**Quit Claim Deed**”), (vi) one or more leasehold deeds of trust and security agreements or deeds of trust and security agreements (each, a “**Deed of Trust**”) from the Corporation to the Lender, and (vi) any and all other agreements related to financing the Projects deemed necessary by an Authorized Officer to effectuate such financing.

Section 5. The Corporation is hereby authorized to: (a) lease certain real property pursuant to the Site Lease or have access to such real property pursuant to a License and Easement with respect to the real property; (b) acquire, construct, furnish and equip the Projects; (c) lease the

Projects to the District pursuant to one or more Lease Agreements, subject to the parameters set forth herein and in the District Resolution; and (d) take title to, if necessary, certain real property as referenced in the Quit Claim Deed.

Section 6. The Authorized Officers, or any individually, are hereby authorized to approve the form and content of any request from a Lender of the terms and parameters of each Loan, subject to the parameters set forth herein and in the District Resolution.

Section 7. The Authorized Officers, or any individually, or any other officer of the Corporation is authorized to execute and deliver for and on behalf of the Corporation any and all additional certificates, documents, opinions or other papers and perform all other acts, including, without limitation, the execution, delivery and filing of any financing statements or any other documents to create and maintain a security interest in the properties, as permitted by law and revenues pledged under each Loan Agreement as may be required by the documents set forth above or as they may deem necessary or appropriate in order to implement and carry out the intent and purpose of this Resolution.

Section 8. The Corporation hereby designates the Loans as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”). In addition, the Corporation hereby represents that:

(a) the aggregate face amount of all tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) which are expected to be issued by the Corporation, the District and all subordinate entities thereof during the calendar year in which the Corporation enters into a Loan is not reasonably expected to exceed \$10,000,000; and

(b) the Corporation, the District and all subordinate entities thereof will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) during the calendar year in which the Corporation enters into a Loan, including the Loan, in excess of \$10,000,000, without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the designation of the Loans as “qualified tax-exempt obligations” will not be adversely affected by such issuance.

The Authorized Officers, or each individually, are hereby authorized to take such other action as may be necessary to make effective the designation in this Section 8.

Section 9. The Corporation, as directed by the District and as required by any Lease Agreement or Loan Agreement, (1) shall comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, and all related Regulations, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on each Loan and (2) will not use or permit the use of any proceeds of such Loan or any other funds of the Corporation nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Loan.

Section 10. The provisions of this Resolution are hereby declared to be separable and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

 **AIA[®] Document B101[®] – 2017****Standard Form of Agreement Between Owner and Architect**

AGREEMENT made as of the 12th day of January in the year 2026

BETWEEN the Architect's client identified as the Owner:

Burt County School District 11-0001, c/k/a
Tekamah-Herman Schools
112 N. 13th St.
Tekamah, NE 68061
Attn: Superintendent Brad Kjar
(402) 374-2157
bkjar@htigers.org

and the Architect:

Carlson West Povondra Architects, Inc.
5060 Dodge Street
Omaha, NE 68132-2965
(402) 551-1500
Attn: Robert Soukup, AIA

for the following Project:

Track and Field Complex Project
Tekamah-Herman Schools

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

Among other components, the Owner's program includes improvements to its existing track and field complex at the north end of town.

§ 1.1.2 The Project's physical characteristics:

The project will involve the construction of a new concessions, restroom, and locker room facility at the northwest corner of the existing track, an associated septic system to service the new building, and a new scoreboard.

Replacement of the existing field lights was discussed as a potential design alternate. The Architect has included a separate design fee proposal for the replacement of the field lights by Morrissey Engineering. This would include the following scope of services:

- Design of replacement of existing field lighting utilizing existing locations. Basis of design will be MUSCO lighting projects.
- Photometric design calculations
- Coordination of power requirements and controls

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

A total project budget of approximately One Million Dollars (\$1,000,000.00)

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

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

Spring 2026

.3 Substantial Completion date or dates:

Fall 2026

.4 Other milestone dates:

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

A traditional, competitively bid, design-bid-build project delivery system.

§ 1.1.6 [Intentionally deleted]

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

Superintendent Brad Kjar
Tekamah-Herman Schools
112 N. 13th St.
Tekamah, NE 68061
(402) 374-2157
bkjar@thtigers.org

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

Owner's Board of Education

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

.1 Geotechnical Engineer: N/A

.2 Civil Engineer: N/a

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

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

Robert Soukup, AIA, Principal
Carlson West Povondra Architects, Inc.
5060 Dodge Street
Omaha, NE 68132-2965
(402) 551-1500
bsoukup@cwparchitects.com

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

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer

InfraStructure
6910 Pacific St., Ste. 310
Omaha, NE 68106

.2 Mechanical Engineer

Morrissey Engineering
4940 N. 118th St.
Omaha, NE 68164

.3 Electrical Engineer

Morrissey Engineering
4940 N. 118th St.
Omaha, NE 68164

.4 Civil Engineer

E&A Consulting Group
10909 Mill Valley Rd., Ste. 100
Omaha, NE 68154

§ 1.1.11.2 Consultants retained under Supplemental Services:

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

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

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

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect hereby represents that it (and the individual architects and engineers it employs on this Project) are licensed to practice Architecture (or Engineering, as the case may be) as required by law in the State of Nebraska. Nothing in this Agreement shall be construed to authorize performance by the Architect at a standard of care that is reduced from that which is required by law and which is expected of architects practicing under similar circumstances and conditions.

§ 2.1.1 The Architect will endeavor to provide designs, Construction Documents, and Services that shall conform to all federal, state, and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and acknowledges that this duty is non-delegable—and that the Architect, by signing drawings or preparing Construction Documents to submit for purposes of obtaining building and other governmental permits, shall be deemed to have performed reasonable care as defined in paragraph 2.2 to ascertain what codes apply to the Project and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state, and federal statutes and regulations, including but not limited to those that relate to hazardous materials, restrictions on development of wetlands, and accessibility for the physically challenged.

§ 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. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflicts or omissions that are not due to unforeseen conditions or latent defects will be promptly corrected by Architect at no additional cost to Owner, provided that such error, conflict, or omission is not based on erroneous information provided to the Architect by the Owner or one of its consultants or subcontractors. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflicts or omissions that are due to unforeseen conditions or latent defects will be promptly corrected by Architect as an Additional Service.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. This designation shall be submitted in writing for the Owner's approval. Once approved, the designated representative shall not be changed without the Owner's written authorization.

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

§ 2.5 Insurance The Architect shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located and such insurance company or insurance companies shall have an A.M. Best rating of not less than A- VIII. Unless a different duration is stated below, the Architect shall maintain the required insurance for at least five (5) years after the later occurrence of either the Date of Substantial Completion of the Project or the date on which the Architect last furnishes services to the Owner arising from or related to the Project.

§ 2.5.1 Commercial General Liability insurance written on an occurrence form with policy limits of not less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate, and Two Million Dollars (\$2,000,000) aggregate for products-completed operations hazard, providing coverage no less broad than the ISO CG 00 01 coverage form and for claims including, without limitation,

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of injury to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Architect's obligations under this Agreement.

The Architect's completed operations coverage shall be maintained for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. On behalf of itself and its commercial general liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same

§ 2.5.2 Automobile Liability insurance covering vehicles owned by the Architect and hired and non-owned vehicles used by the Architect, its employees, and agents with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section 2.5.2, along with any other statutorily required automobile coverage. On behalf of itself and its automobile liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.5.3 Workers' Compensation at statutory limits. On behalf of itself and its workers compensation insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.5.4 Employers' Liability insurance with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, and One Million Dollars (\$1,000,000) policy limit. On behalf of itself and its employers' liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.5.5 Commercial Umbrella/Excess Liability Insurance with limits of at least Two Million Dollars (\$2,000,000) in excess of Commercial General Liability, Automobile Liability, and Employers' Liability insurance limits such that the total limits of liability of each underlying policy together with the limit of the Commercial Umbrella/Excess Liability policy is no less than Three Million Dollars (\$3,000,000) per occurrence. Coverage under the Commercial Umbrella/Excess Liability policy shall result in the in the same or greater coverage as those required under Sections 2.5.1, 2.5.2, and 2.5.4 and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. On behalf of itself and its commercial umbrella/excess liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Three Million Dollars (\$3,000,000) per claim and Three Million Dollars (\$3,000,000) in the aggregate. The coverage required in this section shall be maintained for at least ten (10) years following termination of the Agreement or the date of substantial completion, whichever is later.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability, including without limitation the insurance required by sections 2.5.1, 2.5.2, and 2.5.5, to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Owner shall continue as an additional insured, upon the terms herein, for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. The Architect shall require all of its consultants, if any, to include the Owner as an additional insured, upon terms substantially identical to those stated above, on the consultant's Commercial General Liability and Automobile Liability coverage.

To be clear, the Architect shall NOT include the Owner as an additional insured on the Professional Liability insurance coverage required by Section 2.5.6, particularly to the extent that such policy(ies) include any so-called "insured-versus-insured" exclusion.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5 at the following times: (1) prior to commencement of the services; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. The Owner's acceptance of the Architect's certificate(s) of insurance does not relieve any of the Architect's responsibilities under the Agreement and shall not constitute a waiver of the Architect's obligation to provide insurance as required by this Agreement. The Owner has the right to receive copies of any of the Architect's insurance policies (including without limitation declaration pages, policy forms, and all endorsements) upon written request.

§ 2.5.9 The Architect (or its insurance carrier(s)) must provide written notice to the Owner no less than thirty (30) days prior to any cancellation or non-renewal of the Architect's insurance. Within three (3) business days of the date the Architect becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 2.5, the Architect shall provide written notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Architect, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right (but not the obligation) to suspend the services until the lapse in coverage has been cured by the procurement of replacement coverage by the Architect. The furnishing

of notice by the Architect shall not relieve the Architect of any contractual obligation to provide any required coverage.

§ 2.5.10 The Architect shall disclose to the Owner in writing any large deductible (at least \$10,000) or self-insured retentions applicable to any insurance required to be provided by the Architect, and such large deductible or self-insured retention is subject to the Owner's written approval. The Owner has the right, but not necessarily the obligation, to require a proper form of collateral for any such large deductible or self-insured retention.

§ 2.5.11 The Architect agrees to require its consultants, if any, to comply with the insurance provisions required of the Architect pursuant to this Agreement unless the Architect and Owner mutually agree in writing to modify these requirements for those consultants whose work is of relatively small scope. The Architect agrees that it will contractually obligate its consultants to advise Architect promptly of any changes or lapses of the requisite insurance coverages and Architect agrees to promptly advise Owner of any such notices Architect receives from its consultants. The Architect agrees that it will contractually obligate its consultants to indemnify and hold harmless Owner to the same extent that Architect is required to do so as provided in this Agreement. The Architect assumes all responsibility for monitoring its consultant's insurance certificates for compliance with the insurance and other provisions of this Agreement until final completion of the Project.

§ 2.5.12 Among other grounds to withhold payment, the Architect's failure to fully comply with all insurance requirements in this Section 2.5 provides the Owner sufficient grounds to withhold some or all payments otherwise due the Architect. The Owner has the right, but not necessarily the obligation, to declare the Architect's failure to fully comply with the insurance requirements in this Section 2.5 a material breach of the Architect's obligations under this Agreement.

§ 2.5.13 All of the coverage limits stated in this Section 2.5 are minimum insurance limits and shall not be construed in any way to limit the liability of the Architect.

§ 2.5.14 The Architect's insurance, whether or not specified above, shall be primary to any insurance maintained by the Owner.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect will provide all professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

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

§ 3.1.2 The Architect shall be fully responsible for coordinating all Architect's Basic and all other services required under this Agreement regardless of whether performed by its own employees or its consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's Consultants. The purpose of such coordination is to ensure that the services required are performed in a reasonably efficient, timely and economical manner. The Architect shall be responsible to Owner for the services furnished to Architect by any of its consultants to the same extent as if Architect had furnished the service itself. The Architect also agrees to coordinate and resolve any inconsistencies in its work and the work of its consultants. All of Architect's contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: "The Owner is intended to be a third party beneficiary of this agreement."

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated

dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval, provided that the Architect is aware of it and notifies the Owner of its disapproval prior to or within a reasonable amount of time after the directive or substitution.

§ 3.1.5 The Architect represents that it is familiar with, and experienced in the interpretation of laws, codes and regulations applicable to the Architect's services and the Project in general. Accordingly, the Architect shall be subject to a standard of care consistent with industry standards in its execution of the work of this Project and as applicable to such laws, codes and regulations. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall endeavor to meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in an effort to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect's expertise in laws, codes and regulations concerning projects of this type. The Architect agrees that all work performed by the Architect and any consultants of the Architect shall fully comply with all such laws, codes and regulations in a manner consistent with industry standards. In the event that the Project fails to comply with any law, code or regulation in a manner consistent with industry standards, and such failure is not due to the Contractor's failure to comply with the Contract Documents, then the Architect shall be responsible to the Owner for any damages, including costs of replacement, lost income and all other direct costs associated with such failure.

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

§ 3.2 Schematic Design Phase Services

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

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

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

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

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

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

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

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. If the adjusted preliminary estimate of Construction Cost at this phase exceeds the preliminary construction cost budget previously established, Architect shall recommend to Owner items of possible cost reduction to the scope of the Project to bring it within such budget. The Owner may choose to adopt a new budget at this time, but this shall be done in writing. After Owner's written approval of these cost reductions, they will be incorporated into the design development phase.

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

§ 3.3 Design Development Phase Services

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

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

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

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall prepare Construction Documents that conform with the laws, codes, ordinances, regulations, and other requirements of governmental authorities having jurisdiction over the Project.

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

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

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

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive

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

§ 3.5.2 Competitive Bidding

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

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

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

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

§ 3.5.3 Negotiated Proposals

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

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

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

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended by Owner, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement.

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

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the 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 to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in

accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. If the architect does not reject Work that it knows is non-conforming, the Architect shall demand in writing that the Contractor bring the non-conforming Work into compliance with the Contract Documents; and, if the Contractor's efforts to do so are not begun and completed expeditiously, the Architect shall report that failure to the Owner in writing, stating: (a) the problem; (b) the reasons for the actions taken by the Architect; (c) what, if any, response has been forthcoming from the Contractor; and (d) what actions by the Owner and/or Contractor are needed or expected. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. 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 A201–2017, 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 the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable

promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. Submissions that are not approved by the Architect are to be brought to the attention of the Owner concurrent with notification to the Contractor.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. Nothing in this Agreement shall be construed as an Owner's authorization to the Architect to delegate design responsibility. Except for delegation to consulting engineers who are responsible to, and in privity with, the Architect, and except for certain fabrications subject to delegated design in the project specifications approved by the owner (such as, but not necessarily limited to, metal buildings, prefabricated stairs and railings, elevators, fire sprinkler systems, etc.), any delegation of design responsibility by the Architect must be specifically authorized in writing, in advance, by the Owner, which authorization can be withheld by the Owner for any reason.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect shall provide written notice to the Owner of a minor change in the Work as soon as practicable after authorizing the minor change. The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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

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

the Contractor of Work to be completed or corrected.

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

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

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation other than reimbursable expenses outlined in section 11.8, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Unless denoted as “Architect (as Basic Services)” under “Responsibility” column in the table below, the Supplemental Services listed below are not included in Basic Services but may be required for the Project. The Owner may request other Supplemental Services of the Architect. Supplemental Services will be requested by the Owner, and confirmed in writing. Should the Owner request services that the Architect believes to be outside the scope of Basic Services, the Architect shall, before performing those services, inform the Owner in writing of the Architect’s belief that the services requested are Supplemental or Additional Services, and shall provide an estimate in writing to the Owner of the probable total of the Supplemental or Additional Service Fees to be incurred in performing the services requested.

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect (as Basic Services)
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Architect (as Basic Services)
§ 4.1.1.4 Existing facilities surveys	Architect (as Basic Services)
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Architect as required per § 3.3 and § 3.4
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect (as Basic Services)
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Architect (as Basic Services)
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Architect per § 4.2.3.2
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect (as Basic Services)
§ 4.1.1.16 As-constructed record drawings	Architect to specify as provided by Contractor
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.21 Telecommunications/data design	Optional per § 11.4 and § 11.7

§ 4.1.1.22	Security evaluation and planning	Not Provided
§ 4.1.1.23	Commissioning	Not Provided
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25	Fast-track design services	Not Provided
§ 4.1.1.26	Multiple bid packages	Not Provided
§ 4.1.1.27	Historic preservation	Not Provided
§ 4.1.1.28	Furniture, furnishings, and equipment design	Optional per § 11.4 and § 11.7
§ 4.1.1.29	Other services provided by specialty Consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.30	Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

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

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

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

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

§ 4.2 Architect’s Additional Services

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

§ 4.2.1 Upon recognizing the need to perform 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 Additional Services until the Architect receives the Owner’s written authorization.

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 establish the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner’s budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project’s scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner’s behalf with respect to the Project. The Owner shall render decisions and approve the Architect’s submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect’s services. Notwithstanding anything to the contrary contained in this Agreement, Owner’s review and approval of any and all documents or other matters

required herein shall be for the purpose of design, program, and project scope compliance and providing Architect with information and not for the purpose of determining the technical accuracy and completeness of such documents. Such review and approval by Owner shall in no way create any liability on the part of Owner (notwithstanding any professional skill and judgment possessed by Owner) for technical errors, inconsistencies or omissions in any approved documents, nor shall such review and approval alter Architect's responsibilities hereunder with respect to such documents.

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

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

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

§ 5.7 [Intentionally deleted]

§ 5.8 The Architect shall coordinate its Services and those of its Consultants with services provided by the Owner.

§ 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, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

§ 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, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

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

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

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

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

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

ARTICLE 6 COST OF THE WORK

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

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

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

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

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

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work, the Architect's services for modifying the Construction Documents shall be without additional compensation.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect hereby assigns to the Owner, without reservation, all copyrights to all project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the Contract Documents. Also, the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from his Consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of

this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials, provided the contents of those materials, as to this Project, are approved as requested in Paragraph 6.3 of this Agreement. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or his attempt to do so. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to his Consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that Consultant.

§ 7.2 If the Owner subsequently reproduces project-related documents or creates a derivative work based upon project-related documents created by the Architect, where permitted or required by law, the Owner shall where permitted by law or required by law remove or completely obliterate the original professional seals, logos, and other indications on the documents of the identity of the Architect and his Consultants. However, if required by law, such identification with appropriate qualifying language or other statutorily prescribed information identifying the original Architect may remain or be applied by the Owner or by a designee of the Owner. The Owner agrees to hold the Architect and its consultants harmless from claims that may arise from any reuse.

§ 7.3 The Architect shall maintain the confidentiality of all Project documents and shall not publish or in any way disseminate or distribute any project documents, including, but not limited to, correspondence, estimates, drawings, photographs, or any other material relating to the Project other than the Architect's forms, detail, specifications and other instruments of service without the express written permission of the Owner. The Architect may use photos of the completed Project on its Website, provided that they do not include students or employees of the Owner.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 The Architect and Owner may mutually agree to submit to mediation any claim, dispute, or other matter in question arising out of or related to this Agreement, but shall not be obligated to do so as a prerequisite of instituting any legal action. If the parties agree to engage in mediation, they shall share in the payment of mediator's fees and filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon by the Architect and Owner.

