

DRAFT AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «» day of «» in the year «2022»
(In words, indicate day, month and year.)

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

Community Bridges, Inc.
1855 W. Baseline Road Suite 101
Mesa, AZ 85202

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

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

CBI North Mountain Healing Center
9414 North 25th Avenue
Phoenix, Arizona

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

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ARTICLE 1 INITIAL INFORMATION

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

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

PLEASE NOTE: All approvals required hereunder shall be provided in writing and signed by an authorized representative of the party granting the approval.

§ 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.)

See Request for Qualifications for Professional Services, North Phoenix Healing Center, dated July 11, 2022, together with all addenda thereto issued by the Owner.

§ 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.)

« See Request for Qualifications for Professional Services, North Phoenix Healing Center, dated July 11, 2022, together with all addenda thereto issued by the Owner. »

§ 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.)

« See Request for Qualifications for Professional Services, North Phoenix Healing Center, dated July 11, 2022, together with all addenda thereto issued by the Owner. »

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

.1 Design phase milestone dates, if any:

« ■ »

.2 Construction commencement date:

« ■ »

.3 Substantial Completion date or dates:

« ■ »

.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.)

« Design-bid-build »

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

« N/A »

§ 1.1.6.1 Intentionally deleted.

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

Dan Hines
Director of Facilities/Procurement
Community Bridges Inc. (CBI)
1855 W. Baseline Road Suite 101
Mesa, AZ 85202

§ 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.)

« N/A »

§ 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.)

« N/A »

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

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural Engineer:

« »

- .2 Mechanical Engineer:

« »

- .3 Electrical Engineer:

« »

- .4 Other, if any:

« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

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

« See Request for Qualifications for Professional Services, North Phoenix Healing Center, dated July 25, 2022, together with all addenda thereto issued by the Owner. »

§ 1.2 *Intentionally deleted.*

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

§ 1.3.1 *Intentionally deleted.*

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. All references to the Architect herein shall be deemed to include the Architect's consultants as the context requires. The Architect shall be fully responsible for the acts, errors and omissions of its employees and consultants (or any tier). The Architect represents and warrants that it is skilled and experienced in projects of the type, size, cost, and scale identified herein for the location in which they are to be constructed; that it has the experience with the designs, details, materials, procedures and methods intended for this Project; and that it has the capacity to meet all of the Owner's schedules. The Architect acknowledges that the Owner is relying on the Architect's special skill and expertise in projects of the

type, size, cost, and scale described herein and for the location in which they are to be constructed. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect warrants that all services provided under this Agreement shall conform to all relevant federal, state, and local statutes, regulations, codes, and ordinances (including but not limited to the Americans with Disabilities Act and the Fair Housing Act and their respective regulations, and each their state and local equivalent statutes and regulations).

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

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement.

§ 2.5.1 Commercial General Liability: See Exhibit A attached hereto.

§ 2.5.2 Automobile Liability: See Exhibit A attached hereto.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation: See Exhibit A attached hereto.

§ 2.5.5 Employers' Liability: See Exhibit A attached hereto.

§ 2.5.6 Professional Liability: See Exhibit A attached hereto.

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

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

§ 2.5.9 The amount and type of insurance coverage requirements set forth herein shall in no way be construed as limiting the scope of the Architect's indemnity obligations owed pursuant to this Agreement or otherwise.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of usual and customary architectural and engineering disciplines given the nature and scope of the Project, including plumbing, interiors, building code and other code compliance (including compliance with the Americans with Disabilities Act and all other related legislation, regulations, codes or ordinances, federal, state or local), and structural, mechanical, and electrical engineering services. Services not set forth herein are Supplemental or Additional Services and shall not be performed without the Owner's prior consent.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. 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 a written review of the adequacy of the services and information provided in relation to the Project requirements and prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 The Architect shall perform its services in a timely manner so as to ensure that the milestone dates set forth in Section 1.1.4 above are achieved.

§ 3.1.4 *Intentionally deleted.*

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Schematic Design, Design Development and Construction Documents and entities providing utility services to the Project. The Architect shall prepare designs and documents in accordance with applicable design requirements imposed by those authorities and entities.

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

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the Initial Information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services and arrive at a mutual understanding of such requirements with the Owner.

§ 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, as many preliminary designs illustrating the scale and relationship of the Project components as required by the Owner.

