

DRAFT AIA® Document B152® – 2019

Standard Form of Agreement Between Owner and Architect for Interior Design and Furniture, Furnishings, and Equipment (FF&E) Design Services

AGREEMENT made as of the « » day of « » in the year « »
(the “Agreement” or “Contract”)

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

«Heather Zolnowski »« Executive Director »
« Benjamin Franklin Classical Charter Public School (the “Owner,” “Awarding Authority” or “BFCCPS”) »
«500 Financial Park
«Franklin, Massachusetts 02038 »

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

« »« »
« »
« »
« »

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

«Interior Design »
« »
« »

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.

This Agreement anticipates that the Owner will hire a Contractor to perform construction Work on the interior design portion of the Project and a Vendor to provide, deliver, and install FF&E for the Project. The A151-2019, Owner/Vendor Agreement is coordinated with this Agreement for performance of the FF&E Work. The A104-2017, Owner/Contractor Agreement is coordinated with this Agreement for performance of the construction Work.



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ARTICLE 1 INITIAL INFORMATION

§ 1.1 Definitions

§ 1.1.1 The term "furniture, furnishings, and equipment" is expressed as FF&E throughout this Agreement.

§ 1.1.2 If multiple vendors are used on the Project, the term "Vendor" as referred to throughout this Agreement will be as if plural in number.

§ 1.1.3 If multiple contractors are used on the Project, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.

§ 1.1.4 Standard of Care. The Designer agrees: that the services provided hereunder shall conform to the standard of care and practice exercised by design professionals or consultants engaged in performing comparable service; that the personnel furnishing said services shall be qualified and competent to perform adequately the services assigned to them; and that the recommendations, guidance and performance of such personnel shall reflect such standards of care and practice.

§ 1.2 This Agreement is based on the Initial Information set forth below:

(State below details of the Project premises; Owner's contractors and consultants; Architect's consultants; Owner's budgets for the Cost of the Work for Construction and the Cost of the Work for FF&E; Owner's anticipated milestone dates for design, construction, and FF&E installation; Owner's Sustainable Objectives; lease requirements or restrictions; the Owner's intended procurement and delivery methods; and other information relevant to the Project.)

« »

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall, when appropriate, adjust the terms of this Agreement. The Owner shall adjust the Owner's budgets and the Owner's anticipated design, construction, and FF&E installation milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.4 The Services covered by this Agreement are subject to the Owner-approved budget. In the absence of an express provision to the contrary in this Agreement, the Architect shall perform the required Services in a manner that will render a Cost of the Work (as that term is defined herein) that does not exceed the most current Owner-approved budget.

§ 1.5 Architect represents and warrants that it is financially solvent, able to pay its debts as they become due, and possesses sufficient working capital to complete the Services and perform its obligations under this Agreement and under the Contract Documents. Architect further represents, warrants, and acknowledges that: (a) it is a sophisticated business entity that possesses a high level of experience and expertise in business administration, construction, and contract administration of projects of similar or like size, complexity, and nature as the above-noted Project; (b) the Owner is relying on Architect's representation herein that it possesses sufficient skill, knowledge, experience, and ability to fully perform the Services and its obligations under this Agreement; (c) the Architect will assign to this Project similarly qualified individual professional architects, managing those professionals as needed to guaranty that quality of performance; and (d) the Basic Services Fee provided for herein is adequate compensation for timely performance of the Basic Services.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 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). The Architect represents that the Architect and its consultants are properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement.

§ 2.2 If the Owner and Architect agree that the Architect will purchase FF&E on behalf of the Owner with funds provided by the Owner, the duties and compensation related to such services shall be set forth in B254-2019, Standard Form of Architect's Services: Purchasing Agent Services for Furniture, Furnishings, and Equipment (FF&E). Otherwise, the Architect shall have no obligation to purchase FF&E on behalf of the Owner for the Project.

§ 2.3 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 12.11:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 Commercial General Liability

« Commercial General Liability Insurance, with a minimum limit of \$2,000,000 each occurrence. The Owner and its lender (if requested) shall each be listed as an additional insured. »

.2 Automobile Liability

« Automobile Liability Insurance at a limit of not less than \$1,000,000 each accident. »

.3 Workers' Compensation at statutory limits

« Workers' Compensation Insurance in accordance with M.G.L. c.152. »

.4 Employer's Liability

« Employer Liability Insurance at a limit of not less than \$1,000,000 each occurrence. »

.5 Professional Liability

« The Designer shall maintain professional liability insurance covering errors and omissions and negligent acts of the Designer, and of any person or entity for whose performance the Designer is legally liable. The minimum amount of such insurance shall be \$2,000,000 per claim. If the policy is a "claims made" policy, it shall include a retroactive date that is no later than the effective date of this Contract, and Designer shall continue to provide such coverage for a period of at least six (6) years after the earlier of (1) the date of official acceptance of the completed Project by the Owner; (2) the date of the opening of the Project to public use; (3) the date of the acceptance by the general contractor of a final pay estimate prepared by the Owner pursuant to M.G.L. chapter 30; or (4) the date of substantial completion of the Construction Contract and the taking of possession of the Project for occupancy by the Owner, which requirement can be met by providing renewal certificates of professional liability insurance to the Owner as evidence that this coverage is being maintained; provided, however, that if the Designer is not selected to perform the Design Phase or this Contract is terminated prior to the Design Phase, such extended coverage for "claim made" professional liability policy shall extend for at least six (6) years after the termination of this Contract. »

.6 Other Insurance

The Designer will carry a general liability umbrella policy of at least \$5,000,000.