§ 8.2 Notwithstanding any reference to arbitration contained in this Agreement, neither the Architect nor the Owner shall be obligated to resolve any Claim through arbitration.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 The Architect shall give the Owner twenty-one (21) days' written notice of the Architect's intention to terminate or suspend provision of services. This notice shall specify the Architect's reasons(s) for the intended termination or suspension and shall state with specificity the means by which the owner may cure the asserted grievance.

§ 9.2 Unless otherwise noted herein, the Architects shall be compensated for services fully and satisfactorily performed prior to suspension if the Project is suspended by the Owner for more than ninety (90) consecutive days.

§ 9.3 If the Project is suspended or the Architect's services are suspended for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than twenty-one (21) days' written notice.

§ 9.4 This Agreement may be terminated by the Owner, with or without cause, for the Owner's convenience upon not less than seven (7) days' written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 9.5 This Agreement or any part of it may be suspended by the Owner upon written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of suspension, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other

consequential or incidental damages.

§ 9.6 In the event that the Architect fails to perform in accordance with the terms and conditions of this Agreement, Owner may send a Notice of Termination to the Architect. The Architect shall then have seven (7) days from the date of transmittal to cure the default or breach. The Notice of Termination shall be effective if the Architect does not cure the default or breach within seven (7) days after its date of transmittal. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages. However, the Owner shall be entitled to offset any amounts due and owing the Architect pursuant to this provision by the amounts of any damages incurred by the Owner as a result of the Architect's breach, which offset shall not prejudice the right of the Owner to recover additional damages or to exercise any other remedy at law or in equity. If termination made pursuant to this section is later found or agreed to have been improper, then the termination pursuant to section 9.4.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the internal laws of the State of Nebraska without regard to its choice of law rules. Any action between the Parties concerning causes of action arising from or related to this Agreement or the Project must be brought solely and exclusively in a trial court for the county in which the Project is located; and the Parties hereby waive any objection to the jurisdiction of such courts over causes of action arising from or related to the Contract, including but not limited to objections on the basis of lack of personal jurisdiction, improper venue, or *forum non conveniens*.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended, unless a contrary definition is set forth or inferable from this Agreement.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless the hazardous materials or toxic substances were knowingly brought to the Project pursuant to the terms of the Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project site, it shall immediately report that presence to the Owner in writing.

§ 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 upon the prior written approval of the Owner. The Architect shall be given reasonable access to the completed Project to make such representations. The Architect's materials shall not include the Owner's confidential or proprietary information and the Architect shall not take or use photographs which include pictures of the Owner's students, faculty, employees, volunteers, or visitors without the prior written approval of the Owner. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

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

§ 10.10 The Architect shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Architect employs or contracts with any Subcontractor or Consultant in connection with this Agreement, the Architect shall include a provision in the contract requiring the Subcontractor or Consultant to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

§ 10.11 The Architect agrees that all Drawings and Specifications and other documents prepared by the Architect for the Project which are utilized by the Owner and/or Owner's contractor or contractors, shall be reasonably accurate and complete as is customary for typical construction documents. The Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies, inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify the Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 10.12 The Architect shall promptly advise the Owner of any problems which come to its attention that may cause a delay in the completion of the Project, or any portion thereof, or in the performance of the Architect's services. The Architect acknowledges that time is of the essence in this Agreement.

§ 10.13 Indemnification

§ 10.13.1 Indemnification by Architect for Non-Professional Acts. To the fullest extent permitted by law, the Architect shall defend, indemnify, and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the “Indemnitees”) from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants’ and attorneys’ fees and expenses), that arise out of, are related to, or are in connection with this Agreement, the Project, the Work, the Architect’s services, the Architect’s performance hereunder, and/or the Architect’s conduct at or related to the Project or the Owner’s property (hereinafter “Non-Professional Indemnity Claims”), provided that any such Non-Professional Indemnity Claim arises from conduct other than professional services and is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use of the same, but only to the extent caused by the reckless or negligent acts or omissions of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.1.

Notwithstanding the foregoing, the Architect’s obligations in this Section 10.13.1 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee’s own negligent conduct.

§ 10.13.2 Indemnification by Architect for Professional Act. To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the “Indemnitees”) from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants’ and attorneys’ fees and expenses), that arise out of, are related to, or are in connection with the negligent acts of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, in the performance of professional services under this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.2.

Notwithstanding the foregoing, the Architect’s obligations in this Section 10.13.2 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee’s own negligent conduct.

§ 10.13.3 The indemnification obligations under this Section 10.13 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Architect, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers’ compensation acts, disability benefit acts or other employee benefit acts.

§ 10.14 In the event of any controversy, other than a change of project scope, between the Owner and the Architect under this Agreement, including but not limited to, whether or not any services the Owner expects the Architect to perform are within the scope of Basic Services or any dispute as to whether or not the Architect is entitled to additional compensation for any work requested or performed, the Architect shall continue to proceed diligently with the performance of its services under this Agreement pending resolution of the dispute, and the Owner agrees to pay the Architect in accordance with this Agreement for all services rendered by the Architect which are not the subject of the Controversy.

§ 10.15 The Architect and all Subcontractors and Consultants, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on school premises or at school related functions. The Architect and all Subcontractors and Consultants, if any, shall not possess any weapon, as defined by Nebraska law and the federal “Drug-Free Schools Act,” on school property or at school related functions. The Architect and all Subcontractors and Consultants, if any, also shall adhere to all Owner’s policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on school premises or at school related functions. Failure to comply with this provision may be considered a material breach. The Owner may suspend or terminate the Architect, Subcontractor, and/or Consultant if they violate these laws, regulations, or policies or this provision.

§ 10.16 The Architect and all Subcontractors or Consultants, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

§ 10.17 The Architect acknowledges that the Owner must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

§ 10.18 When present on Owner’s property, Architect and its employees and subcontractors or anyone directly or indirectly employed by or representing any of them, shall:

- .1 carry photo identification;
- .2 not smoke or otherwise use tobacco;
- .3 not use, or be under the influence of, alcohol or drugs;
- .4 not carry a firearm or other weapon; and
- .5 comply with all of the school district’s rules, policies, procedures which are intended to protect the safety and health of its faculty, staff, students, and visitors

§ 10.19 The Architect shall not knowingly design, specify or incorporate in the Drawings or Specifications for the Project, and shall not approve any shop drawings specifying any hazardous materials or toxic substances, in such manner as would violate the requirements of all existing laws, ordinances, codes, rules and regulations, orders and

decisions of all government authorities having jurisdiction over the Site, the Work or any part of either, or would cause substantial damage or a risk of substantial damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner. For purposes of this Agreement the term "hazardous materials" and "toxic materials" shall include, but shall not be limited to, substances currently defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802, the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6910 et seq., and all other federal, state, and local environmental laws, rules and regulations as all of the above may be amended from time to time.

§ 10.20 The Services provided by the Architect are deemed to be personal in nature. The Architect hereby appoints the following individuals to the Project Team: Bob Soukup, AIA, Principal. The Architect shall not make substantial changes to this appointed Project Team without the written approval of the Owner. Should circumstances beyond the control of the Architect compel changes to this Project Team, the Architect shall submit the credentials of the Architect's proposed replacement Project Team member(s) for the Owner's approval, which approval shall not be unreasonably withheld. However, nothing in this clause shall be construed to limit the Owner's rights to terminate this Agreement, as provided for herein, due to a change in Project Team composition. Termination by the Owner as a result of a change in the Project Team shall be deemed a justifiable Termination for Cause.

ARTICLE 11 COMPENSATION

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

.1 Stipulated Sum

A lump sum fee in the total amount of Eight-Five Thousand Dollars and Zero Cents (\$85,000.00)

Optional Design Fee for Field Lighting Replacement: A lump sum in the total amount of Eight Thousand Dollars and Zero Zents (\$8,000.00)

.2 Percentage Basis

None

.3 Other
(Describe the method of compensation)

A Site Survey will be required for the design of the new building and septic system. This Site Survey will be provided the civil engineer, E&A Consulting Group, for a separate lump sum fee in the total amount of Six Thousand Dollars and Zero Cents (\$6,000.00).

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

When requested in writing by Owner, compensation shall be hourly in accordance with sections 11.4 and 11.7 or as otherwise negotiated.

§ 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:

When requested in writing by Owner, compensation shall be hourly in accordance with sections 11.4 and 11.7 or as otherwise negotiated.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect only without any additional mark-up.

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

Schematic Design Phase	twenty percent (20 %)
Design Development Phase	twenty percent (20 %)
Construction Documents Phase	forty-two percent (42 %)
Procurement Phase	three percent (3 %)
Construction Phase	fifteen percent (15 %)
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall be resolved with future payments based on subsequent updates to the Owner's budget and eventually the actual values for the Cost of the Work.

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

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

Employee or Category	Hourly Rate
Principal / Partner	\$240
Project Manager	\$180
Architect / Planner	\$160
Interior Designer	\$150
Construction Administrator	\$150
Architectural / Interior Design Staff	\$120
Construction Administration Staff	\$120
Clerical	\$ 90

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Project web sites;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 [Intentionally deleted];
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 [Intentionally deleted]
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

§ 11.9 [Intentionally deleted]

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payment

An initial payment of zero dollars (\$0.00) 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 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable thirty (30) days following the Architect's presentation to the Owner of the Architect's invoice, provided that such invoice is received by the Owner in time to be included in the board packet for the next regularly scheduled board meeting and such board meeting actually occurs. Any payment not made within twenty (20) days following the next regularly scheduled meeting that actually occurs after the Architect's invoice is timely received by the Owner shall bear interest at the rate of twelve (12) percent per annum.

§ 11.10.2.2 [Intentionally deleted]

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 The Architect hereby agrees to maintain the insurance described in Paragraph 2.5 hereof during the term hereof. If the Architect fails to furnish and maintain the insurance required by Paragraph 2.5, the Owner may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost hereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance.

§ 12.2 Notwithstanding anything in the Agreement to the contrary, the Architect shall not be entitled to any increase in compensation or Reimbursable Expenses which accrue as a result of any error or omission by the Architect or as a result of the Architect's breach of any provision in this Agreement.

§ 12.3 The Owner's approval of the Schematic Design Documents, the Design Development Documents, Drawings and Drawings and Specifications and any other Construction Document and Contract Document shall be deemed to be approval of the concepts therein, but not approval of the means, techniques or particular material recommended by the Architect for the Project.

§ 12.4 The failure of either party to exercise any of its rights under this Agreement for a breach or violation thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach or violation.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, as amended;
 - .2 AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended;
- and

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

OWNER (Signature)

BY: Brad Kjar, Superintendent

(Printed name and title)



ARCHITECT (Signature)

BY: Robert Soukup, AIA, Principal

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



Additions and Deletions Report for AIA® Document B101® – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:11:46 CST on 01/08/2026.

Changes to original AIA text

PAGE 1

AGREEMENT made as of the 12th day of January in the year 2026

(In words, indicate day, month and year.)

(Name, legal status, address and other information)

Burt County School District 11-0001, c/k/a

Tekamah-Herman Schools

112 N. 13th St.

Tekamah, NE 68061

Attn: Superintendent Brad Kjar

(402) 374-2157

bkjar@thtigers.org

(Name, legal status, address and other information)

Carlson West Povondra Architects, Inc.

5060 Dodge Street

Omaha, NE 68132-2965

(402) 551-1500

Attn: Robert Soukup, AIA

(Name, location and detailed description)

Track and Field Complex Project

Tekamah-Herman Schools

PAGE 2

Among other components, the Owner's program, or state the manner in which the program will be developed, includes improvements to its existing track and field complex at the north end of town.

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

The project will involve the construction of a new concessions, restroom, and locker room facility at the northwest corner of the existing track, an associated septic system to service the new building, and a new scoreboard.

Replacement of the existing field lights was discussed as a potential design alternate. The Architect has included a separate design fee proposal for the replacement of the field lights by Morrissey Engineering. This would include the following scope of services:

- Design of replacement of existing field lighting utilizing existing locations. Basis of design will be MUSCO lighting projects.

PAGE 3

- Photometric design calculations
- Coordination of power requirements and controls

(Provide total and, if known, a line item breakdown.)

A total project budget of approximately One Million Dollars (\$1,000,000.00)

TBD

Spring 2026

Fall 2026

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

A traditional, competitively bid, design-bid-build project delivery system.

§ 1.1.6 [Intentionally deleted]

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

Superintendent Brad Kjar

Tekamah-Herman Schools

112 N. 13th St.

Tekamah, NE 68061

(402) 374-2157

PAGE 4

bkjar@thtigers.org

Owner's Board of Education

.1 Geotechnical Engineer: N/A

.2 Civil Engineer: N/a

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

Robert Soukup, AIA, Principal

Carlson West Povondra Architects, Inc.

5060 Dodge Street

Omaha, NE 68132-2965

(402) 551-1500

bsoukup@cwparchitects.com

~~.1 Structural Engineer:~~

.1 Structural Engineer

InfraStructure

6910 Pacific St., Ste. 310

Omaha, NE 68106

.2 Mechanical Engineer:

~~.3 Electrical Engineer:~~

Morrissey Engineering

4940 N. 118th St.

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Omaha, NE 68164

.3 Electrical Engineer

Morrissey Engineering

4940 N. 118th St.

Omaha, NE 68164

.4 Civil Engineer

E&A Consulting Group

10909 Mill Valley Rd., Ste. 100

Omaha, NE 68154

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

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect hereby represents that it ~~is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals~~ (and the individual architects and engineers it employs on this Project) are licensed to practice Architecture (or Engineering, as the case may be) as required by law in the State of Nebraska. Nothing in this Agreement shall be construed to authorize performance by the Architect at a standard of care that is reduced from that which is required by law and which is expected of architects practicing under similar circumstances and conditions.

§ 2.1.1 The Architect will endeavor to provide designs, Construction Documents, and Services that shall conform to all federal, state, and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and acknowledges that this duty is non-delegable—and that the Architect, by signing drawings or preparing Construction Documents to submit for purposes of obtaining building and other governmental permits,

shall be deemed to have performed reasonable care as defined in paragraph 2.2 to ascertain what codes apply to the Project and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state, and federal statutes and regulations, including but not limited to those that relate to hazardous materials, restrictions on development of wetlands, and accessibility for the physically challenged.

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§ 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. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflicts or omissions that are not due to unforeseen conditions or latent defects will be promptly corrected by Architect at no additional cost to Owner, provided that such error, conflict, or omission is not based on erroneous information provided to the Architect by the Owner or one of its consultants or subcontractors. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflicts or omissions that are due to unforeseen conditions or latent defects will be promptly corrected by Architect as an Additional Service.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. This designation shall be submitted in writing for the Owner's approval. Once approved, the designated representative shall not be changed without the Owner's written authorization.

~~§-2.5 Insurance~~ The Architect shall purchase and maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9 types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located and such insurance company or insurance companies shall have an A.M. Best rating of not less than A- VIII. Unless a different duration is stated below, the Architect shall maintain the required insurance for at least five (5) years after the later occurrence of either the Date of Substantial Completion of the Project or the date on which the Architect last furnishes services to the Owner arising from or related to the Project.

~~§-2.5.1 Commercial General Liability insurance written on an occurrence form with policy limits of not less than - (\$ -) for One Million Dollars (\$1,000,000) each occurrence, and (\$ -) in the aggregate for bodily injury and property damage Two Million Dollars (\$2,000,000) general aggregate, and Two Million Dollars (\$2,000,000) aggregate for products-completed operations hazard, providing coverage no less broad than the ISO CG 00 01 coverage form and for claims including, without limitation,~~

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of injury to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Architect's obligations under this Agreement.

~~§-2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$ -) per accident~~The Architect's completed operations coverage shall be maintained for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. On behalf of itself and its commercial general liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same

§ 2.5.2 Automobile Liability insurance covering vehicles owned by the Architect and hired and non-owned vehicles used by the Architect, its employees, and agents with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section 2.5.2, along with any other statutorily required automobile coverage. On behalf of itself and its automobile liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

~~§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2; Workers' Compensation at statutory limits. On behalf of itself and its workers compensation insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.~~

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§ 2.5.4 Employers' Liability insurance with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, and One Million Dollars (\$1,000,000) policy limit. On behalf of itself and its employers' liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.5.5 Commercial Umbrella/Excess Liability Insurance with limits of at least Two Million Dollars (\$2,000,000) in excess of Commercial General Liability, Automobile Liability, and Employers' Liability insurance limits such that the total limits of liability of each underlying policy together with the limit of the Commercial Umbrella/Excess Liability policy is no less than Three Million Dollars (\$3,000,000) per occurrence. Coverage under the Commercial Umbrella/Excess Liability policy shall result in the in the same or greater coverage as those required under Sections 2.5.1, 2.5.2, and 2.5.4 and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

~~§ 2.5.4 Workers' Compensation at statutory limits.~~

~~§ 2.5.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit. On behalf of itself and its commercial umbrella/excess liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.~~

~~§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$ Three Million Dollars (\$3,000,000) per claim and (\$) in the aggregate Three Million Dollars (\$3,000,000) in the aggregate. The coverage required in this section shall be maintained for at least ten (10) years following termination of the Agreement or the date of substantial completion, whichever is later.~~

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability, including without limitation the insurance required by sections 2.5.1, 2.5.2, and 2.5.5, to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Owner shall continue as an additional insured, upon the terms herein, for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. The Architect shall require all of its consultants, if any, to include the Owner as an additional insured, upon terms substantially identical to those stated above, on the consultant's Commercial General Liability and Automobile Liability coverage.

~~§ To be clear, the Architect shall NOT include the Owner as an additional insured on the Professional Liability~~

insurance coverage required by Section 2.5.6, particularly to the extent that such policy(ies) include any so-called “insured-versus-insured” exclusion.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5, 2.5 at the following times: (1) prior to commencement of the services; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner’s written request. The Owner’s acceptance of the Architect’s certificate(s) of insurance does not relieve any of the Architect’s responsibilities under the Agreement and shall not constitute a waiver of the Architect’s obligation to provide insurance as required by this Agreement. The Owner has the right to receive copies of any of the Architect’s insurance policies (including without limitation declaration pages, policy forms, and all endorsements) upon written request.

ARTICLE 3 — SCOPE OF ARCHITECT’S BASIC SERVICES

§ 3.1 The Architect’s Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services
§ 2.5.9 The Architect (or its insurance carrier(s)) must provide written notice to the Owner no less than thirty (30) days prior to any cancellation or non-renewal of the Architect’s insurance. Within three (3) business days of the date the Architect becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 2.5, the Architect shall provide written notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Architect, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right (but not the obligation) to suspend the services until the lapse in coverage has been cured by the procurement of replacement coverage by the Architect. The furnishing of notice by the Architect shall not relieve the Architect of any contractual obligation to provide any required coverage.

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§ 2.5.10 The Architect shall disclose to the Owner in writing any large deductible (at least \$10,000) or self-insured retentions applicable to any insurance required to be provided by the Architect, and such large deductible or self-insured retention is subject to the Owner’s written approval. The Owner has the right, but not necessarily the obligation, to require a proper form of collateral for any such large deductible or self-insured retention.