§ 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, preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations illustrating the scale and relationship of Project components. Preliminary selections of major building systems, including structural, mechanical, plumbing, electrical and landscaping, and construction materials shall be noted on the drawings illustrating the scale and relationship of Project components.

§ 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.

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

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

§ 3.2.7 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 all appropriate disciplines 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 necessary 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 subject to Section 6.5, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and all other requirements for the construction of the Work that are usual and customary given the nature and scope of the Project.

§ 3.4.2 The Architect shall incorporate all design requirements of governmental authorities having jurisdiction over the Project that are usual and customary given the nature and scope of the Project into the Construction Documents.

§ 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 *Intentionally deleted.*

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner and request the Owner's approval.

§ 3.4.6 If the lowest bid proposal received from a contractor satisfactory to the Owner exceeds the total Cost of the Work, appropriate adjustments will be made under Section 6.5 and submitted for 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, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

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

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

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

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

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

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment and all Punch List and close out items have been resolved.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work

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

§ 3.6.2.2 The Architect has the responsibility to recommend that the Owner reject Work that does not conform to the Contract Documents as observed during on-site inspections. Whenever the Architect considers it necessary or advisable, the Architect shall have the responsibility to recommend that the Owner 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, this responsibility of the Architect shall not 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 make recommendations 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 recommendations 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 recommendations, the Architect shall endeavor to secure faithful performance by both the Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

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

§ 3.6.3 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. The Architect shall comply with all relevant provisions of the Arizona Prompt Payment Act, A.R.S. §§ 32-1181 *et seq.*, in fulfilling its obligations under this Section 3.6.3.

§ 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 as to

cause no delay in the Work, while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and to verify dimensions for consistency with 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. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents. 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 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 copies of requests for information and 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 shall prepare Change Orders and Construction Change Directives as directed by the Owner with supporting documentation 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 following the Architect's review for compliance with the Contract Documents, 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. Upon the Work's "completion," as defined in A.R.S. § 33-993,

the Architect shall provide to the Owner a completed Notice of Completion in the form required by A.R.S. § 33-993, for execution and recording by the Owner.

§ 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, 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 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

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

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

§ 4.1.1.23	Commissioning	« »
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	« »
§ 4.1.1.25	Fast-track design services	« »
§ 4.1.1.26	Multiple bid packages	« »
§ 4.1.1.27	Historic preservation	« »
§ 4.1.1.28	Furniture, furnishings, and equipment design	« »
§ 4.1.1.29	Other services provided by specialty Consultants	« »
§ 4.1.1.30	Other Supplemental Services	« »

§ 4.1.2 Description of Supplemental Services

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

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

« »

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

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

« »

§ 4.1.3 *Intentionally deleted.*

§ 4.2 Architect’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services authorized by the Owner shall entitle the Architect to compensation pursuant to Section 11.3 and an amendment to this Agreement.

§ 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;
- .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 *Intentionally deleted*
- .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 *Intentionally deleted.*

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. Before the limits below are reached, the Architect shall notify the Owner of the Architect's recommended Additional Services and proposed compensation:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Two (2) visits to the site per week by the Architect during construction
- .3 Two (2) 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 Two (2) 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 *Intentionally deleted.*

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding the Owner's 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, provided that all such submittals shall be in writing and shall provide five (5) days for the Owner's response whenever feasible.

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

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

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

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

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. 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 fifteen (15) days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

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

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program

and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may 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 at the end of each phase of the Architect's 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, at the Owner's sole discretion,

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

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

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Drawings, Specifications, and other documents, including those in electronic form, prepared by the Architect and Architect's consultants are Instruments of Service. The Instruments of Service prepared by the Architect and Architect's consultants under this Agreement shall become the property of the Owner on payment in full of all monies due to the Architect hereunder. The Architect upon payment in full, assigns all rights, title and interest at common law, all statutory rights, and all copyrights related to the Instruments of Service to the Owner, provided however, the Architect shall retain all rights to its preexisting standard details and specifications.

§ 7.2 The Owner shall hold the copyright to all materials produced by or for the Owner pursuant to this Agreement. Such materials shall, in those instances deemed appropriate by the Owner, bear a copyright notice naming the Owner as the holder of the copyright. Materials produced hereunder by or for the Owner, its employees, including leased employees, or independent contractors shall not be considered "work for hire" under federal copyright laws, or if such is precluded by law, the rights to such materials shall be assigned permanently to the Owner.