§ 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 the Project.

§ 2.5 The Architect shall disclose to the Owner in writing any financial or other interest it has or may have, or any other benefit it might receive, related to the selection or purchase of FF&E for the Project. The Architect shall make the disclosure and get the Owner's written approval before including such FF&E in the FF&E Documents.

ARTICLE 3 PROGRAMMING SERVICES

§ 3.1 The Architect shall consult with the Owner regarding the Owner's scope, intent, goals, and objectives for the Project.

§ 3.2 The Architect shall review the Owner's budgets and the Project schedule, if provided in Article 1, or assist the Owner in the preparation of such items.

§ 3.3 The Architect shall gather and evaluate information about the Project by, as applicable, (1) compiling and reviewing existing Project-related documentation provided by the Owner; (2) interviewing Owner-designated individuals; (3) visiting the Owner's relevant existing facilities or properties; and (4) identifying and evaluating constraints and opportunities that will have an impact on the Project.

§ 3.4 The Architect shall develop design and performance criteria for the Project based on information gathered and the Owner's goals and objectives.

§ 3.5 The Architect shall recommend Project standards, or incorporate Owner standards, such as area allowances, space allocation, space adjacency requirements, communication and technology, security requirements, and FF&E requirements.

§ 3.6 The Architect shall establish general and specific space quality objectives for the Project related to such elements as aesthetics, ergonomics, lighting levels, environmental considerations, and acoustics.

§ 3.7 The Architect shall determine specific space requirements for the Project by identifying required spaces and their functions and characteristics; establishing sizes and relationships of such spaces; and establishing space efficiency factors.

§ 3.8 The Architect shall prepare a written program, including a summary of observations and recommendations, for the Owner's review and approval.

§ 3.9 The Architect shall consult with the Owner regarding the program's feasibility with respect to the Owner's budgets and the Project schedule.

ARTICLE 4 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 4.1 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).

§ 4.1.1 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 (1) the accuracy and completeness of the services and information furnished by the Owner when the Owner designates such information as reliable and (2) the Owner's approvals. 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.

§ 4.1.2 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. 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.

§ 4.1.3 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.

§ 4.2 Schematic Design Phase Services

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

§ 4.2.2 The Architect shall discuss with the Owner alternative approaches to design and construction of the Project.

§ 4.2.3 The Architect shall discuss with the Owner alternative approaches to design and selection of FF&E, and options for procuring FF&E.

§ 4.2.4 Based on the Owner's approval of the program, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including preliminary plans and may include some combination of study models, perspective sketches, or digital representations.

§ 4.2.5 The Schematic Design Documents shall include preliminary furniture layouts, and may include preliminary options for FF&E.

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

§ 4.2.7 The Architect shall consider the value of alternative materials together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the program, Owner's schedule, and Owner's budgets.

§ 4.2.8 The Architect shall submit to the Owner estimates of the Cost of the Work for Construction and the Cost of the Work for FF&E prepared in accordance with Article 7.

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

§ 4.3 Design Development Phase Services

§ 4.3.1 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 budgets, 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, interior elevations, and typical construction details, to fix and describe the size and character of the Project as to architectural and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and establish, in general, their quality levels.

§ 4.3.2 The Design Development Documents shall include FF&E selections and specially designed FF&E items or elements, and may include product data and illustrations to indicate finished appearance and functional operation of FF&E.

§ 4.3.3 The Architect shall update the estimates of the Cost of the Work for Construction and the Cost of the Work for FF&E prepared in accordance with Article 7.

§ 4.3.4 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimates, and request the Owner's approval.

§ 4.4 Construction Documents Phase Services

§ 4.4.1 Based on the Owner's approval of the Design Development Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of drawings and specifications setting forth in detail the requirements for the construction Work for the Project. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including shop drawings, product data, samples, and other similar submittals, which the Architect shall review in accordance with Section 4.8.4.

§ 4.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 4.4.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work for Construction, and advise the Owner of any adjustments to such estimate, take any action required under Section 7.6, and request the Owner's approval.

§ 4.5 FF&E Documents Phase Services

§ 4.5.1 Based on the Owner's approval of the Design Development Documents, the Architect shall prepare for the Owner's approval FF&E Documents consisting of drawings and specifications setting forth in detail the FF&E Work for the Project, including requirements for location, procurement, fabrication, shipment, delivery, and installation of the FF&E. The Owner and Architect acknowledge that in order to perform the Work the Vendor will provide additional information, including shop drawings, product data, samples, and other similar submittals, which the Architect shall review in accordance with Section 4.9.3.

§ 4.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the FF&E Documents.

§ 4.5.3 The Architect shall submit the FF&E Documents to the Owner, update the estimate for the Cost of the Work for FF&E, and advise the Owner of any adjustments to such estimate, take any action required under Section 7.6, and request the Owner's approval.

§ 4.6 Construction Procurement Phase Services

§ 4.6.1 Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in establishing a list of prospective contractors for construction.

§ 4.6.2 The Architect shall assist the Owner in obtaining competitive bids or negotiated proposals for construction. Bidding Documents shall consist of bidding requirements and the proposed Contract Documents.

§ 4.6.3 The Architect shall prepare written responses to questions from prospective contractors and provide written clarifications and interpretations of the Bidding Documents in the form of addenda.