§ 2.5.11 The Architect agrees to require its consultants, if any, to comply with the insurance provisions required of the Architect pursuant to this Agreement unless the Architect and Owner mutually agree in writing to modify these requirements for those consultants whose work is of relatively small scope. The Architect agrees that it will contractually obligate its consultants to advise Architect promptly of any changes or lapses of the requisite insurance coverages and Architect agrees to promptly advise Owner of any such notices Architect receives from its consultants. The Architect agrees that it will contractually obligate its consultants to indemnify and hold harmless Owner to the same extent that Architect is required to do so as provided in this Agreement. The Architect assumes all responsibility for monitoring its consultant’s insurance certificates for compliance with the insurance and other provisions of this Agreement until final completion of the Project.

§ 2.5.12 Among other grounds to withhold payment, the Architect’s failure to fully comply with all insurance requirements in this Section 2.5 provides the Owner sufficient grounds to withhold some or all payments otherwise due the Architect. The Owner has the right, but not necessarily the obligation, to declare the Architect’s failure to fully comply with the insurance requirements in this Section 2.5 a material breach of the Architect’s obligations under this Agreement.

§ 2.5.13 All of the coverage limits stated in this Section 2.5 are minimum insurance limits and shall not be construed in any way to limit the liability of the Architect.

§ 2.5.14 The Architect’s insurance, whether or not specified above, shall be primary to any insurance maintained by the Owner.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect will provide all professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. ~~The Architect shall be fully responsible for coordinating all Architect's Basic and all other services required under this Agreement regardless of whether performed by its own employees or its consultants.~~ The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. ~~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.~~ Consultants. The purpose of such coordination is to ensure that the services required are performed in a reasonably efficient, timely and economical manner. The Architect shall be responsible to Owner for the services furnished to Architect by any of its consultants to the same extent as if Architect had furnished the service itself. The Architect also agrees to coordinate and resolve any inconsistencies in its work and the work of its consultants. All of Architect's contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: "The Owner is intended to be a third party beneficiary of this agreement."

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§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval, provided that the Architect is aware of it and notifies the Owner of its disapproval prior to or within a reasonable amount of time after the directive or substitution.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities represents that it is familiar with, and experienced in the interpretation of laws, codes and regulations applicable to the Architect's services and the Project in general. Accordingly, the Architect shall be subject to a standard of care consistent with industry standards in its execution of the work of this Project and as applicable to such laws, codes and regulations. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall endeavor to meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in an effort to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect's expertise in laws, codes and regulations concerning projects of this type. The Architect agrees that all work performed by the Architect and any consultants of the Architect shall fully comply with all such laws, codes and regulations in a manner consistent with industry standards. In the event that the Project fails to comply with any law, code or regulation in a manner consistent with industry standards, and such failure is not due to the Contractor's failure to comply with the Contract Documents, then the Architect shall be responsible to the Owner for any damages, including costs of replacement, lost income and all other direct costs associated with such failure.

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§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. ~~The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.~~

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with ~~Section 6.3~~ 6.3. If the adjusted preliminary estimate of Construction Cost at this phase exceeds the preliminary construction cost budget previously established, Architect shall recommend to Owner items of possible cost reduction to the scope of the Project to bring it within such budget. The Owner may choose to adopt a new budget at this time, but this shall be done in writing. After Owner's written approval of these cost reductions, they will be incorporated into the design development phase.

§ 3.4.2 The Architect shall ~~incorporate the design~~ prepare Construction Documents that conform with the laws, codes, ordinances, regulations, and other requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

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

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

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. ~~If the as amended by Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement.~~

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

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, ~~or as otherwise required in Section 4.2.3,~~ to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. If the architect does not reject Work that it knows is non-conforming, the Architect shall demand in writing that the Contractor bring the non-conforming Work into compliance with the Contract Documents; and, if the Contractor's efforts to do so are not begun and completed expeditiously, the Architect shall report that failure to the Owner in writing, stating: (a) the problem; (b) the reasons for the actions taken by the Architect; (c) what, if any, response

has been forthcoming from the Contractor; and (d) what actions by the Owner and/or Contractor are needed or expected. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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§ 3.6.4.1 The Architect shall review the Contractor’s submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review. Submissions that are not approved by the Architect are to be brought to the attention of the Owner concurrent with notification to the Contractor.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. Nothing in this Agreement shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals construed as an Owner’s authorization to the Architect to delegate design responsibility. Except for delegation to consulting engineers who are responsible to, and in privity with, the Architect, and except for certain fabrications subject to delegated design in the project specifications approved by the owner (such as, but not necessarily limited to, metal buildings, prefabricated stairs and railings, elevators, fire sprinkler systems, etc.), any delegation of design responsibility by the Architect must be specifically authorized in writing, in advance, by the Owner, which authorization can be withheld by the Owner for any reason.

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

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall provide written notice to the Owner of a minor change in the Work as soon as practicable after authorizing the minor change. The Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

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§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation other than reimbursable expenses outlined in section 11.8, conduct a meeting with the Owner to review the facility operations and performance.

§ 4.1.1 ~~The services~~ Unless denoted as “Architect (as Basic Services)” under “Responsibility” column in the table below, the Supplemental Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Owner may request other Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as

provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. *(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

of the Architect. Supplemental Services will be requested by the Owner, and confirmed in writing. Should the Owner request services that the Architect believes to be outside the scope of Basic Services, the Architect shall, before performing those services, inform the Owner in writing of the Architect's belief that the services requested are Supplemental or Additional Services, and shall provide an estimate in writing to the Owner of the probable total of the Supplemental or Additional Service Fees to be incurred in performing the services requested.

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect (as Basic Services)
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Architect (as Basic Services)
§ 4.1.1.4 Existing facilities surveys	Architect (as Basic Services)
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Architect as required per § 3.3 and § 3.4
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect (as Basic Services)
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Architect (as Basic Services)
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Architect per § 4.2.3.2
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect (as Basic Services)
§ 4.1.1.16 As-constructed record drawings	Architect to specify as provided by Contractor
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.21 Telecommunications/data design	Optional per § 11.4 and § 11.7
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Optional per § 11.4 and § 11.7

§ 4.1.1.29 Other services provided by specialty Consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.30 Other Supplemental Services	Not Provided

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

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

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

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~~.2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;~~

~~.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;~~

~~.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;~~

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

~~.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~

~~.7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

~~.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;~~

~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~

~~.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,~~

~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~

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

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

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

~~.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;~~

~~.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,~~

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

~~§ 4.2.3~~ The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- ~~.1 () reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor~~
- ~~.2 () visits to the site by the Architect 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.~~

~~§ 4.2.4~~ Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

~~§ 4.2.5~~ If the services covered by this Agreement have not been completed within () 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.

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§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Notwithstanding anything to the contrary contained in this Agreement, Owner's review and approval of any and all documents or other matters required herein shall be for the purpose of design, program, and project scope compliance and providing Architect with information and not for the purpose of determining the technical accuracy and completeness of such documents. Such review and approval by Owner shall in no way create any liability on the part of Owner (notwithstanding any professional skill and judgment possessed by Owner) for technical errors, inconsistencies or omissions in any approved documents, nor shall such review and approval alter Architect's responsibilities hereunder with respect to such documents.

~~§ 5.4~~ Where necessary for the Architect's performance of the Services, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

§ 5.8 The 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 as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided. Services and those of its Consultants with services provided by the Owner.

§ 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, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

§ 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, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

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

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

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

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

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

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

Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate, without reservation, all copyrights to all project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the Contract Documents. Also, the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from his Consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials, provided the contents of those materials, as to this Project, are approved as requested in Paragraph 6.3 of this Agreement. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or his attempt to do so. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to his Consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that Consultant.

~~§ 7.3.1 In2~~ If 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 subsequently reproduces project-related documents or creates a derivative work based upon project-related documents created by the Architect, where permitted or required by law, the Owner shall where permitted by law or required by law remove or completely obliterate the original professional seals, logos, and other indications on the documents of the identity of the Architect and his Consultants. However, if required by law, such identification with appropriate qualifying language or other statutorily prescribed information identifying the original Architect may remain or be applied by the Owner or by a designee of the Owner. The Owner agrees to hold the Architect and its consultants harmless from claims that may arise from any reuse.

~~§ 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.

~~§ 7.5~~ Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement3 The Architect shall maintain the confidentiality of all Project documents and shall not publish or in any way disseminate or distribute any project documents, including, but not limited to, correspondence, estimates, drawings, photographs, or any other material relating to the Project other than the Architect's forms, detail, specifications and other instruments of service without the express written permission of the Owner. The Architect may use photos of the completed Project on its Website, provided that they do not include students or employees of the Owner.

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~~§ 8.1.4~~ The Owner Architect and Architect shall commence all claims and causes of action against the other and Owner may mutually agree to submit to mediation any claim, dispute, or other matter in question arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and

Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1 but shall not be obligated to do so as a prerequisite of instituting any legal action. If the parties agree to engage in mediation, they shall share in the payment of mediator's fees and filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon by the Architect and Owner.

§ 8.2 Notwithstanding any reference to arbitration contained in this Agreement, neither the Architect nor the Owner shall be obligated to resolve any Claim through arbitration.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 The Architect shall give the Owner twenty-one (21) days' written notice of the Architect's intention to terminate or suspend provision of services. This notice shall specify the Architect's reasons(s) for the intended termination or suspension and shall state with specificity the means by which the owner may cure the asserted grievance.

§ 9.2 Unless otherwise noted herein, the Architects shall be compensated for services fully and satisfactorily performed prior to suspension if the Project is suspended by the Owner for more than ninety (90) consecutive days.

§ 9.3 If the Project is suspended or the Architect's services are suspended for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than twenty-one (21) days' written notice.

§ 89.1.3 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 9.74 This Agreement may be terminated by the Owner, with or without cause, for the Owner's convenience upon not less than seven (7) days' written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 89.2.1 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. 5 This Agreement or any part of it may be suspended by the Owner upon written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of suspension, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 89.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. 6 In the event that the Architect fails to perform in accordance with the terms and conditions of this Agreement, Owner may send a Notice of Termination to the Architect. The Architect shall then have seven (7) days from the date of transmittal to cure the default or breach. The Notice of Termination shall be effective if the Architect does not cure the default or breach within seven (7) days after its date of transmittal. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages. However, the Owner shall be entitled to offset any amounts due and owing the Architect pursuant to this provision by the amounts of any

damages incurred by the Owner as a result of the Architect's breach, which offset shall not prejudice the right of the Owner to recover additional damages or to exercise any other remedy at law or in equity. If termination made pursuant to this section is later found or agreed to have been improper, then the termination pursuant to section 9.4.

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ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the internal laws of the State of Nebraska without regard to its choice of law rules. Any action between the Parties concerning causes of action arising from or related to this Agreement or the Project must be brought solely and exclusively in a trial court for the county in which the Project is located; and the Parties hereby waive any objection to the jurisdiction of such courts over causes of action arising from or related to the Contract, including but not limited to objections on the basis of lack of personal jurisdiction, improper venue, or *forum non conveniens*.

§ 810.2.4 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.)

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

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction. Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended, unless a contrary definition is set forth or inferable from this Agreement.

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

§ 810.3 Arbitration

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

§ 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. **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, unless the hazardous materials or toxic substances were knowingly brought to the Project pursuant to the terms of the Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project site, it shall immediately report that presence to the Owner in writing.

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~~§ 8.10.3.27~~ 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. 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 upon the prior written approval of the Owner. The Architect shall be given reasonable access to the completed Project to make such representations. The Architect's materials shall not include the Owner's confidential or proprietary information and the Architect shall not take or use photographs which include pictures of the Owner's students, faculty, employees, volunteers, or visitors without the prior written approval of the Owner. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

~~§ 8.10.3.3~~ 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. If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.3.4 Consolidation or Joinder

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). 1 The receiving party may disclose "confidential" or "business proprietary" information when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute between the parties. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent. 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

~~§ 8.3.4.3~~ 10.10 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

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

ARTICLE 9 — TERMINATION OR SUSPENSION

~~§ 9.1~~ If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall

~~be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. Architect shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Architect employs or contracts with any Subcontractor or Consultant in connection with this Agreement, the Architect shall include a provision in the contract requiring the Subcontractor or Consultant to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.~~

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§ 10.11 The Architect agrees that all Drawings and Specifications and other documents prepared by the Architect for the Project which are utilized by the Owner and/or Owner's contractor or contractors, shall be reasonably accurate and complete as is customary for typical construction documents. The Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies, inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify the Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 10.12 The Architect shall promptly advise the Owner of any problems which come to its attention that may cause a delay in the completion of the Project, or any portion thereof, or in the performance of the Architect's services. The Architect acknowledges that time is of the essence in this Agreement.

~~§ 9.2 If the Owner suspends the Project~~ 10.13 Indemnification

~~§ 10.13.1 Indemnification by Architect for Non-Professional Acts. To the fullest extent permitted by law, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

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

~~§ 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 caused defend, indemnify, and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the "Indemnitees") from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants' and attorneys' fees and expenses), that arise out of, are related to, or are in connection with this Agreement, the Project, the Work, the Architect's services, the Architect's performance hereunder, and/or the Architect's conduct at or related to the Project or the Owner's property (hereinafter "Non-Professional Indemnity Claims"), provided that any such Non-Professional Indemnity Claim arises from conduct other than professional services and is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use of the same, but only to the extent caused by the reckless or negligent acts or omissions of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.1.

Notwithstanding the foregoing, the Architect's obligations in this Section 10.13.1 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by

such Indemnitee's own negligent conduct.

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

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

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

.1— Termination Fee;

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

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

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

ARTICLE 10 — MISCELLANEOUS PROVISIONS

~~§ 10.1~~ This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3 **10.13.2 Indemnification by Architect for Professional Act.** To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the "Indemnitees") from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants' and attorneys' fees and expenses), that arise out of, are related to, or are in connection with the negligent acts of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, in the performance of professional services under this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.2.

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Notwithstanding the foregoing, the Architect's obligations in this Section 10.13.2 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee's own negligent conduct.

§ 10.13.3 The indemnification obligations under this Section 10.13 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Architect, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

~~§ 10.2~~ Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

~~§ 10.3~~ The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment. **14** In the event of any controversy, other than a change of project scope, between the Owner and the Architect under this Agreement, including but not limited to, whether or not any services the Owner expects the Architect to perform are within the scope of Basic Services or any dispute as to whether or not the Architect is entitled to additional compensation for any work requested or performed, the Architect shall continue to proceed diligently with the performance of its services under this Agreement pending resolution of the dispute, and the Owner agrees to pay the Architect in accordance with this Agreement for all services rendered by the Architect which are not the subject of the Controversy.

~~§ 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. 15 The Architect and all Subcontractors and Consultants, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on school premises or at school related functions. The Architect and all Subcontractors and Consultants, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on school property or at school related functions. The Architect and all Subcontractors and Consultants, if any, also shall adhere to all Owner's policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on school premises or at school related functions. Failure to comply with this provision may be considered a material breach. The Owner may suspend or terminate the Architect, Subcontractor, and/or Consultant if they violate these laws, regulations, or policies or this provision.

~~§ 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. 16 The Architect and all Subcontractors or Consultants, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

~~§ 10.7~~ 17 The Architect shall acknowledge that the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4. Owner must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

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§ 10.18 When present on Owner's property, Architect and its employees and subcontractors or anyone directly or indirectly employed by or representing any of them, shall:

- .1 carry photo identification;
- .2 not smoke or otherwise use tobacco;
- .3 not use, or be under the influence of, alcohol or drugs;
- .4 not carry a firearm or other weapon; and
- .5 comply with all of the school district's rules, policies, procedures which are intended to protect the safety and health of its faculty, staff, students, and visitors

~~§ 10.8~~ 19 The Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this

Agreement.

~~§ 10.8.1~~ The receiving party may disclose “confidential” or “business proprietary” information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8 shall not knowingly design, specify or incorporate in the Drawings or Specifications for the Project, and shall not approve any shop drawings specifying any hazardous materials or toxic substances, in such manner as would violate the requirements of all existing laws, ordinances, codes, rules and regulations, orders and decisions of all government authorities having jurisdiction over the Site, the Work or any part of either, or would cause substantial damage or a risk of substantial damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner. For purposes of this Agreement the term "hazardous materials" and “toxic materials” shall include, but shall not be limited to, substances currently defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802, the Resource Conservation Act and Recovery Act, 42 U.S.C. Sec. 6910 et seq., and all other federal, state, and local environmental laws, rules and regulations as all of the above may be amended from time to time.

~~§ 10.920~~ The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement. Services provided by the Architect are deemed to be personal in nature. The Architect hereby appoints the following individuals to the Project Team: Bob Soukup, AIA, Principal. The Architect shall not make substantial changes to this appointed Project Team without the written approval of the Owner. Should circumstances beyond the control of the Architect compel changes to this Project Team, the Architect shall submit the credentials of the Architect's proposed replacement Project Team member(s) for the Owner's approval, which approval shall not be unreasonably withheld. However, nothing in this clause shall be construed to limit the Owner's rights to terminate this Agreement, as provided for herein, due to a change in Project Team composition. Termination by the Owner as a result of a change in the Project Team shall be deemed a justifiable Termination for Cause.

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

—(Insert amount)

A lump sum fee in the total amount of Eight-Five Thousand Dollars and Zero Cents (\$85,000.00)

Optional Design Fee for Field Lighting Replacement: A lump sum in the total amount of Eight Thousand Dollars and Zero Zents (\$8,000.00)

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—(Insert percentage value)

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

None

A Site Survey will be required for the design of the new building and septic system. This Site Survey will

be provided the civil engineer, E&A Consulting Group, for a separate lump sum fee in the total amount of Six Thousand Dollars and Zero Cents (\$6,000.00).

When requested in writing by Owner, compensation ~~(If necessary, list specific services to which particular methods of compensation apply.)~~ shall be hourly in accordance with sections 11.4 and 11.7 or as otherwise negotiated.

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

When requested in writing by Owner, compensation shall be hourly in accordance with sections 11.4 and 11.7 or as otherwise negotiated.

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

~~(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)~~

only without any additional mark-up.