§ 7.3 The Owner is specifically authorized to use the Architect's Instruments of Service for future additions and alterations to the Project or for use on other projects without charge by the Architect or any Architect Retained Consultant; provided, the Owner hereby waives the right to assert any claim against the Architect or any Architect Retained Consultant in connection with such use. In addition, the Owner is authorized to assign the Owner's rights under this Agreement to Architect's Instruments of Service to institutional lenders providing loans to pay or amortize the cost of the Project.

§ 7.4 The provisions of Sections 7.1 through 7.4 shall govern the use of Instruments of Service provided by the Architect to the Owner in electronic form.

§ 7.5 The Architect acknowledges that the design of the Project is a proprietary property interest of the Owner and that the Owner is authorized to reproduce such images of the Project as the Owner might determine from time to time. The Architect specifically waives all claims at common law, all statutory protections and any copyrights which would limit such use by the Owner. The Architect agrees that the Architect shall not and shall not permit its consultants to use the design of the Project or a design substantially similar to the Project for any other project of the Architect or any of Architect's consultants.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement.

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

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

§ 8.1.4 To the fullest extent permitted by law, the Architect shall defend, indemnify, and hold harmless the Owner, and its parent, subsidiaries, and affiliated entities, and each of their respective officers, directors, members, managers, employees, agents, heirs and assigns (each an "Indemnified Party", collectively "Indemnified Parties") for, from and against all claims, causes of action, demands, suits, actions, arbitration demands, liens, losses, liabilities, damages, fines, penalties, expenses, or any other costs of any kind (including but not limited to attorneys' fees, expert witness fees, and litigation costs) that arise out of or relate to the Services (each a "Claim", collectively "Claims"), but only to the extent that the Claims are caused by the willful, reckless or negligent actions, errors or omissions of the Architect or Architect's Payees (as that term is defined in Section 11.10.2.1) or anyone directly or indirectly employed by them or anyone for whose acts they are responsible, the failure of the Architect or Architect's Payees to comply with this Agreement, or nonpayment by the Architect for any services or work performed under this Agreement. The obligations in this Section 8.1.4 shall not apply in any circumstance that would violate A.R.S. §§ 32-1159, 32-1159.01, 34-226, or other applicable law.

§ 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.

§ 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.

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

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

[] 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.

§ 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 and the Arizona Revised Uniform Arbitration Act, A.R.S. §§ 12-3001 *et seq.*, unless the parties have executed a separate arbitration agreement providing for an alternate process. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3.1 In the event of any arbitration or litigation to interpret or enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees, in addition to any other relief to which it may be entitled.

§ 8.3.4 Consolidation or Joinder

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

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

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect that are otherwise due hereunder, and the Owner fails to dispute the Architect's entitlement to those payments within the deadlines set forth herein, such failure shall be considered substantial nonperformance and cause for termination in accordance with Section 9.4, 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 undisputed sums due prior to suspension.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated with undisputed funds for services performed prior to notice of such suspension. When the Project is resumed, if the suspension exceeds 180 consecutive days, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services.

§ 9.3 If the Owner suspends the Project for more than 180 consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate or suspend 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 and if the failure is not cured within seven (7) days following the notice.

§ 9.5 The Owner may terminate or suspend 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, and Reimbursable Expenses incurred. The Architect shall not be entitled to compensation for expenses arising out of Owner's termination of this Agreement or for the Architect's anticipated profit on the value of services not performed by the Architect.

§ 9.7 *Intentionally deleted.*

§ 9.8 *Intentionally deleted.*

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Arizona without regard to its principle of conflicts of law.

§ 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 for the Project.

§ 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 an affiliated entity upon notice to the Architect, or 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. Should the Architect become aware of the presence of hazardous materials or toxic substances at the Project site, it shall immediately report that presence to the Owner in writing.

§ 10.7 Following approval of the Owner, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner may 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.

ARTICLE 11 COMPENSATION

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

§ 11.2 For the Architect's Supplemental Services authorized by the Owner pursuant to 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, and those that are authorized by the Owner pursuant to Section 4.2, the Owner shall compensate the Architect as follows:

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

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, but that are authorized by the Owner pursuant to either Section 4.1 or 4.2, 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.)