§ 4.6.4 The Architect shall assist the Owner in reviewing bids. The Architect shall assist the Owner in awarding and preparing contracts for construction.

§ 4.7 FF&E Procurement Phase Services

§ 4.7.1 Following the Owner's approval of the FF&E Documents, the Architect shall assist the Owner in establishing a list of prospective vendors for FF&E.

§ 4.7.2 The Architect shall assist the Owner in obtaining quotations for FF&E. Quotation Documents shall consist of quotation requirements and the proposed Contract Documents.

§ 4.7.3 The Architect shall prepare written responses to questions from prospective vendors and provide written clarifications and interpretations of the Quotation Documents in the form of addenda.

§ 4.7.4 The Architect shall assist the Owner in reviewing quotations. The Architect shall assist the Owner in awarding contracts for vendors.

§ 4.8 Construction Phase Services

§ 4.8.1 General

§ 4.8.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 4.8.1.2 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.

§ 4.8.1.3 Subject to Section 5.2, 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.

§ 4.8.2 Evaluations of the Work

§ 4.8.2.1 The Architect shall visit the Project premises at intervals appropriate to the stage of construction, or as otherwise required in Section 5.2.2, 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 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.

§ 4.8.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 4.8.2.3 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.

§ 4.8.2.4 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.

§ 4.8.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 4.8.3 Certificates for Payment to Contractor

§ 4.8.3.1 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 4.8.2 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.

§ 4.8.3.2 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.

§ 4.8.4 Submittals

§ 4.8.4.1 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 any construction means, methods, techniques, sequences, or procedures.

§ 4.8.4.2 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, including insurance requirements. 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 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.

§ 4.8.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 4.8.5 Changes in the Work

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 5.2.4, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 4.8.6 Construction Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; 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 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.

§ 4.9 FF&E Contract Administration Phase Services

§ 4.9.1 The Architect shall provide administration of the Contract for FF&E as set forth below and in AIA Document A151™–2019, Standard Form of Agreement between Owner and Vendor for Furniture, Furnishings, and Equipment, or a substantially similar agreement in a form acceptable to the Owner. If the Owner and Vendor modify AIA Document A151–2019, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 4.9.2 The Architect shall assist the Owner in coordinating schedules for fabrication, delivery, and installation of the Work, but shall not be responsible for any failure of the Vendor to meet schedules for completion or to perform its duties and responsibilities in conformance with such schedules.

§ 4.9.3 The Architect shall review and approve, or take other appropriate action upon, the Vendor'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 FF&E Documents.

§ 4.9.4 The Architect shall visit the Project premises at intervals appropriate to the stage of the Vendor's installation, or as otherwise required in Section 5.2.3, to become generally familiar with, and to keep the Owner informed about, the progress and quality of the portion of the FF&E 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 FF&E Documents. The Architect shall not have control over, charge of, or responsibility for the means, methods, techniques, sequences, or procedures of fabrication, shipment, delivery, or installation, or for the safety precautions and programs in connection with the Work.

§ 4.9.5 The Architect shall conduct a preliminary inspection of FF&E within seven days after its delivery to the Project premises for the purpose of verifying the delivery and quantities. The Architect shall report defects, deficiencies, or nonconformity observed during the preliminary inspection to the Owner and Vendor.

§ 4.9.6 Within a reasonable amount of time after the Vendor notifies the Architect that the Work, or a designated portion of the Work, is complete the Architect shall inspect such Work and provide the Owner with its written recommendation about whether the Work, or a portion thereof, should be accepted or rejected.

§ 4.9.7 The Architect's responsibilities under Section 4.9.5 and Section 4.9.6 are limited to identifying defects, deficiencies, or nonconformities the Architect actually observes, or reasonably should have observed, during its inspections. The Architect is not required to make exhaustive or continuous inspections to fulfill its responsibilities under Section 4.9.5 and Section 4.9.6 and has no responsibility to discover latent defects.

§ 4.9.8 If the Architect is required to inspect FF&E at a location other than the Project premises, such services shall be performed as Additional Services for the compensation set forth in Section 12.4.

ARTICLE 5 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 5.1 Supplemental Services are not included in Programming Services or Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 12.3. Supplemental Services may include structural engineering; mechanical engineering; electrical engineering; lighting consulting; audio visual consulting; acoustic consulting; food service

equipment consulting; telecommunications/data consulting; security consulting; landscape design; graphics and signage design; branding and identity standards; art selection or procurement; commissioning; measured drawings of existing conditions; coordination of separate contractors or independent consultants; planning for inventory, removal, relocation, or reuse of existing FF&E; detailed cost estimates; test fits; tenant related services; preparation of record drawings; sustainable project services; existing FF&E inventory and appraisals; and any other services not otherwise included in this Agreement.

(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

« »

§ 5.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 5.2 shall entitle the Architect to compensation pursuant to Section 12.4.

§ 5.2.1 The Architect shall provide as Additional Services those services necessitated by (1) a change in the Initial Information; (2) changes in previous instructions or approvals given by the Owner; (3) a material change in the Project including size, quality, complexity, the Owner's schedule or budgets, or procurement or delivery method; (4) inspections of FF&E located off-site, and (5) inspections of FF&E at the Project premises of FF&E that was previously rejected, when the number of visits identified in Section 5.2.3 is exceeded.

§ 5.2.2 The Architect has included in Basic Services « » (« ») visits to the Project premises by the Architect during construction. The Architect shall conduct visits in excess of that amount as an Additional Service.