Schematic Design Phase	<u>twenty percent (20 %)</u>
Design Development Phase	<u>twenty percent (20 %)</u>
Construction Documents Phase	<u>forty-two percent (42 %)</u>
Procurement Phase	<u>three percent (- 3 %)</u>
Construction Phase	<u>fifteen percent (15 %)</u>
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

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

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

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~~(If applicable, attach an exhibit of hourly billing rates or insert them below.)~~

Employee or Category	Rate (\$0.00) Hourly Rate
<u>Principal / Partner</u>	<u>\$240</u>
<u>Project Manager</u>	<u>\$180</u>
<u>Architect / Planner</u>	<u>\$160</u>
<u>Interior Designer</u>	<u>\$150</u>
<u>Construction Administrator</u>	<u>\$150</u>
<u>Architectural / Interior Design Staff</u>	<u>\$120</u>
<u>Construction Administration Staff</u>	<u>\$120</u>

Clerical	\$ 90
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~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~

~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner[Intentionally deleted];~~

~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;[Intentionally 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 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:~~

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

~~§ 11.9 [Intentionally deleted]~~

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§ 11.10.1 Initial Payments~~Payment~~

An initial payment of ~~(\$ zero dollars (\$0.00))~~ shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

§ 11.10.2 Progress Payments

§ 11.10.2 Progress Payments

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

~~§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or~~

~~liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.~~

~~thirty (30) days following the Architect's presentation to the Owner of the Architect's invoice, provided that such invoice is received by the Owner in time to be included in the board packet for the next regularly scheduled board meeting and such board meeting actually occurs. Any payment not made within twenty (20) days following the next regularly scheduled meeting that actually occurs after the Architect's invoice is timely received by the Owner shall bear interest at the rate of twelve (12) percent per annum.~~

~~§ 11.10.2.2 [Intentionally deleted]~~

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

~~ARTICLE 13 SCOPE OF THE AGREEMENT~~

~~§ 12.1 The Architect hereby agrees to maintain the insurance described in Paragraph 2.5 hereof during the term hereof. If the Architect fails to furnish and maintain the insurance required by Paragraph 2.5, the Owner may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost hereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance.~~

~~§ 13.2 This 12.2 Notwithstanding anything in the Agreement is comprised of the following documents identified below:~~

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

~~.2 Building Information Modeling Exhibit, if completed:~~

~~.3 Exhibits:~~

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

~~[] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:~~

~~(Insert the date of the E204 2017 incorporated into this agreement.)~~

~~[] Other Exhibits incorporated into this Agreement:~~

~~(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)~~

~~.4 Other documents:~~

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

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

~~to the contrary, the Architect shall not be entitled to any increase in compensation or Reimbursable Expenses which accrue as a result of any error or omission by the Architect or as a result of the Architect's breach of any provision in this Agreement.~~

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~~§ 12.3 The Owner's approval of the Schematic Design Documents, the Design Development Documents, Drawings and Drawings and Specifications and any other Construction Document and Contract Document shall be deemed to be approval of the concepts therein, but not approval of the means, techniques or particular material recommended by the Architect for the Project.~~

~~§ 12.4 The failure of either party to exercise any of its rights under this Agreement for a breach or violation thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach or violation.~~

~~ARTICLE 13 SCOPE OF THE AGREEMENT~~

~~§ 13.1 This Agreement, together with all written modifications, represents the entire and integrated agreement between the Owner and the Architect concerning the subject matter herein and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument~~

signed by both the Owner and Architect.

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

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

- .2 AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended;
and

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

Variable Information

PAGE 1

AGREEMENT made as of the 12th day of January in the year 2026

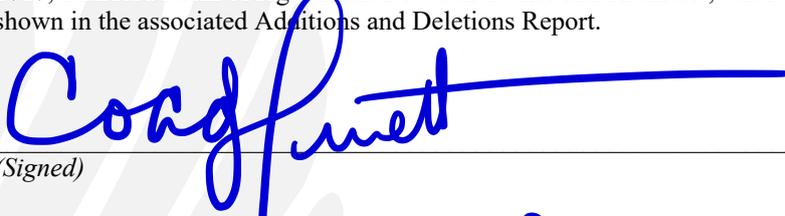
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Schematic Design Phase	<u>twenty</u> percent (<u>20</u> %)
Design Development Phase	<u>twenty</u> percent (<u>20</u> %)
Construction Documents Phase	<u>forty-two</u> percent (<u>42</u> %)
Procurement Phase	<u>three</u> percent (<u>-3</u> %)
Construction Phase	<u>fifteen</u> percent (<u>15</u> %)
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Coady H. Pruett, 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 14:11:46 CST on 01/08/2026 under Order No. 20250115061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)



(Title)



(Dated)



AIA[®] Document B133[®] – 2019

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the 12th day of January in the year 2026

BETWEEN the Architect's client identified as the Owner:

Burt County School District 11-0001, c/k/a
Tekamah-Herman Schools
112 N. 13th St.
Tekamah, NE 68061
Attn: Superintendent Brad Kjar
(402) 374-2157
bkjar@thtigers.org

and the Architect:

Carlson West Povondra Architects, Inc.
5060 Dodge Street
Omaha, NE 68132-2965
(402) 551-1500
Attn: Robert Soukup, AIA

for the following Project:

Elementary Classroom Addition Project
Tekamah-Herman Schools
112 N. 13th St.
Tekamah, NE 68061

The Construction Manager (if known):

TBD

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 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 A201–2017[™], General Conditions of the Contract for Construction; A133–2019[™] Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019[™] Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

AIA Document A201[™]–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

The program includes the addition of four new elementary classrooms and interior renovations to two existing classroom spaces in order to create a new corridor link between the existing elementary wing and the high school.

§ 1.1.2 The Project's physical characteristics:

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

The new classroom addition will be construction as a single-story slab on grade, steel post and beam structure with metal stud framing and masonry veneer to match the existing elementary building. The new addition will be approximately 4,500 square feet.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

The Owner's budget is approximately Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

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

- .1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

Summer 2026

.3 Substantial Completion date or dates:

Summer 2027

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:

AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as amended.

§ 1.1.6 The Owner’s requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

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

§ 1.1.7 [Intentionally deleted]

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

Superintendent Brad Kjar
Tekamah-Herman Schools
112 N. 13th St.
Tekamah, NE 68061
(402) 374-2157
bkjar@thtigers.org

§ 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:

Tekamah-Herman Schools Board of Education

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

(List name, legal status, address, and other contact 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. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)

.2 Land Surveyor:

By Owner

.3 Geotechnical Engineer:

By Owner

.4 Civil Engineer:

By Architect

- .5 Other consultants and contractors:
(List any other consultants and contractors retained by the Owner.)

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

Robert Soukup, AIA
Carlson West Povondra Architects
5060 Dodge Street
Omaha, NE 68132-2965
(402) 551-1500
BSoukup@cwparchitects.com

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

§ 1.1.12.1 Consultants retained under Basic Services:

- .1 Structural Engineer:

InfraStructure
6910 Pacific St., Ste. 310
Omaha, NE 68106

- .2 Mechanical Engineer:

Morrissey Engineering
4940 N. 118th St.
Omaha, NE 68164

- .3 Electrical Engineer:

Morrissey Engineering
4940 N. 118th St.
Omaha, NE 68164

- .4 Civil Engineer:

E&A Consulting Group
10909 Mill Valley Rd., Ste. 100
Omaha, NE 68154

§ 1.1.12.2 Consultants retained under Supplemental Services:

TBD

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

TBD

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide all professional services necessary for the complete design, construction documentation, and construction administration for the Project. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect will provide all professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

§ 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. The Architect agrees that its designs, Construction Documents, and Services shall conform to all applicable federal, state, and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and acknowledges that this duty is non-delegable—and that the Architect, by signing drawings or preparing Construction Documents to submit for purposes of obtaining building and other governmental permits, shall be deemed to certify that it has taken reasonable measures to ascertain what codes apply to the Project, consistent with industry standards, and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state, and federal statutes and regulations, including but not limited to those that relate to hazardous materials, restrictions on development of wetlands, and accessibility for the physically challenged.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. 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. This designation shall be submitted in writing for the Owner's approval. Once approved, the designated representative shall not be changed without the Owner's written authorization.

§ 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 **Insurance.** The Architect shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this section or elsewhere in this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located; and such insurance company or insurance companies shall have an A.M. Best rating of not less than A- VIII. The Architect shall maintain the required insurance until such time as the Owner is immune from liability for causes of action related to or arising from the Architect's conduct or as specified herein.

§ 2.6.1 Commercial General Liability insurance written on an occurrence form with policy limits of not less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate, and Two Million Dollars (\$2,000,000) aggregate for products-completed operations hazard, providing coverage no less broad than the ISO CG 00 01 coverage form and for claims including, without limitation,

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;

- .4 bodily injury or property damage arising out of completed operations; and
- .5 Architect's indemnity obligations under this Agreement.

The Architect's completed operations coverage shall be maintained for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. On behalf of itself and its commercial general liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.2 Automobile Liability insurance covering vehicles owned, and non-owned vehicles used, by the Architect, its employees, and agents, with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage. On behalf of itself and its automobile liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.3 Workers' Compensation at statutory limits. On behalf of itself and its workers compensation insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.4 Employers' Liability with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, and One Million Dollars (\$1,000,000) policy limit. On behalf of itself and its employers' liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.5 Commercial Umbrella/Excess Liability Insurance with limits of at least Two Million Dollars (\$2,000,000) in excess of Commercial General Liability, Automobile Liability, and Employers' Liability insurance limits such that the total limits of liability of each underlying policy together with the limit of the Commercial Umbrella/Excess Liability policy is no less than Three Million Dollars (\$3,000,000) per occurrence. Coverage under the Commercial Umbrella/Excess Liability policy shall result in the in the same or greater coverage as those required under Sections 2.6.1, 2.6.2, and 2.6.4 and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. On behalf of itself and its commercial umbrella/excess liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.6 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability, including without limitation the insurance required by sections 2.6.1, 2.6.2, and 2.6.5, to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Owner shall continue as an additional insured, upon the terms herein, for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. The Architects shall require all of its consultants, if any, to include the Owner as an additional insured, upon terms substantially identical to those stated above, on the consultant's Commercial General Liability and Automobile Liability coverage.

To be clear, the Architect shall NOT include the Owner as an additional insured on the Professional Liability insurance coverage required by Section 2.6.7, particularly to the extent that such policy(ies) include any so-called "insured-versus-insured" exclusion.

§ 2.6.7 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Three Million Dollars (\$3,000,000) per claim and Three Million Dollars (\$3,000,000) in the aggregate. The coverage required in this section shall be maintained for at least ten (10) years following termination of the Agreement or the date of substantial completion, whichever is later.

§ 2.6.7 The Architect shall provide certificates of insurance acceptable to the Owner that evidence compliance with the requirements in this Section 2.6 at the following times: (1) prior to commencement of the services; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by section 2.6. The certificates will show the Owner as an additional insured on the Architect's Commercial General Liability, Automobile Liability, and excess or umbrella liability policy. The Owner's acceptance of the Architect's certificate(s) of insurance does not relieve any of the Architect's responsibilities under the Agreement and shall not constitute a waiver of the Architect's obligation to provide insurance as required by this Agreement. The Owner has the right to receive copies of any of the Architect's insurance policies (including without limitation declaration pages, policy forms, and all endorsements) upon written request.

§ 2.6.8 The Architect shall disclose to the Owner in writing any large deductible (at least \$10,000) or self-insured retentions applicable to any insurance required to be provided by the Architect, and such large deductible or self-insured retention is subject to the Owner's written approval. The Owner has the right to require a proper form of collateral for any such large deductible or self-insured retention. The Architect has disclosed to Owner that the Architect's professional liability coverage has a deductible in the amount of \$25,000.

§ 2.6.9 The Architect (or its insurance carrier(s)) must provide written notice to the Owner no less than thirty (30) days prior to any cancellation or non-renewal of the Architect's insurance. Within three (3) business days of the date the Architect becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 2.6, the Architect shall provide written notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Architect, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right (but not the obligation) to suspend the services until the lapse in coverage has been cured by the procurement of replacement coverage by the Architect. The furnishing of notice by the Architect shall not relieve the Architect of any contractual obligation to provide any required coverage.

§ 2.6.10 Among other grounds to withhold payment, the Architect's failure to fully comply with all insurance requirements in this Section 2.6 provides the Owner sufficient grounds to withhold some or all payments otherwise due the Architect. The Owner has the right, but not necessarily the obligation, to declare the Architect's failure to fully comply with the insurance requirements in this Section 2.6 a material breach of the Architect's obligations under this Agreement.

§ 2.6.11 All of the coverage limits stated in this Section 2.6 are minimum insurance limits and shall not be construed in any way to limit the liability of the Architect.

§ 2.6.12 The Architect's insurance, whether or not specified above, shall be primary to any insurance maintained by the Owner.

§ 2.6.13 The Architect must require that its consultants, if any, meet or exceed the minimum insurance requirements in this Contract.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect will provide all professional services necessary for the complete design, construction documentation, and construction administration of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

§ 3.1.1 The Architect, among other duties, shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the

Owner.

§ 3.1.2 The Architect shall be fully responsible for coordinating all Architect's Basic and all other services required under this Agreement regardless of whether performed by its own employees or its consultants. The purpose of such coordination is to ensure that the services required are performed in a reasonably efficient, timely and economical manner. The Architect shall be responsible to Owner for the services furnished to Architect by any of its consultants to the same extent as if Architect had furnished the service itself. The Architect also agrees to coordinate and resolve any inconsistencies in its work and the work of its consultants. All of Architect's contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: "The Owner is intended to be a third party beneficiary of this agreement."

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval, provided that the Architect notifies the Owner of its disapproval prior to or within a reasonable amount of time after the Architect is made aware of the directive or substitution.

§ 3.1.6 The Architect represents that it is familiar with, and experienced in the interpretation and implementation of, laws, codes and regulations applicable to the Architect's services and the Project in general. Accordingly, the Architect shall be subject to a standard of care consistent with industry standards in its execution of the work of this Project and as applicable to such laws, codes and regulations. The Architect shall, in coordination with the Construction Manager, respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect's expertise in laws, codes and regulations concerning projects of this type. The Architect agrees that all work performed by the Architect and any consultants of the Architect shall fully comply with all such applicable laws, codes and regulations in a manner consistent with industry standards. In the event that the Project fails to comply with any law, code or regulation in a manner consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances, and such failure is not due to the Construction Manager's failure to comply with the Contract Documents, then the Architect shall be responsible to the Owner for any damages, including costs of replacement, lost income and all other direct and indirect costs associated with such failure.

§ 3.1.7 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.

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to

substitution requests, clarifications, and interpretations.

§ 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 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.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, 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.

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

§ 3.3.4 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.

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

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

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

§ 3.3.6 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.

§ 3.3.7 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, 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.

§ 3.3.8 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.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. 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 other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 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.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, 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.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 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 Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager 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.

§ 3.5.2 The Architect shall prepare Construction Documents that conform with the laws, codes, ordinances, regulations, and other requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 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.

§ 3.5.5 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.

§ 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 Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction as amended by Owner, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 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. 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 Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. If the architect does not reject non-conforming Work, the Architect shall demand in writing that the Construction Manager bring the non-conforming Work into compliance with the Contract Documents; and, if the Construction Manager's efforts to do so are not begun and completed expeditiously, the Architect shall report that failure to the Owner in writing, stating: (a) the problem; (b) the reasons for the actions taken by the Architect; (c) what, if any, response has been forthcoming from the Construction Manager; and (d) what actions by the Owner and/or Construction Manager are needed or expected. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or 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.

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

§ 3.6.3 Certificates for Payment to Construction Manager

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

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. Submissions that are not approved by the Architect are to be brought to the attention of the Owner concurrent with notification to the Construction Manager.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager'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 Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Nothing in this Agreement shall be construed as an Owner's authorization to the Architect to delegate design responsibility. Except for delegation to consulting engineers who are responsible to, and in privity with, the Architect, any delegation of design responsibility by the Architect must be specifically authorized in writing, in advance, by the Owner, which authorization can be withheld by the Owner for any reason.

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

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied 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 may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect shall provide written notice to the Owner of a minor change in the Work as soon as practicable after authorizing the minor change. The Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

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

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

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Unless denoted as “Architect (as Basic Services)” under “Responsibility” column in the table below, the Supplemental Services listed below are not included in Basic Services but may be required for the Project. The Owner may request other Supplemental Services of the Architect. Supplemental Services will be requested by the Owner, and confirmed in writing. Should the Owner request services that the Architect believes to be outside the scope of Basic Services, the Architect shall, before performing those services, inform the Owner in writing of the Architect’s belief that the services requested are Supplemental or Additional Services, and shall provide an estimate in writing to the Owner of the probable total of the Supplemental or Additional Service Fees to be incurred in performing the services requested.

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1 Assistance with Selection of Construction Manager	Architect (as Basic Service)

§ 4.1.1.2	Programming	Architect (as Basic Service)
§ 4.1.1.3	Multiple Preliminary Designs	Not Provided
§ 4.1.1.4	Measured drawings	Architect (as Basic Service)
§ 4.1.1.5	Existing facilities surveys	Not Provided
§ 4.1.1.6	Site evaluation and planning	Not Provided
§ 4.1.1.7	Building Information Model management responsibilities	Architect as required by § 3.4 and § 3.5
§ 4.1.1.8	Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.9	Civil engineering	Architect (as Basic Service)
§ 4.1.1.10	Landscape design	Not Provided
§ 4.1.1.11	Architectural interior design	Architect (as Basic Service)
§ 4.1.1.12	Value analysis	Not Provided by Architect (CM's Responsibility)
§ 4.1.1.13	Cost estimating	Not Provided by Architect (CM's Responsibility)
§ 4.1.1.14	On-site project representation	Architect (as Basic Service)
§ 4.1.1.15	Conformed documents for construction	Not Provided
§ 4.1.1.16	As-designed record drawings, specifications, and addenda in PDF format	Architect (as Basic Service)
§ 4.1.1.17	As-constructed record drawings	Architect to specify as provided by Contractor
§ 4.1.1.18	Post-occupancy evaluation	Not Provided
§ 4.1.1.19	Facility support services	Not Provided
§ 4.1.1.20	Tenant-related services	Not Provided
§ 4.1.1.21	Architect's coordination of the Owner's consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.22	Telecommunications/data design	Architect (as Basic Service)
§ 4.1.1.23	Security evaluation and planning	Not Provided
§ 4.1.1.24	Commissioning	Not Provided
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.26	Historic preservation	Not Provided
§ 4.1.1.27	Furniture, furnishings, and equipment design	Optional per § 11.4 and § 11.7
§ 4.1.1.28	Other services provided by specialty Consultants	Optional per § 11.4 and § 11.7
§ 4.1.1.29	Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

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

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

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

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

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in

accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

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 the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The 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. Notwithstanding anything to the contrary contained in this Agreement, Owner's review and approval of any and all documents or other matters required herein shall be for the purpose of design, program, and project scope compliance and providing Architect with information and not for the purpose of determining the technical accuracy and completeness of such documents. Such review and approval by Owner shall in no way create any liability on the part of Owner (notwithstanding any professional skill and judgment possessed by Owner) for technical errors, inconsistencies or omissions in any approved documents, nor shall such review and approval alter Architect's responsibilities hereunder with respect to such documents.

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

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

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

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

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

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

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

§ 5.12 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.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that it knows relate to or affect the Architect's services or professional responsibilities or shall notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project within a reasonable amount of time. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager 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 Construction Manager, including the General Conditions of the Contract for Construction.

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 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, or due to market conditions the Architect could not reasonably anticipate. 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 cost estimating services as a Supplemental 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 together to reconcile the cost estimates.

§ 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 for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 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
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1.

§ 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 the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 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.

§ 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 The Architect grants to the Owner a perpetual, world-wide, royalty-free, paid-up, nonexclusive license to use the Architect's Instruments of Service, including all Drawings and Specifications and all electronic source files in whatever format, for any purpose, including the design and/or construction of current or future facility projects of the Owner. 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 Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service. The Architect and the Architect's consultants shall incur no liability for the Owner's use or reuse of the instruments of Service other than in conjunction with the Project unless the Architect is involved in the reuse project. Prior to the reuse of any Instruments of Service for a project in which the law requires an architect to be involved and in which the Architect is not involved, the Owner shall not represent that the Architect is the architect of record for such project which may include the Owner removing and obliterating from the Instruments of Service all identification of the original Architect, including name, address, and professional seal and stamp. 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.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Architect and Owner may mutually agree to submit to mediation any claim, dispute, or other matter in question arising out of or related to this Agreement, but shall not be obligated to do so as a prerequisite of instituting any legal action. If the parties agree to engage in mediation, they shall share in the payment of mediator's fees and filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon by the Architect and Owner.