§ 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:

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

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

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

§ 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, and consistent with the Owner's Reimbursable Expense Guidelines attached as Exhibit B, as follows:

- .1 Transportation (including mileage) and authorized out-of-town travel (coach airfare) and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner; and
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10%) of the expenses incurred, notwithstanding anything else to the contrary in Exhibit B.

§ 11.9 *Intentionally deleted.*

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 *Intentionally deleted.*

§ 11.10.1.2 *Intentionally deleted.*

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, and subject to Sections 11.10.2.2, 11.10.3.1, and 11.10.3.2, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Undisputed amounts unpaid sixty (60) days after the Owner's receipt of the invoice 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.)

One percent (1%) per month for undisputed amounts

§ 11.10.2.2 The Architect shall submit to the Owner a monthly invoice that complies with the provisions of this Section 11.10, showing the Architect's charges, including Reimbursable Expenses, for the preceding month (a "Request for Payment"). A Request for Payment shall include an itemization of the services performed by the Architect and receipts to support all claimed Reimbursable Expenses. A Request for Payment shall also include (1) an executed conditional lien waiver and release in the form prescribed by A.R.S. § 33-1008 from the Architect and all consultants, subconsultants, subcontractors or any other persons and entities furnishing any labor, materials or services to or through the Architect ("Architect's Payees") and (2) except for the first Request for Payment, an executed unconditional lien waiver and release in the form prescribed by A.R.S. § 33-1008 from the Architect and all of Architect's Payees for all payments previously made. The Architect's final Request for Payment shall include an executed conditional lien waiver and release on final payment in the form prescribed by A.R.S. § 33-1008 from the Architect and all of Architect's Payees. Within fourteen (14) days of the Architect's receipt of final payment, the Architect and all of Architect's Payees shall deliver executed unconditional lien waivers and releases on final payment in the form prescribed by A.R.S. § 33-1008.

§ 11.10.2.3 The Owner's obligation to make payment shall not arise until the Architect has submitted a Request for Payment that complies with this Section 11.10.

§ 11.10.2.4 Within 30 days after receiving a Request for Payment, the Owner shall (1) pay the Architect all undisputed sums for services performed and (2) advise the Architect in writing of any disputed sums, which may be withheld pending resolution of the dispute, and of any sums subject to withholding or setoff under Section 11.10.3.2 or any other provision of this Agreement. For a final Request for Payment, the Owner shall make payment within 30 days after receiving the final Request for Payment if (i) the Services and other work have been completed to the Owner's reasonable satisfaction and (ii) the Architect has complied with all other terms and provisions of this Agreement.

§ 11.10.2.5 The Owner may in its sole discretion make payment to the Architect by means of joint checks payable to the Architect and any of Architect's Payees. The Architect shall execute, when requested by the Owner, joint check agreements consistent with this Agreement. The Architect consents to the Owner communicating directly with Architect's Payees to verify lien claims, account balances, payments, services and other matters pertaining to the Project.

§ 11.10.3.1 The Architect shall promptly pay for all services and other work furnished to the Project and shall otherwise take all steps necessary to preclude liens or stop notices from arising from the services. The Architect shall be in default if any demand is made on the Owner for amounts due to Architect's Payees. If any lien, stop notice or bonded stop notice is recorded or submitted by the Architect or any of Architect's Payees, the Owner may

withhold from any Request for Payment all sums that the Owner considers necessary to protect the Owner from loss or expense arising from such lien or notice. Further, the Architect shall furnish within ten (10) days after demand, at the Architect's expense, all statutory and other bonds necessary to release and discharge the Project from such lien and to result in the release of funds held in response to any such stop notice or bonded stop notice.

§ 11.10.3.2 The Owner may withhold and setoff from any amounts otherwise due to the Architect sums sufficient to protect the Owner from all Claims and other expenses that the Owner has incurred or may incur for which the Architect is responsible due to (i) defects in the Architect's services or work product, (ii) the Architect's breach of this Agreement; (iii) violations of applicable law by the Architect; or (iv) any tax levy, garnishment, attachment or other legal process related to payments due to the Architect. After such circumstance is resolved to the Owner's reasonable satisfaction, any balance due less expenses suffered by the Owner as a result, shall be paid to the Architect. No interest shall be paid to the Architect on any amounts withheld under this subsection.