§ 5.2.3 The Architect has included in Basic Services « » (« ») visits to the Project premises by the Architect during the FF&E Contract Administration Phase Services. The Architect shall conduct visits in excess of that amount as an Additional Service.

§ 5.2.4 The Architect shall, as an Additional Service, provide services made necessary by the Contractor's or Vendor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders, Construction Change Directives, or Modifications to the Contract for FF&E as an Additional Service.

§ 5.2.5 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.

ARTICLE 6 OWNER'S RESPONSIBILITIES

§ 6.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project.

§ 6.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work for Construction as defined in Article 7, (2) the budget for the Cost of the Work for FF&E as defined in Article 7 (3) the Owner's other costs, and (4) 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 of the construction Work and acceptance of the FF&E Work. If the Owner significantly increases or decreases the Owner's budgets for the Cost of the Work for Construction or the Cost of the Work for FF&E, 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.

§ 6.3 The Owner shall furnish the services of consultants in addition to those identified as the Owner's responsibility in Section 1.2 when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 6.4 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 require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 6.5 The Owner shall furnish tests, inspections, and reports required by law or the Contract Documents.

§ 6.6 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.

§ 6.7 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.

§ 6.8 The Owner shall endeavor to communicate with the Contractor and Vendor through the Architect about matters arising out of or relating to the Contract Documents.

§ 6.9 Before executing any Contract for Construction and any Contract for FF&E, the Owner shall coordinate the Architect's duties and responsibilities set forth in such Contract for Construction and such Contract for FF&E 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, and the agreement between the Owner and Vendor.

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

§ 6.11 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 7 COST OF THE WORK

§ 7.1 For purposes of this Agreement, the Cost of the Work for Construction is the total cost to the Owner to construct all elements of the Project designed or specified by the Architect, and shall include the Contractor's general conditions costs, overhead, and profit. The Cost of the Work for Construction also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work for Construction does not include the Cost of the Work for FF&E; the compensation of the Architect; or the costs of purchasing or acquiring real estate, leasing, financing, contingencies for changes in the construction Work, or other costs that are the responsibility of the Owner.

§ 7.2 For purposes of this Agreement, the Cost of the Work for FF&E is the total cost to the Owner to purchase, fabricate, ship, store, deliver, and install all FF&E elements of the Project designed or specified by the Architect. The Cost of the Work for FF&E also includes the reasonable value of FF&E donated to, or otherwise furnished by, the Owner. The Cost of the Work for FF&E does not include the Cost of the Work for Construction; compensation of the Architect; or the costs of leasing, financing, contingencies for changes in the FF&E Work, or other costs that are the responsibility of the Owner.

§ 7.3 The Owner's budgets for the Cost of the Work for Construction and the Cost of the Work for FF&E are provided in Initial Information or will be developed during the Programming Phase Services, and shall be adjusted throughout the Project as required in Article 6 and this Article 7. Evaluations of the Owner's budgets, the preliminary estimates, and updated estimates 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 FF&E; the Contractor's or Vendor's methods of determining bid or quote prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids, quotes, or negotiated prices will not vary from the Owner's budgets, or from any estimates, or evaluations, prepared or agreed to by the Architect.

§ 7.4 In preparing estimates of the Cost of the Work for Construction and the Cost of the Work for FF&E, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, FF&E, 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 estimates to meet the Owner's budgets. The Architect's estimates shall be based on

current area, volume, or similar conceptual estimating techniques. If the Owner requires detailed estimates, the Architect shall provide such estimates, if identified as the Architect's responsibility in Section 5.1, as a Supplemental Service.

§ 7.5 If, through no fault of the Architect, procurement activities have not commenced within 90 days after the Architect submits the Construction Documents or FF&E Documents to the Owner the Owner's budget for such portion of Work shall be adjusted to reflect changes in the general level of prices in the applicable construction or FF&E market.

§ 7.6 If at any time the Architect's estimate of the Cost of the Work for Construction or the Cost of the Work for FF&E exceed the Owner's budget for such portion of Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size or budgets, or to adjust the quality or quantity of FF&E items and the Owner shall cooperate with the Architect in making such adjustments.

§ 7.7 If the Owner's current budget for the Cost of the Work for Construction 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 for Construction;
- .2 authorize rebidding or renegotiating of the construction Work within a reasonable time;
- .3 terminate in accordance with Section 10.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work for Construction; or
- .5 implement any other mutually acceptable alternative.

§ 7.8 If the Owner chooses to proceed under Section 7.7.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work for Construction at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 7.7.1. 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 for Construction 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 12.4; otherwise the Architect's services 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 Section 7.8.

§ 7.9 If the Owner's current budget for the Cost of the Work for FF&E at the conclusion of the FF&E Documents Phase Services is exceeded by the lowest bona fide quotation, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work for FF&E;
- .2 authorize rebidding or renegotiating of the FF&E Work within a reasonable time;
- .3 terminate in accordance with Section 10.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work for FF&E; or
- .5 implement any other mutually acceptable alternative.

§ 7.10 If the Owner chooses to proceed under Section 7.9.4, the Architect shall modify the FF&E Documents as necessary to comply with the Owner's budget for the Cost of the Work for FF&E at the conclusion of the FF&E Documents Phase Services, or the budget as adjusted under Section 7.9.1. If the Owner requires the Architect to modify the FF&E Documents because the lowest bona fide quotation or negotiated proposal exceeds the Owner's budget for the Cost of the Work for FF&E 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 12.4; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the FF&E Documents shall be the limit of the Architect's responsibility under this Section 7.10.