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

§ 8.2 Notwithstanding any reference to arbitration contained in this Agreement, neither the Architect nor the Owner shall be obligated to resolve any Claim through arbitration.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 The Architect shall give the Owner twenty-one (21) days' written notice of the Architect's intention to terminate or suspend provision of services. This notice shall specify the Architect's reasons(s) for the intended termination or suspension and shall state with specificity the means by which the owner may cure the asserted grievance.

§ 9.2 Unless otherwise noted herein, the Architects shall be compensated for services fully and satisfactorily performed prior to suspension if the Project is suspended by the Owner for more than ninety (90) consecutive days.

§ 9.3 If the Project is suspended or the Architect's services are suspended for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than twenty-one (21) days' written notice.

§ 9.4 This Agreement may be terminated by the Owner, with or without cause, for the Owner's convenience upon not less than seven (7) days' written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 9.5 This Agreement or any part of it may be suspended by the Owner upon written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of suspension, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 9.6 In the event that the Architect fails to perform in accordance with the terms and conditions of this Agreement, Owner may send a Notice of Termination to the Architect. The Architect shall then have seven (7) days from the date of transmittal to cure the default or breach. The Notice of Termination shall be effective if the Architect does not cure the default or breach within seven (7) days after its date of transmittal. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages. However, the Owner shall be entitled to offset any amounts due and owing the Architect pursuant to this provision by the amounts of any damages incurred by the Owner as a result of the Architect's breach, which offset shall not prejudice the right of the Owner to recover additional damages or to exercise any other remedy at law or in equity. If termination made pursuant to this section is later found or agreed to have been improper, then the termination pursuant to section 9.4.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 All aspects of this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Nebraska, without regard to its choice of law rules. Any action between the Owner and the Architect concerning causes of action arising from or related to the Agreement must be brought solely and exclusively in the appropriate state or federal trial court for the Nebraska county in which the Project is located; and the Owner and the Architect hereby waive any objection to the jurisdiction of such courts over causes of action arising from or related to this Agreement, including but not limited to objections on the basis of lack of personal jurisdiction, improper venue, or *forum non conveniens*.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended, unless a contrary definition is set forth or inferable from this Agreement. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless the hazardous materials or toxic substances were brought to the Project pursuant to the terms of the Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project site, it shall immediately report that presence to the Owner in writing.

§ 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 upon the prior written approval of the Owner. The Architect shall be given reasonable access to the completed Project to make such representations. The Architect’s materials shall not include the Owner’s confidential or proprietary information, and the Architect shall not take or use photographs which include pictures of the Owner’s students, faculty, employees, volunteers, or visitors without the prior written approval of the Owner. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

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

§ 10.10 The Architect shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Architect employs or contracts with any Subcontractor or Consultant in connection with this Agreement, the Architect shall include a provision in the contract requiring the Subcontractor or Consultant to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

§ 10.11 The Architect agrees that all Drawings and Specifications and other documents prepared by the Architect for the Project which are utilized by the Owner and/or Owner's contractor or contractors, shall be reasonably accurate and complete as is customary for typical construction documents. The Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies, inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify the Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 10.12 The Architect shall promptly advise the Owner of any problems which come to its attention that may cause a delay in the completion of the Project, or any portion thereof, or in the performance of the Architect's services. The Architect acknowledges that time is of the essence in this Agreement.

§ 10.13 Indemnification

§ 10.13.1 Indemnification by Architect for Non-Professional Acts. To the fullest extent permitted by law, the Architect shall defend, indemnify, and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the “Indemnitees”) from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants' and attorneys' fees and expenses), that arise out of, are related to, or are in connection with this Agreement, the Project, the Work, the Architect's services, the Architect's performance hereunder, and/or the Architect's conduct at or related to the Project or the Owner's property (hereinafter “Non-Professional Indemnity Claims”), provided that any such Non-Professional Indemnity Claim arises from conduct other than professional services and is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use of the same, but only to the extent caused by the reckless or negligent acts or omissions of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.1.

Notwithstanding the foregoing, the Architect's obligations in this Section 10.13.1 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee's own negligent conduct.

§ 10.13.2 Indemnification by Architect for Professional Act. To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the “Indemnitees”) from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants’ and attorneys’ fees and expenses), that arise out of, are related to, or are in connection with the negligent acts of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, in the performance of professional services under this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.2.

Notwithstanding the foregoing, the Architect’s obligations in this Section 10.13.2 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee’s own negligent conduct.

§ 10.13.3 The indemnification obligations under this Section 10.13 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Architect, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers’ compensation acts, disability benefit acts or other employee benefit acts.

§ 10.14 In the event of any controversy, other than a change of project scope, between the Owner and the Architect under this Agreement, including but not limited to, whether or not any services the Owner expects the Architect to perform are within the scope of Basic Services or any dispute as to whether or not the Architect is entitled to additional compensation for any work requested or performed, the Architect shall continue to proceed diligently with the performance of its services under this Agreement pending resolution of the dispute, and the Owner agrees to pay the Architect in accordance with this Agreement for all services rendered by the Architect which are not the subject of the Controversy.

§ 10.15 The Architect and all Subcontractors and Consultants, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on school premises or at school related functions. The Architect and all Subcontractors and Consultants, if any, shall not possess any weapon, as defined by Nebraska law and the federal “Drug-Free Schools Act,” on school property or at school related functions. The Architect and all Subcontractors and Consultants, if any, also shall adhere to all Owner’s policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on school premises or at school related functions. Failure to comply with this provision may be considered a material breach. The Owner may suspend or terminate the Architect, Subcontractor, and/or Consultant if they violate these laws, regulations, or policies or this provision.

§ 10.16 The Architect and all Subcontractors or Consultants, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

§ 10.17 The Architect acknowledges that the Owner must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

§ 10.18 When present on Owner’s property, Architect and its employees and subcontractors or anyone directly or indirectly employed by or representing any of them, shall:

- .1 carry photo identification;
- .2 not smoke or otherwise use tobacco;
- .3 not use, or be under the influence of, alcohol or drugs;
- .4 not carry a firearm or other weapon; and
- .5 comply with all of the school district’s rules, policies, procedures which are intended to protect the safety and health of its faculty, staff, students, and visitors

§ 10.19 The Architect shall not design, specify or incorporate in the Drawings or Specifications for the Project, and, in accordance with the standard of care, shall not approve any shop drawings specifying any hazardous materials or toxic substances, in such manner as would violate the requirements of any applicable laws,

ordinances, codes, rules and regulations, orders and decisions of applicable government authorities having jurisdiction over the Site, the Work or any part of either, or would cause substantial damage or a risk of substantial damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner. For purposes of this Agreement the term "hazardous materials" and "toxic materials" shall include, but shall not be limited to, substances currently defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802, the Resource Conservation Act and Recovery Act, 42 U.S.C. Sec. 6910 et seq., and all other federal, state, and local environmental laws, rules and regulations as all of the above may be amended from time to time.

§ 10.20 The Services provided by the Architect are deemed to be personal in nature. The Architect hereby appoints the following individuals to the Project Team: Bob Soukup, AIA, Principal. The Architect shall not make substantial changes to this appointed Project Team without the written approval of the Owner. Should circumstances beyond the control of the Architect compel changes to this Project Team, the Architect shall submit the credentials of the Architect's proposed replacement Project Team member(s) for the Owner's approval, which approval shall not be unreasonably withheld. However, nothing in this clause shall be construed to limit the Owner's rights to terminate this Agreement, as provided for herein, due to a change in Project Team composition. Termination by the Owner as a result of a change in the Project Team shall be deemed a justifiable Termination for Cause.

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

ARTICLE 11 COMPENSATION

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

Eight and one-half percent (8.50%) of the Owner's budget for the Cost of the Work, including all Bid Alternates and additive Change Orders (if any), as calculated in accordance with Section 11.6.

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

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

See the Architect's Hourly Billing Rates in section 11.7

§ 11.4 Compensation for Supplemental and 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%).

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

Schematic Design Phase	twenty percent (20 %)
Design Development Phase	twenty percent (20 %)
Construction Documents Phase	forty-two percent (42 %)
Procurement Phase	three percent (3 %)
Construction Phase	fifteen percent (15 %)
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, 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 identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

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

§ 11.6.1.1 With respect to section 11.6.1 and percentages identified in section 11.5, when the proportions of Work for the Architect’s consultants are typically higher during design and lower during the Construction Phase, the parties agree that the Architect’s consultants will be 95% complete with their work at the conclusion of the Construction Documents Phase.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.

Employee or Category	Hourly Rate
Principal/Partner	\$240
Project Manager	\$180
Architect/Planner	\$160
Interior Designer	\$150
Construction Administrator	\$150
Architectural/Interior Design Staff	\$120
Construction Administration Staff	\$120
Clerical	\$90

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Project web sites;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project except as otherwise provided in this Agreement;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 [Intentionally deleted];
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 [Intentionally deleted];
- .9 [Intentionally deleted]; and
- .10 Site office expenses.

§ 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 [Intentionally deleted]

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

§ 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. So long as the Owner receives no later than the first of the month an invoice from the Architect for services performed, then the Owner shall pay the undisputed amounts invoiced by the Architect within 30 days of receipt thereof provided that the board's next regularly scheduled meeting following receive of the Architect's invoice actually occurs. Any payment not made within 20 days following the next regularly scheduled meeting that actually occurs after the Architect's invoice is timely received by the Owner shall bear interest at the rate of twelve (12) percent per annum.

§ 11.10.2.2 [Intentionally deleted]

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 The Architect hereby agrees to maintain the insurance described in Paragraph 2.6 hereof during the term hereof. If the Architect fails to furnish and maintain the insurance required by Paragraph 2.6, the Owner may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost hereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance.

§ 12.2 Notwithstanding anything in the Agreement to the contrary, the Architect shall not be entitled to any increase in compensation or Reimbursable Expenses which accrue as a result of any error or omission by the Architect or as a result of the Architect's breach of any provision in this Agreement.

§ 12.3 The Owner's approval of the Schematic Design Documents, the Design Development Documents, Drawings and Drawings and Specifications and any other Construction Document and Contract Document shall be deemed to be approval of the concepts therein, but not approval of the means, techniques or particular material recommended by the Architect for the Project.

§ 12.4 The failure of either party to exercise any of its rights under this Agreement for a breach or violation thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach or violation.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

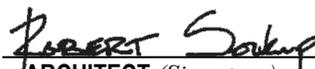
- .1 AIA Document B133™-2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition, as amended

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

OWNER *(Signature)*

BY: Brad Kjar, Superintendent

(Printed name and title)


ARCHITECT *(Signature)*

BY: Robert Soukup, AIA, Principal

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

Additions and Deletions Report for AIA® Document B133® – 2019

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:44:17 CST on 01/06/2026.

Changes to original AIA text

PAGE 1

AGREEMENT made as of the 12th day of January in the year 2026

(Name, legal status, address, and other information)

Burt County School District 11-0001, c/k/a

Tekamah-Herman Schools

112 N. 13th St.

Tekamah, NE 68061

Attn: Superintendent Brad Kjar

(402) 374-2157

bkjar@thtigers.org

(Name, legal status, address, and other information)

Carlson West Povondra Architects, Inc.

5060 Dodge Street

Omaha, NE 68132-2965

(402) 551-1500

Attn: Robert Soukup, AIA

(Name, location, and detailed description)

Elementary Classroom Addition Project

Tekamah-Herman Schools

112 N. 13th St.

Tekamah, NE 68061

(Name, legal status, address, and other information)

TBD

PAGE 3

The program includes the addition of four new elementary classrooms and interior renovations to two existing classroom spaces in order to create a new corridor link between the existing elementary wing and the high school.

The new classroom addition will be construction as a single-story slab on grade, steel post and beam structure with metal stud framing and masonry veneer to match the existing elementary building. The new addition will be approximately 4,500 square feet.

PAGE 4

The Owner's budget is approximately Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

TBD

Summer 2026

Summer 2027

TBD

(Indicate agreement type.)

AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as amended.

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

~~§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

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

~~§ 1.1.7 [Intentionally deleted]~~

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

Superintendent Brad Kjar

PAGE 5

Tekamah-Herman Schools

112 N. 13th St.

Tekamah, NE 68061

(402) 374-2157

bkjar@thtigers.org

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

Tekamah-Herman Schools Board of Education

By Owner

By Owner

By Architect

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

Robert Soukup, AIA

Carlson West Povondra Architects

5060 Dodge Street

Omaha, NE 68132-2965

(402) 551-1500

BSoukup@cwparchitects.com

InfraStructure

6910 Pacific St., Ste. 310

Omaha, NE 68106

Morrissey Engineering

4940 N. 118th St.

Omaha, NE 68164

Morrissey Engineering

4940 N. 118th St.

Omaha, NE 68164

.4 Civil Engineer:

E&A Consulting Group

10909 Mill Valley Rd., Ste. 100

TBD

PAGE 7

TBD

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

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

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

§ 2.1 The Architect shall provide all professional services as set forth in this Agreement, necessary for the complete design, construction documentation, and construction administration for the Project. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect will provide all professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 1.1, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

§ 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. The Architect agrees that its designs, Construction Documents, and Services shall conform to all applicable federal, state, and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and acknowledges that this duty is non-delegable—and that the Architect, by signing drawings or preparing Construction Documents to submit for purposes of obtaining building and other governmental permits, shall be deemed to certify that it has taken reasonable measures to ascertain what codes apply to the Project, consistent with industry standards, and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state, and federal statutes and regulations, including but not limited to those that relate to hazardous materials, restrictions on development of wetlands, and accessibility for the physically challenged.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. This designation shall be submitted in writing for the Owner's approval. Once approved, the designated

representative shall not be changed without the Owner's written authorization.

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§ 2.6 Insurance. ~~The Architect shall maintain the following purchase and maintain insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9 of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this section or elsewhere in this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located; and such insurance company or insurance companies shall have an A.M. Best rating of not less than A- VIII. The Architect shall maintain the required insurance until such time as the Owner is immune from liability for causes of action related to or arising from the Architect's conduct or as specified herein.~~

~~§- 2.6.1 Commercial General Liability insurance written on an occurrence form with policy limits of not less than - (\$) for One Million Dollars (\$1,000,000) each occurrence, and (\$) in the aggregate for bodily injury and property damage Two Million Dollars (\$2,000,000) general aggregate, and Two Million Dollars (\$2,000,000) aggregate for products-completed operations hazard, providing coverage no less broad than the ISO CG 00 01 coverage form and for claims including, without limitation,~~

- ~~.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;~~
- ~~.2 personal and advertising injury;~~
- ~~.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;~~
- ~~.4 bodily injury or property damage arising out of completed operations; and~~
- ~~.5 Architect's indemnity obligations under this Agreement.~~

~~§- 2.6.2 Automobile Liability The Architect's completed operations coverage shall be maintained for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. On behalf of itself and its commercial general liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.~~

§ 2.6.2 Automobile Liability insurance covering vehicles owned, and non-owned vehicles used, by the Architect, its employees, and agents, with policy limits of not less than ~~(\$) per accident~~ One Million Dollars (\$1,000,000) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage. On behalf of itself and its automobile liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

~~§- 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers Workers' Compensation at statutory limits. On behalf of itself and its workers compensation insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance~~

policies to memorialize the same.

§ 2.6.4 Employers' Liability with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, and One Million Dollars (\$1,000,000) policy limit. On behalf of itself and its employers' liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

§ 2.6.5 Commercial Umbrella/Excess Liability Insurance with limits of at least Two Million Dollars (\$2,000,000) in excess of Commercial General Liability, Automobile Liability, and Employers' Liability insurance limits such that the total limits of liability of each underlying policy together with the limit of the Commercial Umbrella/Excess Liability policy is no less than Three Million Dollars (\$3,000,000) per occurrence. Coverage under the Commercial Umbrella/Excess Liability policy shall result in the same or greater coverage as those required under Sections 2.6.1, 2.6.2, and 2.6.4 and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. On behalf of itself and its commercial umbrella/excess liability insurer, the Architect waives subrogation in favor of the Owner; and further the Architect shall cause such waiver of subrogation provision to be included in its commercial insurance policies to memorialize the same.

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~~§ 2.6.4 Workers' Compensation at statutory limits~~ **6 Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability, including without limitation the insurance required by sections 2.6.1, 2.6.2, and 2.6.5, to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Owner shall continue as an additional insured, upon the terms herein, for the period of time the Owner may be held legally liable for the Architect's services, work, or conduct. The Architects shall require all of its consultants, if any, to include the Owner as an additional insured, upon terms substantially identical to those stated above, on the consultant's Commercial General Liability and Automobile Liability coverage.

~~§ 2.6.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit~~ To be clear, the Architect shall NOT include the Owner as an additional insured on the Professional Liability insurance coverage required by Section 2.6.7, particularly to the extent that such policy(ies) include any so-called "insured-versus-insured" exclusion.

~~§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$ Three Million Dollars (\$3,000,000) per claim and (\$) in the aggregate~~ Three Million Dollars (\$3,000,000) in the aggregate. The coverage required in this section shall be maintained for at least ten (10) years following termination of the Agreement or the date of substantial completion, whichever is later.

~~§ 2.6.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~ The Architect shall provide certificates of insurance acceptable to the Owner that evidence compliance with the requirements in this Section 2.6 at the following times: (1) prior to commencement of the services; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by section 2.6. The certificates will show the Owner as an additional insured on the Architect's Commercial General Liability, Automobile Liability, and excess or umbrella liability policy. The Owner's acceptance of the Architect's certificate(s) of insurance does not relieve any of the Architect's responsibilities under the Agreement and shall

not constitute a waiver of the Architect's obligation to provide insurance as required by this Agreement. The Owner has the right to receive copies of any of the Architect's insurance policies (including without limitation declaration pages, policy forms, and all endorsements) upon written request.

§ 2.6.8 The Architect shall disclose to the Owner in writing any large deductible (at least \$10,000) or self-insured retentions applicable to any insurance required to be provided by the Architect, and such large deductible or self-insured retention is subject to the Owner's written approval. The Owner has the right to require a proper form of collateral for any such large deductible or self-insured retention. The Architect has disclosed to Owner that the Architect's professional liability coverage has a deductible in the amount of \$25,000.

~~§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.~~ § 2.6.9 The Architect (or its insurance carrier(s)) must provide written notice to the Owner no less than thirty (30) days prior to any cancellation or non-renewal of the Architect's insurance. Within three (3) business days of the date the Architect becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 2.6, the Architect shall provide written notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Architect, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right (but not the obligation) to suspend the services until the lapse in coverage has been cured by the procurement of replacement coverage by the Architect. The furnishing of notice by the Architect shall not relieve the Architect of any contractual obligation to provide any required coverage.