§ 11.10.3.3 Notwithstanding any dispute between the Owner and the Architect, including any withholding made in good faith by the Owner, the Architect shall carry on with the performance of the services to be provided hereunder by the Architect and maintain its progress notwithstanding such withholding or dispute, so long as the Owner continues to make payments to the Architect of all undisputed items and amounts not in dispute. Except to the extent specifically provided by applicable law, or otherwise set forth in this Agreement, the Architect has no right to terminate the Agreement, to directly or indirectly stop or delay the performance of services hereunder, or any part thereof, or to stop or delay delivery of any materials required to be delivered or to otherwise default under the Agreement. The Architect shall at all times proceed diligently with performance of all services in accordance with this Agreement and shall continue such performance of service despite the existence of any disputed amounts or Owner caused delays or pending the resolution of any requests for relief, claim, appeal, compensation or other legal or equitable action relating to this Agreement.

§ 11.10.4 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 Architect agrees to perform its duties under this Agreement in a manner that is consistent with Owner's obligations as a recipient of federal grant funding under the Department of Housing and Urban Development's Community Development Block Grant ("CDBG") programs and from grants secured under the American Rescue Plan Act of 2021 ("ARPA"). The CDBG grant funds are administered by the City of Phoenix, and the ARPA grant funds are administered by Maricopa County. Architect shall comply with all federal regulations governing CDBG and ARPA grant funding, including but not limited to 24 C.F.R. Part 570 and all regulations and policies promulgated by HUD for CDBG programs, the Maricopa County Procurement Code, and the City of Phoenix Procurement Code. Architect shall also comply with Owner's Federal Grants Management Policies document, incorporated herein by this reference, as may be amended by Owner from time to time. The terms set forth in this **Article 12** are a material inducement to Owner to enter into and continue the Agreement.

§ 12.2 Architect represents and warrants that neither Architect nor its principals, employees, or agents have been excluded, debarred or suspended from participation in any state or federal program. If Architect receives notice that any of its employees, contractors, or agents is charged with fraud, bribery, or a criminal offense related to any state or federal program, or is proposed for exclusion from any state or federal program during the term of the Agreement, Architect shall promptly provide Owner with a copy or complete and accurate description of any such notice.

§ 12.3 The parties agree that the compensation contemplated by this Agreement represents the fair market value of the services to be provided by Architect, and that such services are reasonably necessary to accomplish Owner's commercially reasonable business purposes.

§ 12.4 The services to be provided by Architect do not involve the counselling or promotion of any business arrangement or other activity that violates any state or federal law.

§ 12.5 During the term of this Agreement, Architect shall provide Owner with such access to its books and records as may be reasonably necessary for Owner to determine Architect's compliance with the terms of this Agreement. Architect shall permit access to its books and records by the Department of Housing and Urban Development or any other federal, state or municipal agency administering CDBG or ARPA grant funds or otherwise authorized by law to inspect Architect's books and records, during the term of this Agreement and for a period of no less than four (4) years after any expiration or termination of this Agreement, or such longer period as may be required by applicable law and regulations. This Section 12.5 shall survive any termination or expiration of this Agreement.

§ 12.6 In the event that Architect becomes aware of any potential or actual conflict of interest by Architect or Architect's control persons, principals, officers, directors, or employees with respect to this Agreement, Architect shall promptly inform Owner of such potential or actual conflict of interest.

§ 12.7 Architect hereby agrees to comply with all applicable federal, state or local laws, regulations, orders, and policies that apply to the services performed hereunder or that apply as a result of Owner's receipt of CDBG and ARPA grant funding, including but not limited to the Civil Rights Act of 1964 and other federal, state or local laws prohibiting discrimination, the Federal Medicare and Medicaid Anti-Kickback Law, 42 U.S.C. § 1320a-7b, the Physician Self-Referral Law, 42 U.S.C. § 1395nn, and, to the extent applicable to the Agreement, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Copeland "Anti-Kickback" Act, 40 U.S.C. § 3145 *et seq.*, as supplemented by Department of Labor Regulations (29 C.F.R. Part 3), and the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352. Architect hereby agrees to, upon the written request of Owner, execute any certifications as may be required under the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, in such reasonable form as may be prepared by or on behalf of Owner.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, together with all exhibits identified herein.
- .2 Insurance Requirements attached as Exhibit A.
- .3 Request for Qualifications for Professional Services, North Phoenix Healing Center, dated July 11, 2022, together with all addenda thereto issued by the Owner.

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

OWNER

ARCHITECT

(Signature)

(Signature)

Name:

Name:

Title:

Title:

(Printed name and title)

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