ARTICLE 8 COPYRIGHTS AND LICENSES

§ 8.1 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.

§ 8.2 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.

§ 8.3 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 when due pursuant to Article 10 and Article 12. 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, the Vendor, sub-vendors, 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 1.4, solely and exclusively for use in performing services or construction, or providing goods, for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 10.4, the license granted in this Section 8.3 shall terminate.

§ 8.3.1 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 8.3.1. The terms of this Section 8.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 10.4.

§ 8.4 Except for the licenses granted in this Article 8, 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.

§ 8.5 Except as otherwise stated in Section 8.3, the provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 CLAIMS AND DISPUTES

§ 9.1 General

§ 9.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the construction Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 9.1.1.

§ 9.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, vendors, 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 A151-2019, Standard Form of Agreement Between Owner and Vendor and AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, vendors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 9.1.3 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 10.6.

§ 9.1.4 If a dispute arises between the parties related to this Contract, the parties agree to use the following procedures to resolve the dispute: (a) Negotiation - a meeting shall be held between representatives of the parties with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute; such meeting shall be held within fourteen calendar days of the party's written request for such a meeting; (b) Mediation - if the parties fail to negotiate a resolution of the dispute, they shall submit the dispute to mediation pursuant to § 9.2; and (c) Arbitration - if the parties fail to mediate a resolution of the dispute, they shall submit the

dispute to arbitration pursuant to § 9.3.

§ 9.2 Mediation

§ 9.2.1 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.

§ 9.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by JAMS in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. 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.

§ 9.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 9.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

Arbitration pursuant to Section 9.3 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.

§ 9.3 Arbitration

§ 9.3.1 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 JAMS in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.

§ 9.3.1.1 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.

§ 9.3.2 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.

§ 9.3.3 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.

§ 9.3.4 Consolidation or Joinder

§ 9.3.4.1 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).

§ 9.3.4.2 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.

§ 9.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 9.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 9.4 The provisions of this Article 9 shall survive the termination of this Agreement.

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 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.

§ 10.2 If the Owner suspends the Project, 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.

§ 10.3 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.

§ 10.4 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.

§ 10.5 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.

§ 10.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 10.7 Intentionally deleted.

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

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 This Agreement shall be governed by the laws of the state of Massachusetts

§ 11.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor and AIA Document A151–2019, Standard Form of Agreement Between Owner and Vendor.

§ 11.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Except as expressly stated herein, 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, substantially in the form attached hereto as **Exhibit G**, 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. See **Exhibit G**.

§ 11.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be substantially in the form attached hereto as **Exhibit H**, submitted to the Architect for review at least 14 days prior to the requested dates of 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. See **Exhibit H**.

§ 11.5 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.

§ 11.6 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.

§ 11.7 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. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 11.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 10.4.

§ 11.8 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 11.8.1. This Section 11.8 shall survive the termination of this Agreement.

§ 11.8.1 The receiving party may disclose "confidential" or "business proprietary" information after seven 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 11.8.

§ 11.9 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.

§ 11.10 **No Waiver.** Neither the Owner's review, approval, or acceptance of, nor payment for any of the services furnished under this Contract shall be construed to operate as a waiver of any rights under the Contract or any cause of action arising out of the performance of the Contract. The Owner's approval shall not in any way relieve the Designer from performing all work required under this Contract in accordance with the standard of care set forth herein.

§ 11.11 This Contract represents the entire and integrated agreement between the Owner and the Designer and, except as otherwise provided herein, supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written agreement signed by both the Owner and the Designer, and approved by the Authority, which approval shall not unreasonably be delayed, denied, conditioned, or withheld.

§ 11.12 **Waiver of Subrogation:** (a) To the extent damages are covered by property insurance, the Owner and the Designer waive all rights against each other and against the General Contractor, Subcontractors, consultants, agents, and employees of the other for damages caused by fire or other causes of loss, except such rights as they may have to the proceeds of such insurance as set forth in the Owner-Contractor Agreement. The Owner shall require of the General Contractor, Subcontractors, Owner's Project Manager, consultants, Subconsultants, and agents and employees, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and

whether or not the person or entity had an insurable interest in the property damaged. (b) Nothing in this Contract shall create a contractual relationship with or create a cause of action in favor of a third party against the Owner or the Designer.

ARTICLE 12 COMPENSATION

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

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

« »

§ 12.2 For the Architect's Basic Services described under Article 4, the Owner shall compensate the Architect as follows:

- .1 Interior Design Services listed in section 12.6:
(Insert amount of, or basis for, compensation.)

« »

- .2 FF&E Design Services listed in section 12.7:
(Insert amount of, or basis for, compensation.)