§ 2.6.10 Among other grounds to withhold payment, the Architect's failure to fully comply with all insurance requirements in this Section 2.6 provides the Owner sufficient grounds to withhold some or all payments otherwise due the Architect. The Owner has the right, but not necessarily the obligation, to declare the Architect's failure to fully comply with the insurance requirements in this Section 2.6 a material breach of the Architect's obligations under this Agreement.

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§ 2.6.11 All of the coverage limits stated in this Section 2.6 are minimum insurance limits and shall not be construed in any way to limit the liability of the Architect.

§ 2.6.12 The Architect's insurance, whether or not specified above, shall be primary to any insurance maintained by the Owner.

§ 2.6.13 The Architect must require that its consultants, if any, meet or exceed the minimum insurance requirements in this Contract.

~~§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.~~ Architect will provide all professional services necessary for the complete design, construction documentation, and construction administration of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

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

~~§ 3.1.2~~ The Architect shall ~~coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.~~ be fully responsible for coordinating all Architect's Basic and all other services required under this Agreement regardless of whether performed by its own employees or its consultants. The purpose of such coordination is to ensure that the services required are performed in a reasonably efficient, timely and economical manner. The Architect shall be responsible to Owner for the services furnished to Architect by any of its consultants to the same extent as if Architect had furnished the service itself. The Architect also agrees to coordinate and resolve any inconsistencies in its work and the work of its consultants. All of Architect's contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: "The Owner is intended to be a third party beneficiary of this agreement."

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~~§ 3.1.5~~ The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval, provided that the Architect notifies the Owner of its disapproval prior to or within a reasonable amount of time after the Architect is made aware of the directive or substitution.

~~§ 3.1.6~~ The Architect shall, ~~in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities~~ represents that it is familiar with, and experienced in the interpretation and implementation of, laws, codes and regulations applicable to the Architect's services and the Project in general. Accordingly, the Architect shall be subject to a standard of care consistent with industry standards in its execution of the work of this Project and as applicable to such laws, codes and regulations. The Architect shall, in coordination with the Construction Manager, respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect's expertise in laws, codes and regulations concerning projects of this type. The Architect agrees that all work performed by the Architect and any consultants of the Architect shall fully comply with all such applicable laws, codes and regulations in a manner consistent with industry standards. In the event that the Project fails to comply with any law, code or regulation in a manner consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances, and such failure is not due to the Construction Manager's failure to comply with the Contract Documents, then the Architect shall be responsible to the Owner for any damages, including costs of replacement, lost income and all other direct and indirect costs associated with such failure.

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~~§ 3.3.5.1~~ The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. ~~The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.~~

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~~§ 3.5.2~~ The Architect shall ~~incorporate the design~~ prepare Construction Documents that conform with the laws, codes, ordinances, regulations, and other requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

~~§ 3.6.1.1~~ The Architect shall provide administration of the Contract between the Owner and the Construction

Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. ~~If these are amended by Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement.~~ The term “Contractor” as used in A201-2017 shall mean the Construction Manager.

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§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. If the architect does not reject non-conforming Work, the Architect shall demand in writing that the Construction Manager bring the non-conforming Work into compliance with the Contract Documents; and, if the Construction Manager's efforts to do so are not begun and completed expeditiously, the Architect shall report that failure to the Owner in writing, stating: (a) the problem; (b) the reasons for the actions taken by the Architect; (c) what, if any, response has been forthcoming from the Construction Manager; and (d) what actions by the Owner and/or Construction Manager are needed or expected. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.4.1 The Architect shall review the Construction Manager’s submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review. Submissions that are not approved by the Architect are to be brought to the attention of the Owner concurrent with notification to the Construction Manager.

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§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. The Architect’s review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Nothing in this Agreement shall be construed as an Owner's authorization to the Architect to delegate design responsibility. Except for delegation to consulting engineers who are responsible to, and in privity with, the Architect, any delegation of design responsibility by the Architect must be specifically authorized in writing, in advance, by the Owner, which authorization can be withheld by the Owner for any reason.

§ 3.6.4.4 ~~Subject to Section 4.2, the~~ The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect’s response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. ~~Subject to Section 4.2, the~~ The Architect shall provide written notice to the Owner of a minor change in the Work as soon as practicable after authorizing the minor change. The Architect shall prepare Change Orders and Construction

Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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§ 4.1.1 The services Unless denoted as "Architect (as Basic Services)" under "Responsibility" column in the table below, the Supplemental Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Owner may request other Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project of the Architect. Supplemental Services will be requested by the Owner, and confirmed in writing. Should the Owner request services that the Architect believes to be outside the scope of Basic Services, the Architect shall, before performing those services, inform the Owner in writing of the Architect's belief that the services requested are Supplemental or Additional Services, and shall provide an estimate in writing to the Owner of the probable total of the Supplemental or Additional Service Fees to be incurred in performing the services requested.

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Assistance with Selection of Construction Manager	<u>Architect (as Basic Service)</u>
§ 4.1.1.2 Programming	<u>Architect (as Basic Service)</u>
§ 4.1.1.3 -Multiple Preliminary Designs	<u>Not Provided</u>
§ 4.1.1.4 Measured drawings	<u>Architect (as Basic Service)</u>
§ 4.1.1.5 Existing facilities surveys	<u>Not Provided</u>
§ 4.1.1.6 Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.7 Building Information Model management responsibilities	<u>Architect as required by § 3.4 and § 3.5</u>
§ 4.1.1.8 Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.9 Civil engineering	<u>Architect (as Basic Service)</u>
§ 4.1.1.10 Landscape design	<u>Not Provided</u>
§ 4.1.1.11 Architectural interior design	<u>Architect (as Basic Service)</u>
§ 4.1.1.12 Value analysis	<u>Not Provided by Architect (CM's Responsibility)</u>
§ 4.1.1.13 Cost estimating	<u>Not Provided by Architect (CM's Responsibility)</u>
§ 4.1.1.14 On-site project representation	<u>Architect (as Basic Service)</u>
§ 4.1.1.15 Conformed documents for construction	<u>Not Provided</u>
§ 4.1.1.16 As-designed record drawings, specifications, and addenda in PDF format	<u>Architect (as Basic Service)</u>
§ 4.1.1.17 As-constructed record drawings	<u>Architect to specify as provided by Contractor</u>
§ 4.1.1.18 Post-occupancy evaluation	<u>Not Provided</u>
§ 4.1.1.19 Facility support services	<u>Not Provided</u>
§ 4.1.1.20 Tenant-related services	<u>Not Provided</u>
§ 4.1.1.21 Architect's coordination of the Owner's consultants	<u>Optional per § 11.4 and § 11.7</u>
§ 4.1.1.22 Telecommunications/data design	<u>Architect (as Basic Service)</u>
§ 4.1.1.23 Security evaluation and planning	<u>Not Provided</u>
§ 4.1.1.24 Commissioning	<u>Not Provided</u>
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.26 Historic preservation	<u>Not Provided</u>
§ 4.1.1.27 Furniture, furnishings, and equipment design	<u>Optional per § 11.4 and § 11.7</u>
§ 4.1.1.28 Other services provided by specialty Consultants	<u>Optional per § 11.4 and § 11.7</u>
§ 4.1.1.29 Other Supplemental Services	<u>Not Provided</u>

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~~§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.~~

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

authorization:

- ~~.1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or 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, Guaranteed Maximum Price proposal, or Control Estimate 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 enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;~~
- ~~.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;~~
- ~~.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 or the Owner's consultants or contractors;~~
- ~~.6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~.7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner 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 Consultation concerning replacement of Work resulting from fire or other cause during construction; or~~
- ~~.11 Assistance to the Initial Decision Maker, if other than the Architect;~~
- ~~.12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;~~
- ~~.13 Services necessitated by the Owner's delay in engaging the Construction Manager;~~
- ~~.14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and~~
- ~~.15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.~~

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

- ~~.1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;~~
- ~~.2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Construction Manager prepared coordination drawings, or prior Project correspondence or documentation;~~
- ~~.3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;~~
- ~~.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or~~
- ~~.5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.~~

~~§ 4.2.3~~ The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- ~~1~~ () reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- ~~2~~ () visits to the site by the Architect 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

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~~§ 4.2.4~~ Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

~~§ 4.2.5~~ If the services covered by this Agreement have not been completed within () 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.

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§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Notwithstanding anything to the contrary contained in this Agreement, Owner's review and approval of any and all documents or other matters required herein shall be for the purpose of design, program, and project scope compliance and providing Architect with information and not for the purpose of determining the technical accuracy and completeness of such documents. Such review and approval by Owner shall in no way create any liability on the part of Owner (notwithstanding any professional skill and judgment possessed by Owner) for technical errors, inconsistencies or omissions in any approved documents, nor shall such review and approval alter Architect's responsibilities hereunder with respect to such documents.

~~§ 5.5~~ Where necessary for the Architect's performance of the Services, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials, where needed for performance of the Work and where the need is not the result, in whole or in part, of the Architect's negligence or failure to perform.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that it knows relate to or affect the Architect's services or professional responsibilities. ~~The Owner or~~ the Owner or shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project within a reasonable amount of time. Communications by and with the Architect's consultants shall be through the Architect.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. ~~The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.~~

~~§ 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~~ The Architect grants to the Owner a perpetual, world-wide, royalty-free, paid-up, nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11, including all Drawings and Specifications and all electronic source files in whatever format, for any purpose, including the design and/or construction of current or future facility projects of the Owner. 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 Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. The Architect and the Architect's consultants shall incur no liability for the Owner's use or reuse of the instruments of Service other than in conjunction with the Project unless the Architect is involved in the reuse project. Prior to the reuse of any Instruments of Service for a project in which the law requires an architect to be involved and in which the Architect is not involved, the Owner shall not represent that the Architect is the architect of record for such project which may include the Owner removing and obliterating from the Instruments of Service all identification of the original Architect, including name, address, and professional seal and stamp. 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.

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

~~§ 8.1.1 The Owner Architect and Architect shall commence all claims and causes of action against the other and Owner may mutually agree to submit to mediation any claim, dispute, or other matter in question arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the~~

binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1 but shall not be obligated to do so as a prerequisite of instituting any legal action. If the parties agree to engage in mediation, they shall share in the payment of mediator's fees and filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon by the Architect and Owner.

~~§ 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 obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement² Notwithstanding any reference to arbitration contained in this Agreement, neither the Architect nor the Owner shall be obligated to resolve any Claim through arbitration.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 The Architect shall give the Owner twenty-one (21) days' written notice of the Architect's intention to terminate or suspend provision of services. This notice shall specify the Architect's reasons(s) for the intended termination or suspension and shall state with specificity the means by which the owner may cure the asserted grievance.

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§ 9.2 Unless otherwise noted herein, the Architects shall be compensated for services fully and satisfactorily performed prior to suspension if the Project is suspended by the Owner for more than ninety (90) consecutive days.

§ 9.3 If the Project is suspended or the Architect's services are suspended for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than twenty-one (21) days' written notice.

~~§ 89.1.4~~ 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 This Agreement may be terminated by the Owner, with or without cause, for the Owner's convenience upon not less than seven (7) days' written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 8.2 Mediation

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

~~§ 8.2.2~~ The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall

proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.**9.5** This Agreement or any part of it may be suspended by the Owner upon written notice to the Architect. The Owner shall compensate the Architect for all sums due hereunder to the date of suspension, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages.

§ 9.6 In the event that the Architect fails to perform in accordance with the terms and conditions of this Agreement, Owner may send a Notice of Termination to the Architect. The Architect shall then have seven (7) days from the date of transmittal to cure the default or breach. The Notice of Termination shall be effective if the Architect does not cure the default or breach within seven (7) days after its date of transmittal. The Owner shall compensate the Architect for all sums due hereunder to the date of termination, but the Owner shall have no obligation to pay or reimburse the Architect for lost profits or unabsorbed overhead or any other consequential or incidental damages. However, the Owner shall be entitled to offset any amounts due and owing the Architect pursuant to this provision by the amounts of any damages incurred by the Owner as a result of the Architect's breach, which offset shall not prejudice the right of the Owner to recover additional damages or to exercise any other remedy at law or in equity. If termination made pursuant to this section is later found or agreed to have been improper, then the termination pursuant to section 9.4.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 All aspects of this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Nebraska, without regard to its choice of law rules. Any action between the Owner and the Architect concerning causes of action arising from or related to the Agreement must be brought solely and exclusively in the appropriate state or federal trial court for the Nebraska county in which the Project is located; and the Owner and the Architect hereby waive any objection to the jurisdiction of such courts over causes of action arising from or related to this Agreement, including but not limited to objections on the basis of lack of personal jurisdiction, improper venue, or *forum non conveniens*.

§ 810.2.3 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. Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended, unless a contrary definition is set forth or inferable from this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

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§ 810.2.4 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.)

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

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.**3** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner

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

§ 8.3 Arbitration

~~§ 8.3.1~~ If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.**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, unless the hazardous materials or toxic substances were brought to the Project pursuant to the terms of the Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project site, it shall immediately report that presence to the Owner in writing.

~~§ 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.**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 upon the prior written approval of the Owner. The Architect shall be given reasonable access to the completed Project to make such representations. The Architect's materials shall not include the Owner's confidential or proprietary information, and the Architect shall not take or use photographs which include pictures of the Owner's students, faculty, employees, volunteers, or visitors without the prior written approval of the Owner. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

~~§ 8.10.3.2~~ 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** If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

~~§ 10.8.3.31~~ 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

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on

the disclosure and use of such information as set forth in this Section 10.8.

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~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.
10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

~~§ 8.3.4.3~~ 10.10 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

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

ARTICLE 9 — TERMINATION OR SUSPENSION

~~§ 9.1~~ If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.
Architect shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Architect employs or contracts with any Subcontractor or Consultant in connection with this Agreement, the Architect shall include a provision in the contract requiring the Subcontractor or Consultant to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

§ 10.11 The Architect agrees that all Drawings and Specifications and other documents prepared by the Architect for the Project which are utilized by the Owner and/or Owner's contractor or contractors, shall be reasonably accurate and complete as is customary for typical construction documents. The Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies, inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify the Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 10.12 The Architect shall promptly advise the Owner of any problems which come to its attention that may cause a delay in the completion of the Project, or any portion thereof, or in the performance of the Architect's services. The Architect acknowledges that time is of the essence in this Agreement.

~~§ 9.2~~ If the Owner suspends the Project 10.13 Indemnification

§ 10.13.1 Indemnification by Architect for Non-Professional Acts. To the fullest extent permitted by law, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

~~§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements defend, indemnify, and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the "Indemnitees") from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants' and attorneys' fees and expenses), that arise out of, are related to, or are in connection with this Agreement, the Project, the Work, the Architect's services, the Architect's performance hereunder, and/or the Architect's conduct at or related to the Project or the Owner's property (hereinafter "Non-Professional Indemnity Claims"), provided that any such Non-Professional Indemnity Claim arises from conduct other than professional services and is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use of the same, but only to the extent caused by the reckless or negligent acts or omissions of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.1.~~

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Notwithstanding the foregoing, the Architect's obligations in this Section 10.13.1 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee's own negligent conduct.

~~§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)~~

~~.1 — Termination Fee:~~

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

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

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

ARTICLE 10 — MISCELLANEOUS PROVISIONS

~~§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3~~ **10.13.2 Indemnification by Architect for Professional Act.** To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, board members, employees, agents, consultants, and representatives (the "Indemnitees") from and against any and all claims, demands, damages, losses, expenses, lawsuits, actions, cross-claims, counterclaims, third-party actions, liens, damages, debts, obligations, exemplary damages, consequential damages, punitive damages, liabilities, judgments, and causes of action (including without limitation reasonable consultants' and attorneys' fees and expenses), that arise out of, are related to, or are in connection with the negligent acts of the Architect, its agents, its consultant(s), or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, in the performance of professional services under this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 10.13.2.

Notwithstanding the foregoing, the Architect's obligations in this Section 10.13.2 specifically except any obligation to hold harmless, defend, or indemnify an Indemnitee against any Indemnity Claim solely caused by such Indemnitee's own negligent conduct.

~~§_10.2~~ Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term “Contractor” as used in A201-2017 shall mean the Construction Manager.**13.3** The indemnification obligations under this Section 10.13 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Architect, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers’ compensation acts, disability benefit acts or other employee benefit acts.

~~§_10.3~~ The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.**14** In the event of any controversy, other than a change of project scope, between the Owner and the Architect under this Agreement, including but not limited to, whether or not any services the Owner expects the Architect to perform are within the scope of Basic Services or any dispute as to whether or not the Architect is entitled to additional compensation for any work requested or performed, the Architect shall continue to proceed diligently with the performance of its services under this Agreement pending resolution of the dispute, and the Owner agrees to pay the Architect in accordance with this Agreement for all services rendered by the Architect which are not the subject of the Controversy.

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~~§_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.**15** The Architect and all Subcontractors and Consultants, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on school premises or at school related functions. The Architect and all Subcontractors and Consultants, if any, shall not possess any weapon, as defined by Nebraska law and the federal “Drug-Free Schools Act,” on school property or at school related functions. The Architect and all Subcontractors and Consultants, if any, also shall adhere to all Owner’s policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on school premises or at school related functions. Failure to comply with this provision may be considered a material breach. The Owner may suspend or terminate the Architect, Subcontractor, and/or Consultant if they violate these laws, regulations, or policies or this provision.

~~§_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.**16** The Architect and all Subcontractors or Consultants, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

~~§_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.**17** The Architect acknowledges that the Owner must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

~~§_10.7~~ ~~The~~**18** When present on Owner’s property, Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this

~~Agreement for cause pursuant to Section 9.4.~~

~~§ 10.8~~ If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement and its employees and subcontractors or anyone directly or indirectly employed by or representing any of them, shall:

- .1 carry photo identification;
- .2 not smoke or otherwise use tobacco;
- .3 not use, or be under the influence of, alcohol or drugs;
- .4 not carry a firearm or other weapon; and
- .5 comply with all of the school district’s rules, policies, procedures which are intended to protect the safety and health of its faculty, staff, students, and visitors

§ 10.19 The Architect shall not design, specify or incorporate in the Drawings or Specifications for the Project, and, in accordance with the standard of care, shall not approve any shop drawings specifying any hazardous materials or toxic substances, in such manner as would violate the requirements of any applicable laws, ordinances, codes, rules and regulations, orders and decisions of applicable government authorities having jurisdiction over the Site, the Work or any part of either, or would cause substantial damage or a risk of substantial damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner. For purposes of this Agreement the term "hazardous materials" and “toxic materials” shall include, but shall not be limited to, substances currently defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802, the Resource Conservation Act and Recovery Act, 42 U.S.C. Sec. 6910 et seq., and all other federal, state, and local environmental laws, rules and regulations as all of the above may be amended from time to time.

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~~§ 10.8.120~~ The receiving party may disclose "confidential" or "business proprietary" information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. Services provided by the Architect are deemed to be personal in nature. The Architect hereby appoints the following individuals to the Project Team: Bob Soukup, AIA, Principal. The Architect shall not make substantial changes to this appointed Project Team without the written approval of the Owner. Should circumstances beyond the control of the Architect compel changes to this Project Team, the Architect shall submit the credentials of the Architect’s proposed replacement Project Team member(s) for the Owner’s approval, which approval shall not be unreasonably withheld. However, nothing in this clause shall be construed to limit the Owner’s rights to terminate this Agreement, as provided for herein, due to a change in Project Team composition. Termination by the Owner as a result of a change in the Project Team shall be deemed a justifiable Termination for Cause.