« »

§ 12.3 For Supplemental Services identified in Section 5.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 12.4 For Additional Services that may arise during the course of the Project, including those under Section 5.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

« »

§ 12.5 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 12.3 or 12.4, shall be the amount invoiced to the Architect plus « » percent (« » %), or as follows:

« »

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

Schematic Design Phase	« »	percent (« »	%)
Design Development Phase	« »	percent (« »	%)
Construction Documents Phase	« »	percent (« »	%)
Construction Procurement Phase	« »	percent (« »	%)
Construction Phase	« »	percent (« »	%)
Total Interior Design Services Compensation	one hundred	percent (100	%)

§ 12.7 Where compensation for FF&E Design Services is based on a stipulated sum or percentage of the Cost of the Work for FF&E, the compensation for each phase of services shall be as follows:

Schematic Design Phase	« »	percent (« »	%)
Design Development Phase	« »	percent (« »	%)

FF&E Documents Phase	« »	percent (« »	%)
FF&E Procurement Phase	« »	percent (« »	%)
FF&E Contract Administration Phase	« »	percent (« »	%)
Total FF&E Design Services Compensation	one hundred	percent (100	%)

§ 12.8 When compensation for Interior Design Services is on a percentage basis, progress payments for each phase of services shall be calculated by multiplying the percentages identified in Section 12.6 by the Owner's most recent budget for the Cost of the Work for Construction. When compensation for FF&E Design Services is on a percentage basis, progress payments for each phase of services shall be calculated by multiplying the percentages identified in Section 12.7 by the Owner's most recent budget for the Cost of the Work for FF&E. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budgets.

§ 12.9 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 or FF&E Contract Administration Phase are commenced.

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

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

« »

Employee or Category	Rate (\$0.00)

§ 12.11 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

§ 12.12 Payments to the Architect

§ 12.12.1 Initial Payment

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

§ 12.12.2 Progress Payments

§ 12.12.2.1 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.)

« » % « »

§ 12.12.2.2 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 the Contractor or Vendor 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.

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

ARTICLE 13 SPECIAL TERMS AND CONDITIONS

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

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

« »

ARTICLE 14 SCOPE OF THE AGREEMENT

§ 14.1 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.

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

- .1 AIA Document B152™–2019, Standard Form of Agreement Between Owner and Architect for Interior and FF&E Design Services

- .2 Building Information Modeling Exhibit, if completed:

« »

- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 5.1.)

« »

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

« »

ARTICLE 15 LEGAL PROVISIONS

§ 15.1 Agent for Service of Process and Corporate Vote. If the Designer's principal place of business is outside of the Commonwealth of Massachusetts, the Designer shall appoint an agent for the service of process as provided in M.G.L. c.227, §5. The power of attorney reflecting such appointment shall be filed with the Secretary of State as provided in M.G.L. c.227, §5. Copies of the power shall be provided to the Owner. There shall be no lapses in such agency for as long as the Designer may have potential liability. If the Designer is a corporation a corporate vote shall be provided substantially in the form of **Exhibit I**.

§ 15.2 Truth-in-Negotiations Certificate (M.G.L. c.7C, §51)

§ 15.2.1 If the Designer's fee has been negotiated, the Designer must file a truth-in-negotiations certificate prior to

execution of this Contract by the Owner. The certificate shall contain the following certifications:

- (a) that wage rates and other costs used to support the Designer's compensation are accurate, complete, and current at the time of contracting; and
- (b) that the Contract price and any additions to the Contract may be adjusted within one year of completion of the Contract to exclude any significant amounts if the Owner determines that the fee was increased by such amounts due to inaccurate, incomplete or noncurrent wage rates or other costs.

§ 15.3 Certification Pursuant to M.G.L. c.7C §51 (d). In accordance with M.G.L. c.7C §51(d), the person signing this contract certifies, as a duly authorized signatory of the Designer, that the Designer has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Contract; no Consultant to or Subconsultant for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the Designer or Subconsultant of a contract by the Designer; and no person, corporation or other entity, other than a bona fide full-time employee of the Designer, has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining this Contract upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Contract.

§ 15.4 Proprietary Items. Without limitation, the Designer, Designer's employees and Consultants shall adhere to the provisions of M.G.L. c. 30, s. 39M, which provides in part:

"Specifications for such contracts, and specifications for contracts awarded pursuant to the provisions of said sections forty-four A to forty-four L of said chapter one hundred and forty-nine, shall be written to provide for full competition for each item of material to be furnished under the contract; except, however, that said specifications may be otherwise written for sound reasons in the public interest stated in writing in the public records of the Owner or promptly given in writing by the Owner to anyone making a written request therefor, in either instance such writing to be prepared after reasonable investigation. Every such contract shall provide that an item equal to that named or described in the said specifications may be furnished; and an item shall be considered equal to the item so named or described if, in the opinion of the Owner: (1) it is at least equal in quality, durability, appearance, strength and design, (2) it will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased, and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications. For each item of material, the specifications shall provide for either a minimum of three named brands of material or a description of material which can be met by a minimum of three manufacturers or producers, and for the equal of any one of said name or described materials."

The Designer shall refer to the law and consult with the Owner about procedures regarding proprietary items. The Owner may waive the provisions of this law for "*sound reasons in the public interest.*" No such waiver shall bind the Owner unless made in writing and executed by the Owner.

§ 15.5 ADA, Handicap Accessibility, and Non-Discrimination Laws. The Designer shall perform its services under this Contract in strict compliance with all Laws relating to architectural accessibility, including without limitation, the applicable sections of the Americans with Disabilities Act of 1990 amended by ADA Amendments Act of 2008 ("ADA", 42 U.S.C. sections 12101 *et. seq.*; 47 U.S.C. sections 225, 611), the ADA Accessibility Guidelines for Buildings and Facilities ("ADAAG"), and the regulations of the Massachusetts Architectural Access Board ("MAAB", 521 CMR 1.00 *et. seq.*). The Designer recognizes that the Owner, is a Public Entities subject to Title II of the Americans with Disabilities Act, may be recipients of federal funds under the Rehabilitation Act of 1973, and are subject to the MAAB regulations referenced above. To the extent related to its services under this Contract, the Designer hereby assumes the Public Entities' obligations, including those that exist under the MAAB, ADAAG and/or the Rehabilitation Act of 1973 to design a facility accessible to and usable by people with disabilities. The Study and all designs provided by the Designer shall reflect the fact that the Design Phase will require a design with access to all programs, activities and services to be conducted within the facilities to be designed in accordance with the above referenced standards without waivers unless the seeking of such waivers is approved by the Owner. Without limiting the foregoing, the Study and all Construction Cost

Estimates, and other cost estimates and Deliverables required by this Contract shall reflect Universal Design and any particular ADA or MAAB work determined necessary for the Project.

§ 15.6 Security and Confidentiality; Publication. Except as required for the discharge of its duties to the Owner under this Contract, or required by subpoena or court order, the Designer agrees to hold all information, documents, and materials obtained or developed in connection with its services under this Contract (including without limitation all prints, plans, policies, procedures, studies, specifications and drawings, which relate to internal layout and structural elements, electrical and mechanical systems, security measures, emergency preparedness, threat or vulnerability assessments, and any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the Commonwealth) that Designer should reasonably know to be of a confidential or sensitive nature (“Confidential Information”) in the strictest confidence, and shall not communicate, release, or disclose Confidential Information in any to any third party without the prior written Approval by the Owner. The Designer shall not use any Confidential Information other than for the performance of services under this Contract. The Designer shall inform all persons to whom any such Confidential Information has been or will be communicated, released or disclosed of the privileged and confidential nature of Confidential Information, and shall ensure that all necessary steps are taken so that such Confidential Information is treated confidentially. Without limiting the foregoing, if the Project is a designated "Security Sensitive Information" project, the Designer shall execute separate Security Sensitive Information Procedures and Confidentiality Agreements and shall comply with such document protection requirements as may be referenced in said agreement.

§ 15.7 Confidentiality; Personal Data [M.G.L. c. 66A, Executive Order 504]. Designer shall comply with M.G.L. c. 66A if the Designer becomes a "holder" of "personal data" as defined therein. The Contractor shall comply with the provisions of Executive Order 504 and shall execute the Executive Order 504 Contractor Certification Form attached hereto as **Error! Reference source not found.**

§ 15.8 Records, Disclosure Statements, Accounting Controls, Audits.

§ 15.8.1 Records to be Kept for Six Years. The Designer shall make and keep for at least six (6) years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Designer. [M.G.L. c. 30, s. 39R(b)(1)-(2)]

§ 15.8.2 Records Open to Inspection. Until the expiration of six (6) years after final payment, the Governor or his designee, the Secretary of Administration and Finance, the State Auditor, the Office of the Inspector General, the Commissioner of DCAMM, the Owner and any other public official authorized by law, shall have the right to examine any books, documents, papers or records of the Designer or of its Consultants and subcontractors that directly pertain to, and involve transactions relating to, the Designer or its Consultants and subcontractors. [M.G.L. c. 30, s. 39R(b)(1)-(2); Executive Order 195]

§ 15.9 Changes in Method of Accounting. If this Contract is a contract for an amount exceeding \$10,000 or is a contract for the design of a Project with an Estimated Construction Cost exceeding \$100,000, and if the Designer shall make any change in its method of maintaining records that would materially affect any statements filed by the Designer with the Owner, the Designer shall forthwith deliver to the Owner a written description of such change, the effective date thereof, and the reasons therefor. The Designer shall submit with such description a letter from the Designer’s independent certified public accountant approving or otherwise commenting on the change. [M.G.L. c. 30, s. 39R(b)(3)] The Designer hereby represents that there have been no such changes to date that have not been so reported to the Owner.

§ 15.10 Warranty by Designer. If this Contract is for an amount exceeding \$10,000 or is for the design of a Project with an Estimated Construction Cost exceeding \$100,000, the Designer warrants and represents that Designer has filed a statement of management on internal accounting controls as set forth in Section **Error! Reference source not found.** (Filing of Statement of Management on Internal Accounting Controls) below prior to the execution hereof. [M.G.L. c. 7C, s. 51]

§ 15.11 Indemnification. To the fullest extent permitted by law, the Designer shall indemnify, defend and hold harmless the Owner and all of their agents and employees from and against all claims, damages, losses and expenses,

including but not limited to court costs, reasonable attorneys' fees, interest and costs to the extent caused by or resulting, in whole or in part, from the willful misconduct and/or negligent acts, errors or omissions of the Designer in performance of the services covered by this Contract, whether by Designer or its employees, Consultants or subcontractors, provided that the Owner shall notify the Designer of such suits and claims within a reasonable time after the Owner becomes aware of them. The Designer shall be afforded an opportunity to participate in the defense and/or settlement of all such suits and claims. The Designer shall not be bound by the amount of damage suffered in any litigation or settlement unless the Designer is given the opportunity to participate in negotiations for settlement and/or defense of such litigation or claim. As used in this paragraph, the term "agent" shall specifically exclude any construction-related personnel.