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

~~.1~~ Stipulated Sum
(Insert amount)

~~.2~~ — Percentage Basis
 — *(Insert percentage value)*

Eight and one-half percent (8.50%) of the Owner’s budget for the Cost of the Work, including all Bid Alternates and additive Change Orders (if any), as calculated in accordance with Section 11.6.

~~.3~~ — Other
 — *(Describe the method of compensation)*

See the Architect’s Hourly Billing Rates in section 11.7

§ 11.4 Compensation for Supplemental and 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 (—%), or as follows: 0%.

(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

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Schematic Design Phase	<u>twenty percent (20 %)</u>
Design Development Phase	<u>twenty percent (20 %)</u>
Construction Documents Phase	<u>forty-two percent (42 %)</u>
<u>Procurement Phase</u>	<u>three percent (3 %)</u>
Construction Phase	<u>fifteen percent (15 %)</u>
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

§ 11.6.1.1 With respect to section 11.6.1 and percentages identified in section 11.5, when the proportions of Work for the Architect’s consultants are typically higher during design and lower during the Construction Phase, the parties agree that the Architect’s consultants will be 95% complete with their work at the conclusion of the Construction Documents Phase.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00) Hourly Rate
<u>Principal/Partner</u>	<u>\$240</u>
<u>Project Manager</u>	<u>\$180</u>
<u>Architect/Planner</u>	<u>\$160</u>
<u>Interior Designer</u>	<u>\$150</u>
<u>Construction Administrator</u>	<u>\$150</u>
<u>Architectural/Interior Design Staff</u>	<u>\$120</u>
<u>Construction Administration Staff</u>	<u>\$120</u>
<u>Clerical</u>	<u>\$90</u>

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

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§ 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 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:~~

~~*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)*~~

~~§ 11.9 [Intentionally deleted]~~

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

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the~~

~~Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2 Progress Payments

§ 11.10.2 Progress Payments

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

~~%~~

§ 11.10.2.2 ~~The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding. So long as the Owner receives no later than the first of the month an invoice from the Architect for services performed, then the Owner shall pay the undisputed amounts invoiced by the Architect within 30 days of receipt thereof provided that the board's next regularly scheduled meeting following receipt of the Architect's invoice actually occurs. Any payment not made within 20 days following the next regularly scheduled meeting that actually occurs after the Architect's invoice is timely received by the Owner shall bear interest at the rate of twelve (12) percent per annum.~~

§ 11.10.2.2 [Intentionally deleted]

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

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§ 12.1 The Architect hereby agrees to maintain the insurance described in Paragraph 2.6 hereof during the term hereof. If the Architect fails to furnish and maintain the insurance required by Paragraph 2.6, the Owner may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost hereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance.

§ 12.2 Notwithstanding anything in the Agreement to the contrary, the Architect shall not be entitled to any increase in compensation or Reimbursable Expenses which accrue as a result of any error or omission by the Architect or as a result of the Architect's breach of any provision in this Agreement.

§ 12.3 The Owner's approval of the Schematic Design Documents, the Design Development Documents, Drawings and Drawings and Specifications and any other Construction Document and Contract Document shall be deemed to be approval of the concepts therein, but not approval of the means, techniques or particular material recommended by the Architect for the Project.

§ 12.4 The failure of either party to exercise any of its rights under this Agreement for a breach or violation thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach or violation.

~~.2 — Building Information Modeling Exhibit, if completed:~~

~~.3 — Exhibits:~~

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

~~— AIA Document E234TM 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.~~

~~— (Insert the date of the E234 2019 incorporated into this agreement.)~~

~~— Other Exhibits incorporated into this Agreement:~~

~~—(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)~~

~~4~~ Other documents:

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

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

, as amended

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

Variable Information

PAGE 1

AGREEMENT made as of the 12th day of January in the year 2026

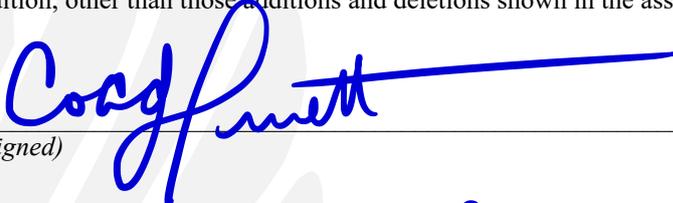
PAGE 29

Schematic Design Phase	<u>twenty percent (20 %)</u>
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Construction Documents Phase	<u>forty-two percent (42 %)</u>
<u>Procurement Phase</u>	<u>three percent (3 %)</u>
Construction Phase	<u>fifteen percent (15 %)</u>
<hr/>	
Total Basic Compensation	one hundred percent (100.00 %)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Coady H. Pruett, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:44:17 CST on 01/06/2026 under Order No. 20250115061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B133™ - 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

OWNER'S LEGAL COUNSEL

(Title)

JANUARY 6, 2026

(Dated)

**SUPERINTENDENT'S CONTRACT
OF EMPLOYMENT**

It is hereby agreed by and between the Board of Education of the Tekamah-Herman School District No. 1, located in Burt County in the State of Nebraska, hereinafter referred to as "The Board", and **Bradley Kjar**, hereinafter referred to as "The Superintendent".

WITNESSETH: That the Board in accordance with its action as found in the minutes of the meeting held on the **12th** day of **January, 2026**, has and does employ as Superintendent and the Superintendent hereby agrees to accept such employment subject to the following terms and conditions.

Section 1. TERM OF CONTRACT. The Superintendent shall be employed for a period of two years, beginning on the first day of July, **2026**, and expiring on the 30th day of June, **2028**. References to "contract year" shall mean the period from July 1st through June 30th. The Superintendent's generally expected working days shall consist of all days Monday through Friday, but generally not Saturdays and Sundays and any holidays or leave days listed in Section 11. However, the Superintendent will work all days necessary to complete the Superintendent's duties, even if those are weekend days or holidays. The Superintendent shall keep complete and accurate records of working days and shall provide the Board of Education with a report of the accumulated working days on a monthly basis as part of the Superintendent's Report to the Board.

Section 2. SALARY. The annual salary for the position shall be **\$160,000.00** during the first school year of employment under this Contract and shall be payable in 12 equal installments. The annual salary in the second year of employment under this Contract shall be that amount, as adopted by the Board, and that salary shall be payable in the second year of the Contract in the same number of equal payments. These salaries shall not be reduced during the term of this Contract, except for just and sufficient cause as authorized by law. The salary check will be issued on the 19th of the month.

Section 3. DEDUCTIONS. This contract shall conform to the statutes and regulations governing deductions from compensation and shall be subject to the School Employees Retirement Act. The Superintendent authorizes the District to deduct or withhold from each and every period of pay any amounts necessary to offset any damages caused by the Superintendent or the value of property or money entrusted to the Superintendent or owed by the Superintendent to the District during the course of or as a result of the Superintendent's employment, if such property or money have not properly been returned to the District. The school district shall withhold other deductions as the Superintendent and Board may agree.

Section 4. PROFESSIONAL STATUS. The Superintendent hereby affirms that he is not under contract with another School Board or Board of Education covering any part of or all of the same term provided in this Contract. The Superintendent further affirms that throughout the term of this Contract he will hold a valid Nebraska Administrative and Supervisory Certificate with Superintendent endorsement to act as a Superintendent of Schools in the State of Nebraska, which certificate shall be registered in the office of the Superintendent of Schools in Burt County, Tekamah, NE as required by law.

Section 5. SUPERINTENDENT'S DUTIES. The duties of the Superintendent shall be as prescribed in the BOARD OF EDUCATION POLICY MANUAL which duties are incorporated by reference into this Contract as if set forth verbatim herein. The Superintendent agrees to devote his time, skill, labor and attention to his duties as Superintendent of Schools throughout the term of this Contract; provided, however, the Superintendent, by agreement with the Board, may act as a consultant, may accept speaking engagements, undertake writing, lecturing, or other professional duties and obligations.

Section 6. BOARD-SUPERINTENDENT RELATIONSHIP. The Board shall have primary responsibility for formulating and adopting Board policy. The Superintendent shall be the chief administrative officer for the District and shall have primary responsibility for implementation of Board policy. The parties agree, individually and collectively, not to interfere with or usurp the duties or responsibility of the other party. The Board, individually and collectively, will promptly refer all criticisms, complaints and suggestions called to its attention, to the Superintendent for action, study and/or recommendation, as appropriate.

Section 7. DISCHARGE. During the term of the Contract, in the event the Superintendent violates any provisions of this agreement, or performs any act or does anything which is materially harmful to the employer, or which substantially inhibits the Superintendent's ability to discharge the duties as set forth herein, including, but not limited to, (a) becoming legally disqualified to administer in the state of Nebraska; (b) participation in any fraud; (c) causing any intentional damage to property; (d) conviction of a felony; (e) becoming physically or mentally disabled; (f) insubordination; (g) neglect of duty; (h) immorality; (i) incompetency; (j) chemical dependency; or (k) unprofessional conduct and other conduct which interferes substantially with the continued performance of duties, then the Superintendent may be discharged, provided that the Superintendent has been given the cause or causes for discharge in writing and has been given an opportunity for and due notice of a hearing before the Board prior to official action taken. Nothing contained herein shall prevent the suspension of the Superintendent, with pay, from his/her duties during the pendency of such proceedings.

Section 8. DISABILITY. Should the Superintendent be unable to perform his duties by reason of illness, accident or other disability beyond his control, and such disability shall continue for more than six (6) months, or if such disability is permanent, irreparable, or of such a nature as to make performance of his duties impossible, the Board may in its discretion terminate this Contract, whereupon the respective rights, duties and obligations of the parties hereunder shall terminate, with the exception of any benefits to be paid to the Superintendent under any insurance coverage furnished by the District.

Section 9. TRANSPORTATION. The Board shall provide the Superintendent with transportation required in the performance of his official duties or shall reimburse him for such transportation at the State established rate.

Section 10. EXPENSE REIMBURSEMENT. The Board shall pay or reimburse the Superintendent for expenses that are actually, necessarily, and reasonably incurred in attending educational seminars, conventions, and workshops; conferences; training programs; official school functions, hearings or meetings, provided that (1) such payment or expense is authorized by the Local Government Miscellaneous Expenditures Act (Neb. Rev. Stat. § 13-2201 *et seq.*) or some other provision of law, and (2) the Superintendent shall secure the prior approval of the Board before incurring any such expense when the anticipated aggregate expense of any single event is \$500.00 or more.

Section 11. ANNUAL VACATION AND SICK LEAVE. For the purpose of vacation and sick leave days, the term "working days" shall not include any Saturday, Sunday or legal and school holidays, unless the Superintendent's duties require the Superintendent to work on those days. The Superintendent shall be entitled to up to twenty (20) vacation days per contract year which the Superintendent may use on working days the Superintendent chooses so long as the absence does not interfere with the proper performance of the Superintendent's duties. Any extended vacation period while school is in session will require advance approval by the Board, and the parties will cooperate in arranging vacation time so as to cause the least inconvenience to the normal operation of the District. At the conclusion of each contract year, the Board agrees to pay the Superintendent for up to 10 unused vacation days at a rate of \$200 per day, payable on the next payroll date. For each subsequent contract year, the Board shall give the Superintendent the number of vacation days necessary to restore the total to twenty (20) days. For example, if the Superintendent uses 5 days of vacation in a contract year and elects to be paid for 10 additional days, the Superintendent will carry forward the 5 unused days, and the Board will provide the Superintendent with 15 days the following year to bring the total vacation days back to 20. The Superintendent shall keep complete and accurate records of all vacation days and shall provide the Board of Education with a report of accumulated vacation days at least quarterly and upon request. The Board may require the Superintendent to use vacation days. Upon separation of employment, all unused vacation days will be compensated as follows. If the Superintendent's contract is nonrenewed, cancelled, or the Superintendent agrees to resign rather than facing nonrenewal or cancellation of contract, the Board

will pay out unused vacation days at a rate of \$1 per day. If the Superintendent leaves in good standing, the Board will pay out unused vacation days at a rate of \$100.00 per day.

The Superintendent shall be entitled to 10 working days of sick leave during each year, accumulative to 45 days. The maximum sick days the Superintendent may have in any contract year is 55 days. Any days accumulated above 45 and not used during any contract year, maximum of 10, will be paid at the rate of \$100 per day, payable on the next payroll date. Upon separation of employment, the Superintendent will not be compensated for any unused sick leave days, regardless of the total.

Section 12. HOLIDAYS. The Superintendent shall receive the following holidays off without loss of pay or having to take a paid leave day: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day. The Superintendent shall receive annually two additional "floating" paid holidays to be used at the Superintendent's discretion.

Section 13. RESIDENCE/DOMICILE IN THE DISTRICT. The Superintendent shall establish domicile and principal residence within the boundaries of the District as they exist on the first duty day under the terms of this contract; and, the Superintendent shall maintain domicile and residence within the boundaries of the District during the term of this Contract, or any renewal, amendment, or continuation thereof, except as otherwise provided herein. It is the purpose of this paragraph to require the Superintendent to, at all times during such employment, live and maintain domicile and principal place of residence in the District to encourage the Superintendent: (1) to be highly motivated and deeply committed to the District's educational system; (2) to speak to and vote on ballot issues affecting the District as a legal voter of the District; (3) to be involved in school and community activities bringing the Superintendent in contact with parents and community leaders and be committed to the future of the District and its schools; (4) to be accessible to parents and students, and allow parents and students to become personally acquainted with the Superintendent; and, (5) to gain sympathy and understanding for the cultural basis of the community, and the social, economic, and environmental problems of the children of the school community and are thus less likely to be considered isolated from the community in which the Superintendent is the educational leader.

Section 14. PROFESSIONAL DEVELOPMENT. The Board may require the Superintendent to continue his/her professional development and to participate in relevant learning experiences. The Superintendent may, therefore, with the approval of the Board, attend appropriate professional meetings at local, state, regional, and national levels. Valid expenses of such required attendance shall be borne by the District.

Section 15. FRINGE BENEFITS. The Superintendent shall receive personal benefits that may be determined by the Board, as follows: Full Family Blue Cross Blue Shield Health Insurance and Dental, Income Protection to cover health insurance and salary, monthly travel expenses, NCSA/Professional Dues, Life Insurance - \$75,000 Term Life, Expense Account of \$599.00.

Section 16. COMPENSATION UPON TERMINATION. Upon lawful termination of this Contract for any reason, the compensation to be paid hereunder shall be an amount which bears the same ratio to the annual salary specified as the number of months or fraction thereof to the date of such termination bears to the twelve months in the annual salary period in which termination occurs. Any portion of the salary paid, but not earned, prior to the date of termination of this Contract, shall be refunded by the Superintendent. He shall be paid for any unused vacation days at the daily compensation rate then in effect at the termination of employment.

Section 17. RENEWAL OF CONTRACT AFTER CONTRACT EXPIRATION DATE. The Secretary of the Board shall, not later than the 15th day of January, notify the Superintendent in writing of the Board's intention not to renew this two-year contract. Failure to so notify the Superintendent shall result in an automatic renewal of this Contract for a period of one year from and after the Contract expiration date provided in Section 1 of this Contract. At the time of each contract renewal and/or amendment, the Superintendent shall be responsible for taking all necessary steps to insure that the district has complied with the Superintendent Pay Transparency Act.

Section 18. EVALUATION. The Board shall evaluate the Superintendent twice during his first year of employment and at least once each year thereafter. The first evaluation during the first year of employment and the yearly evaluations after the first year of employment shall occur no later than the regular December meeting. The Superintendent shall: remind the Board members in writing of this provision no later than its regular November meeting; make his evaluation an agenda item for the regular December board meeting during each year of this contract; and provide them with the written evaluation instrument that is on file with the Nebraska Department of Education.

Section 19. LEGAL ACTIONS. The Board will support the Superintendent if there is a legal dispute caused by him carrying out his duties properly. If a legal action, including a professional practice complaint, is threatened or filed against the Superintendent as a result of his performance of his duties or his position as Superintendent of the district, the Board will provide him with a legal defense to the maximum extent permitted by law so long as he acted in good faith and in a manner which he reasonably believes to be in or not opposed to the best interests of the district and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful.

Section 20. GOVERNING LAWS. The parties shall be governed by all applicable state and federal laws, rules, and regulations in performance of their respective duties and obligations under this Contract.

Section 21. AMENDMENTS TO BE IN WRITING. This Contract may be modified or amended only by a writing duly authorized and executed by the Superintendent and the Board.

Section 22. SEVERABILITY. If any portion of this Contract shall be declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates indicated below.

Executed by the Board this 12th day of **January, 2026**.

President, Board of Education

Secretary, Board of Education

Executed by the Superintendent this 12th day of **January, 2026**.

Superintendent

Copies: (1) Original, school file

(2) Carbon, Administrator

A. Governance & Board Relations

Weight: 20%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
A1	Policy involvement	Makes decisions without regard to adopted policy.	Provides correspondence from policy provider with recommendation(s) for adoption. Follows as written.	Is actively involved in the development, recommendation and administration of district policies.	Is proactive in the determination of district needs and policy priorities; has a system in place to ensure timely administration of district policies.	3.33						
A2	Goal development	Goals are not developed.	Keeps only some members informed, making it difficult for the board to perform its responsibilities.	Keeps all board members informed with appropriate information as needed so it may perform its responsibilities.	Has a system in place for establishing, reporting on and monitoring goals. Budget practices help to ensure alignment of	3.67						
A3	Information	Does not provide the information the board needs to perform its responsibilities.	Keeps only some members informed, making it difficult for the board to perform its responsibilities.	Keeps all board members informed with appropriate information as needed so it may perform its responsibilities.	Has established mutually agreed upon protocols with the board regarding communication. Executes those protocols consistently.	3.50						
A4	Materials and background	Meeting materials aren't readily available. Members arrive at meetings without enough prior information regarding agenda or background information.	Meeting materials are incomplete, and don't include adequate background information or historical perspective.	Materials are provided. Background and historical perspective are included. Recommendations are included.	Meeting materials are comprehensive with all adequate background information and previous action included. Recommendations are well thought out.	3.33						
A5	Board questions	Board questions aren't answered fully nor in a timely manner.	Most board questions are answered. All members aren't apprised of all relevant questions/answers.	Provides all board members with information regarding board development opportunities when they arise and budgets for board development.	Has a system in place for receiving and responding to board member questions in a timely and thorough manner.	3.50						
A6	Board development	Doesn't promote and does not budget for board development.	When prompted, provides members with information about board development.	Provides all board members with information regarding board development opportunities when they arise and budgets for board development.	Actively encourages board development by seeking and communicating opportunities. Ensures funding is aligned to board development plan.	3.00						
Category rating:						3.39						
Artifacts that may serve as evidence of performance in this domain: <ul style="list-style-type: none"> • Meeting agendas/minutes • Board packets • Board development materials • Memos/communications • Board policies/policy book • Retreat agendas/minutes • Board development plan • Communication protocols • Policy review calendar 												

A. Governance & Board Relations – continued

Weight: 20%

If a performance goal has been established related to one of the performance indicators above, write it below:

Performance	Goal:
Evidence:	

Category rating should be reflected within the performance indicator.

Comments by Board of Education:	Comments by the Superintendent:
<p>Brad excels in this area. Provides a weekly update of current activities at the school. Will provide separate emails to committee members if situations arise and provides his opinions and recommendations for any situation.</p>	

B. Community Relations

Weight: 15%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
B1	Parent and Community feedback	Doesn't accept input from or engage parents.	Accepts suggestions and input from parents but fails to seek it. Does not engage parents in decision-making or district-wide goal setting.	Readily accepts parent input and engages parents in district-wide goal setting and decision-making.	Actively seeks parental input, creates methods for parents to be actively involved in decision-making as well as setting and supporting district-wide goals.	3.00						
B2	Communication with community	Isn't readily available for parents, businesses, governmental and civic groups. Avoids direct communication unless absolutely necessary.	Is available for parents, businesses, governmental and civic groups, providing them with information, but doesn't seek their input. Is not proactive.	Actively seeks two-way communication with the community as appropriate.	Develops and ensures implementation of a community communication plan that fosters positive relations.	3.00						
B3	Media relations	Communicates with the media only when requested.	Isn't proactive, but is cooperative with the media when contacted.	Promotes positive relations and provides the media with district event information.	Initiates and establishes a system for actively engaging the media to promote the district and provide timely and effective information.	3.33						
B4	District image	Is indifferent or negative about the district. Does not speak well or represent the district well in front of groups.	Doesn't actively promote the district. Speaks adequately in public.	Projects a positive image of the district as expected. Well spoken.	Projects a positive image at all times; is a champion for the district. Articulate, knowledgeable and well-spoken.	3.83						
B5	Approachability	Is neither visible nor approachable by members of the community.	Is not consistently visible at events or in the community. Is not consistently approachable by members of the community.	Is consistently visible at events and approachable by members of the community.	Is consistently visible at a variety of events and has developed methods of being approachable to members of the community.	3.17						
						Category rating:	3.27					
Artifacts that may serve as evidence of performance in this domain: • Third party survey data • School accreditation survey data • Meeting invitations, agendas • Press releases • Community meeting agendas • News clips/interviews • Community engagement calendar • Strategic planning agenda(s) • Communications • Service club membership(s)												

B. Community Relations – continued

Weight: 15%

If a performance goal has been established related to one of the performance indicators above, write it below:

Performance Indicator:	Goal:
Evidence:	

Category rating should be reflected within the performance indicator.

Comments by Board of Education:	Comments by the Superintendent:
<p>Would still like to see more public engagment. With one administrator living out of town, we typically only see one administrator at most public functions. Heitz does a great job of being involved.</p>	

C. Staff Relations

Weight: 15%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
C1	Staff feedback	Doesn't accept input or engage teachers and staff in decision-making or goal setting.	Accepts suggestions and input from staff but does not seek it. Does not engage staff in district-wide goal setting or decision-making.	Readily accepts staff input and engages staff in district-wide goal setting and/or decision-making.	Actively seeks staff input and creates methods for staff to be actively involved in decision-making as well as developing and supporting district-wide goals.	3.67						
C2	Staff communications	Doesn't inform staff of matters that may be of concern.	Is inconsistent in keeping staff informed of important matters.	Consistently keeps staff informed of important matters.	Develops and ensures implementation of a staff communication plan that fosters positive relations and keeps staff informed of important matters.	3.17						
C3	Personnel matters	Personnel matters are not handled in a consistent manner. Some situations may be handled with bias.	Many personnel matters are handled, but not always in a consistent manner.	Personnel matters are handled with consistency, fairness, discretion, and impartiality.	A system is in place for handling personnel matters that is proactive, consistent, fair, discrete, and impartial. Personnel procedures are regularly reviewed, communicated to staff, and updated as needed.	3.00						
C4	Delegation of duties	Doesn't delegate duties. Maintains too much personal control over all district operations.	Delegates duties as staff members request additional responsibilities.	Delegates responsibility to staff within their abilities and then provides support to ensure their success.	Delegates responsibility to staff that will foster professional growth, leadership and decision-making skills.	3.17						
C5	Recruitment	There is no formal or informal recruitment process and/or hiring is considered in an arbitrary manner.	An informal recruitment and hiring process is in place, but is not used consistently.	A formal recruitment and hiring process is followed for hiring opportunities.	A formal recruitment and hiring process is followed for each hiring opportunity. Actively recruits the best staff available and encourages their application to the district.	3.17						
C6	Labor relations (Bargaining)	Is unable to work with union leadership, doesn't work to improve relations.	Is inconsistent in working with union leadership in regard to bargaining and labor relations.	Consistently strives to work with union leadership. Shares appropriate information and effectively manages the dynamics of the relationship.	Proactively works with union leadership to build relationships with staff groups and establishes trust and effective sharing of information in the bargaining process as appropriate.	3.33						

C. Staff Relations - continued

Weight: 15%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
C7	Visibility in district	Seldom seen outside of office.	Is occasionally present at programs and special activities.	Consistently visits classrooms and special activities.	Conducts regular and purposeful visits to classrooms. Consistently attends special activities.	3.00						
Category rating:						3.21						
Artifacts that may serve as evidence of performance in this domain: • Third-party survey data • School accreditation survey data • Hiring process documentation • Personnel policies and procedures • Recruitment calendar • Staff leadership development plan • Negotiations documentation • School visit calendar • Communications • Staff meeting agendas/minutes												

If a performance goal has been established related to one of the performance indicators above, write it below:

Performance Indicator:	Goal:
Evidence:	

Category rating should be reflected within the performance indicator.

Comments by Board of Education:	Comments by the Superintendent:

D. Business & Finance

Weight: 20%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
D1	Budget development and management	Budget knowledge is limited. The budget is developed and managed without taking into consideration current needs of the district.	Works to develop and manage the budget to meet the immediate fiscal issues. Decisions are primarily reactive to current needs of the district.	Budget actions are proactive and consider the most current information and data. A balance is sought to meet the needs of students and remain fiscally responsible to the community.	Budget actions are proactive and consider both current and long-range information and data. A balance is sought to meet the current and future needs of students and remain fiscally responsible to the community.	3.50						
D2	Budget reports	Doesn't report financial information to the board except with the annual audit.	Reports the status of financial accounts as requested by the board.	Reports to the board concerning the budget and financial status on a regular basis (monthly, quarterly, etc., as agreed upon by governance team).	Has a system in place for the monitoring and reporting of all budgetary and financial information to the board. Information provided is adequate and timely, and outlines potential ramifications of any changes.	3.50						
D3	Financial controls	Annual audit has revealed areas that are in need of improvement. Financial accounts aren't in order.	Annual audit is used to reveal any discrepancies. Internal controls are inconsistent.	Is up-to-date with GAAP and state accounting procedures. Maintains internal controls.	Promotes appropriate financial controls, including third-party audits and reconciliation of accounts. Is proactive.	3.17						
D4	Facility management	A facilities management plan is not created. Maintenance is only performed when absolutely needed.	Facilities needs are discussed internally, but a plan is not created. Issues are addressed on an as-needed basis.	A facilities management plan is in place that includes the current status of the buildings and the need to improve any facilities in the future.	Facilities management plan in place includes current status of buildings and the need to improve facilities in the future, with a projected plan to secure funding.	3.50						
D5	Resource allocation	Resources are allocated inconsistently and without consideration of district needs.	Resources are allocated to meet immediate needs.	Resources are distributed consistently based upon district goals/needs and seek to meet immediate objectives.	Resources are distributed consistently based upon district goals/needs and seek to meet both immediate and long-range objectives.	3.00						
Category rating:						3.33						
Artifacts that may serve as evidence of performance in this domain: <ul style="list-style-type: none"> • Strategic plan • Auditor's report • Election results that impact funding or facilities • Policies/procedures related to fund management • District budget • Evidence of budgetary alignment to district-wide goals • Long-term financial forecast data • Budget-related communications • Grants received/applied for • Facilities maintenance plan • Facilities management plan 												

D. Business & Finance - continued

Weight: 20%

If a performance goal has been established related to one of the performance indicators above, write it below:

Performance Indicator:	Goal:
Evidence:	

Category rating should be reflected within the performance indicator.

Comments by Board of Education:	Comments by the Superintendent:
<p>I believe Brad does well in this area. Gives very detailed updates and additional information for further knowledge. Brad is very engaged when it comes to the school's finance, stays up to date with current legislature.</p>	

E. Instructional Leadership

Weight: 30%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
E1	Performance evaluation system	No performance evaluation system is in place and/or not all evaluations have been completed as required.	Most performance evaluations are completed in a timely manner and are in compliance with state law.	All required performance evaluations are completed in a timely manner and are in compliance with state law. Individual Development Plans are provided to staff rated as less than effective.	Performance evaluation system has been established that is in compliance with state law, provides opportunities for growth to instructional staff, and is applied consistently across the district with consistent results.	3.17						
E2	Administrator Leadership	Expectations regarding learning and instruction have not been identified.	Expectations regarding learning and instruction are vague or unclear.	Goals for learning and instruction are prioritized.	Clear, non-negotiable goals for learning and instruction have been established that provide school leadership teams with the responsibility and authority for determining how to meet those goals.	3.17						
E3	Staff development	Staff development isn't consistently provided. Staff members are responsible for their own improvement.	Staff development programs are offered based upon available opportunities.	Staff development programs are offered based upon available opportunities that are targeted toward staff growth and increasing student achievement.	Staff development programs are individualized, targeted toward district-specific goals and are sustained to increase student achievement.	3.17						
E4	School Improvement	School improvement efforts are limited. There is no comprehensive plan in place.	School improvement plans are in place at the building level but lack district-wide coordination.	School improvement plans are in place at all buildings and align to the district-wide goals.	School improvement plans are in place at all buildings and align to the district-wide goals. Systems are in place for implementation of improvement efforts and monitoring of progress.	3.50						
E5	Curriculum	Curriculum isn't a priority in the district and/or is inconsistent across grade levels.	Teachers are allowed to define their own curriculum. There is little coordination.	A curriculum is in place that seeks to meet the state standards.	Curriculum is in place, aligned across grade levels and in compliance with state standards.	3.50						
E6	Instruction	There is little to no focus on instruction. Technology is not utilized in classroom instruction.	Teachers are encouraged to enhance their instructional skills and embrace technology, but no comprehensive program(s) is in place.	Effort is made to accommodate diverse learning styles, needs and levels of readiness. Some effort is made to incorporate technology into learning.	Instructional practices in place that are differentiated and personalized to student needs. Technology is used to enhance teaching and learning.	3.50						
E7	Student feedback	Doesn't accept input or seek student feedback.	Accepts suggestions and input from students but does not seek it.	Readily accepts student input and engages students in district-wide goal development and/or decision-making.	Actively seeks student input, creates methods for students to be actively involved in development of district-wide goals as well as decision-making.	3.00						

E. Instructional Leadership - continued

Weight: 30%

		Ineffective (1 pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating	Abby	Bill	Burt	Chris	Mandyn	Sheryl
E8	Student attendance	Attendance isn't addressed as a policy issue. Attendance rates are decreasing.	Attendance isn't an area of focus; and therefore, student attendance is a matter left to itself. Attendance rates fluctuate at will.	Attendance is an area of focus. There are plans and interventions in place to address chronic attendance problems. Attendance rates are improving or at a high level.	Attendance is an area of focus. Individual student attendance problems are addressed early and supports are put into place. Attendance rates are being maintained at a high level.	3.17						
E9	Support for Students	Academic supports are in place, but are inconsistent.	Academic supports are in place but social supports to meet the needs of students are lacking.	Programs and activities are available for students. Coordination and alignment can be improved.	Coherent systems of academic and social supports are in place to meet the needs of all students. Maintains a safe, caring and healthy learning environment.	3.33						
E10	Professional knowledge	Is uninformed in current instructional programs. Is unaware of current instructional issues. Does not hold appropriate superintendent certification and is not enrolled in appropriate certification program.	Is somewhat knowledgeable of current instructional programs. Relies on others for information/data. Does not hold appropriate superintendent certification but is currently enrolled in appropriate certification program.	Demonstrates knowledge of current instructional programs, and is able to discuss them. Seeks to learn and improve upon personal and professional abilities. Holds and maintains appropriate superintendent certification.	Demonstrates knowledge of and comfort explaining current instructional programs. Participates actively in professional groups and organizations for the benefit of the district and personal, professional growth. Holds and maintains appropriate superintendent certification.	3.50						
Category rating:						3.30						

Artifacts that may serve as evidence of performance in this domain:

- Staff evaluation calendar
- District performance evaluation system
- Superintendent professional growth plan
- Curriculum
- RtI/MTSS
- Superintendent professional development
- Teacher analysis of student achievement data
- Curriculum audit
- Strategic plan/district-wide goals
- Staff development plan
- Professional development calendar
- Instructional model(s)
- Curriculum team agendas
- Instructional audit
- Coaching documentation
- Observational data from staff
- Documentation of instructional rounds
- Positive behavior supports/character programs

If a performance goal has been established related to one of the performance indicators above, write it below:

Performance Indicator:	Goal:
Evidence:	

Category rating should be reflected within the performance indicator.

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Comments by Board of Education:	Comments by the Superintendent:
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G. Other Required Components of Evaluation

Superintendent name: _____

School year: _____

Student Growth

Weight: 40%

Student growth and assessment data used for superintendent evaluation must be the combined student growth and assessment data used in annual evaluation for the entire district. Districts should establish a student growth model to be used for teacher and administrator evaluations that incorporates the most recent three consecutive years of student growth data.

	Ineffective (1pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating
	Fewer than 60% of students met growth targets	60-74% of students met growth targets	75-89% of students met growth targets	90% or more students met growth targets	2.66
Growth:	Aquestt data could be used for this: The district has been rated Good, Great, Great. Which would indicate a score of 2.66 in this area.				3
Evidence:	District Growth Model				
Component score:					2.66

* For superintendents who are *regularly involved in instruction*, 40% of the annual evaluation must be based on student growth and assessment data.

¹ Measuring student growth: A guide to informed decision making, Center for Public Education.

Progress Toward District-Wide Goals

Weight: 10%

Progress made by the school district in meeting the goals set forth in the school district's school improvement plans is a required component for superintendent evaluation.

	Ineffective (1pt)	Minimally Effective (2 pt)	Effective (3 pt)	Highly Effective (4 pt)	Rating
	Progress was made on fewer than 60% of goals	Progress was made on 60-74% of goals	Progress was made on 75-89% of goals	Progress was made on 90% or more of goals	3.33
Progress:	School improvement goals: Demonstrate growth in student achievement in Math as measured by MAP and NSCAS data. Improve staff member job satisfaction as measured by culture and climate surveys. I think it fair to score the district with a 2.66 in student achievement and a 4 in the area of staff member satisfaction. Total of 3.33.				3
Evidence:	As indicated in District-Wide Improvement Plan				
Component score:					3.33

F. Determining the Professional Practice Rating

Superintendent name: _____

School year: _____

Item	Weight of Category	Category Score (%)	Category Weighted Score
A. Governance & Board Relations	20% (.2)	3.39 x 20%	= 0.68
B. Community Relations	15% (.15)	3.27 x 15%	= 0.49
C. Staff Relations	15% (.15)	3.21 x 15%	= 0.48
D. Business & Finance	20% (.2)	3.33 x 20%	= 0.67
E. Instructional Leadership	30% (.3)	3.30 x 30%	= 0.99
Total Possible	100%	Score:	3.31
		Adjusted (Score / 4) =	83%

Comments by Board of Education:

Comments by the Superintendent:

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Board President's Signature: _____ Date: _____ Superintendent's Signature: _____ Date: _____

(Superintendent's signature indicates that he or she has seen and discussed the evaluation; it does not necessarily denote agreement with the evaluation.)

H. Compiling the Summative Evaluation Score

Component	Weight of Component	Component Score (%)	Component Weighted Score
Professional Practice (Adjusted score, p. 14)	50% (.50)	3.31 x 50%	= 1.653293651
Student Growth (Component score, p. 15)	40% (.40)	2.66 x 40%	= 1.064
Progress Toward District-Wide Goals (Component score, p. 15)	10% (.1)	3.33 x 10%	= 0.333
Total Possible	100%	Total Score:	3.050293651
		Total Score / 4 =	76%

Evaluation rating as follows: 90% - 100% = Highly Effective; 75% - 89% = Effective; 60% - 74% = Minimally Effective; Less than 60% = Ineffective

Comments by Board of Education:

Comments by the Superintendent:

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Board President's Signature: _____ Date: _____

Superintendent's Signature: _____ Date: _____

(Superintendent's signature indicates that he or she has seen and discussed the evaluation; it does not necessarily denote agreement with the evaluation.)

Tekamah-Herman Board Meeting
Elementary Report

1/12/26

Staff and Student Recognition

- Students of the month for December were: Charlie Jackson, Oliver Krause, Sutton Hansen, Maesyn Herting, Bucky Jansen, Colt Snow, Vivian Hopp, Evalyn Spenner, Anna Larsen, Piper Welte, Kai Stierwalt, Adalynn Abraham, Anthony Belgarde, Kahla McElmuray, and Solyn Gladwin
- We have THE BEST group of substitute teachers here at Tekamah! Thank you to some of our more regular substitute teachers on the elementary side: Joan Andrew, Pam Tonjes, Jennifer Miller, Kathy Ray, Kendal Dorn, and Janelle Ray. I am so grateful for everything they do for our students and staff. We could not do it without them!

Principal's Report

- Our current enrollment is 286. There were quite a few students who moved out of the district, with one new family moving in from Blair, and an addition in preschool that was expected.
- Last month I attended a legislative preview hosted by NCSA (Nebraska Council of School Administrators) that included Governor Pillen as a speaker, along with the director of Open Sky Policy Institute. Great information was shared during the preview, and it seems likely that the 2026 legislative session may include several bills that will impact K-12 education in Nebraska.

Tekamah-Herman Board Meeting
Secondary Report

1/12/26

Staff and Student Recognition

- Tiger Pride “Get On Our Bus” award winners:
7th grade: Ivy Johnson, Layne Bromm; **8th grade:** Emily Loftis, Bryx Leichter;
Freshmen: Georgia Johnson, Cooper Kjar; **Sophomores:** Kalli Moore, Owen Larsen
Juniors: Isabella Evasic, Ryan Roche; **Seniors:** Brock Paul, Tessa Jones
- “Teacher of the Semester” Winner: Casey Harper
- NSAA Fall Activities Academic All-State:
Cross-Country: Edyn Goodwin, Sam Oligmueller, Ryan Roche; **Football:** Kaleb Kjar, Wade Lytle; **Play Production:** Simon Heitz, Brock Paul; **Softball:** Isabella Evasic, Sarina Redding; **Volleyball:** Addison Stansberry, Emily Stansberry
- Doane Honor Choir: Jager Leichter, Brock Paul, Addison Stansberry, LilyAnn Willing
- Nebraska Middle School Honor Choir: Taylor Brummond, Jersey Nathan, Mya Santiago

Principal’s Report

- Tiger Pride expectations reviewed
- Tiger Pride ticket prizes–PTO
- Ag Career and Leadership Day, Jan. 7
- MAP testing for jr. high (preparing for NSCAS tests)
- ACT testing day, March 24, 2026
- Practice-ACT test for Juniors, Feb. 4