§ 15.12 Minority-Owned and Woman-Owned Business Participation. Pursuant to M.G.L. c. 7C, § 6, the Designer shall subcontract with minority-owned business enterprises (MBE) and women-owned business enterprises (WBE), as certified by the Supplier Diversity Office, 1 Ashburton Place, Room 1017, Boston, MA 02108; such participation goals shall be based on the listed services defined and required in the RFS. If the Designer is an SDO-certified MBE or WBE, the Designer must bring a reasonable amount of program participation goals for minority-owned businesses and women-owned businesses that hold the certification which is not held by the prime Designer on the project. **See Exhibit C.**

§ 15.12.1 If applicable, the Designer shall complete and submit at the time of contract execution a completed Participation Schedule which is attached to this contract as **Exhibit C** and to provide regular reports of the gender and race/ethnicity of employees engaged in work under this contract, for both prime and subconsultants, in order to be in compliance with this Article.

§ 15.13 Accounting Requirements. The Designer shall cause to be maintained complete, accurate and detailed records of all time devoted to the Project by the Designer and each Sub-consultant employed by the Designer. The Owner, and the Commonwealth's Inspector General may at all reasonable times audit such records that directly pertain to this Contract. On a Contract where the Fee for Basic Services exceeds **\$100,000** the Designer shall comply with M.G.L. c.30 §39R which requires the Designer to:

§ 15.13.1 Maintain accurate and detailed accounts for a six-year period after the final payment.

§ 15.13.2 File with the Owner annual audited financial statements or statements from their accountants that their reviews are consistent with state laws; and

§ 15.13.3 File with the Owner a statement of management on internal accounting controls on its letterhead as prescribed in **Exhibit D** and a statement from an independent certified public accountant (CPA) on its letterhead as prescribed in **Exhibit E** to this Contract.

§ 15.14 Revenue Enforcement and Protection Program (REAP). Pursuant to M.G.L. c. 62C §49A, the undersigned certifies under the penalties of perjury that to the best of his/her knowledge and belief that the firm and/or individuals in the firm are in compliance with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

§ 15.15 Conflicts of Interest. The Designer hereby certifies that it is in compliance with the provisions of M.G.L. c. 268A whenever applicable. The Designer covenants that 1) neither he/she nor any member of the Designer firm presently has any financial interest and shall not acquire any such interest direct or indirect, which would conflict in any manner or degree with the services required to be performed under this Contract or which would violate M.G.L. Chapter 268A, as amended from time-to-time; 2) in the performance of this Contract, no person having any such interest shall be employed by the Designer; and 3) no partner or employee of the Designer firm is related by blood or marriage to any officer, official, or employee of the Owner.

§ 15.16 Equal Opportunity. The Designer shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, genetics, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children or political beliefs. Each shall comply with all provisions of Title VII of the Civil Rights Act of 1964 and MGL c.151B.

§ 15.17 Certification of Non-Collusion. The signatory certifies under penalties of perjury that the Designer's proposal has been made in and submitted in good faith and without collusion or fraud with any other person. As used

in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

§ 15.18 Non-Resident Processing; Signatures. Every Designer that is a nonresident of the Commonwealth of Massachusetts, or a nonresident partner of a Designer, hereby appoints the Secretary of the Commonwealth of Massachusetts to be his true and lawful attorney in and for Massachusetts, upon whom all lawful processes in any action or proceeding arising out of this Contract may be served. When legal process against any such person is served upon the Secretary of State, a copy of such process shall forthwith be sent by registered mail with a return receipt requested by the Owner or its lawful attorney to said Designer or partner at the address set forth in this Contract. Said Designer or said partner hereby stipulates and agrees that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served on said Designer or said partner. Such authority shall continue in force so long as any liability remains outstanding against said Designer or said partner.

§ 15.19 Anti-Boycott Covenant [Executive Order 130]. The Designer warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, will participate in or cooperate with an international boycott, as defined in section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by General Laws Chapter 151E, ss. 2 and 3. If there shall be a breach in the warranty, representation and Contract contained in this section, then without limiting such other rights as it may have the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the contractor, or which directly or indirectly owns at least 51% of the ownership interests of the contractor.

§ 15.20 Employment Eligibility Verification Requirements [8 U.S.C., ss. . 1324a, 1324b; M.G.L. c. 149, s. 19C; Executive Order No. 481]. The Designer certifies under the pains and penalties of perjury they shall not knowingly use undocumented workers in connection with the performance of the Contract; that, pursuant to federal requirements, they shall verify the immigration status of all workers assigned to Contract without engaging in unlawful discrimination; and that they shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker. The Designer understands and agrees that breach of any of these terms during the period of a Contract may be regarded as a material breach, subjecting Designer to sanctions, including but not limited to monetary penalties, withholding payments, contract suspension or termination.

§ 15.21 Northern Ireland [M.G.L. c. 7, s. 22C]. Pursuant to M.G.L. c. 7 s. 22C, the Designer certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Designer employs ten or more employees in an office or other facility located in Northern Ireland the Designer certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Designer is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles, or military aircraft for use or deployment in any activity in Northern Ireland.

§ 15.22 Service-Disabled Veteran-Owned Business Program [Chapter 108 of the Acts of 2012; Executive Order 546]. The Owner encourages the participation of Service-Disabled Veteran- Owned Business Enterprises (“SDVOBE”) in its construction and design projects pursuant to Chapter 108 of the Acts of 2012 and Executive Order 546. The benchmark for SDVOBE participation in the Project is 3% of the Contract Price. A SDVOBE for purposes of the Commonwealth’s program, is a Service-Disabled Veteran-Owned Small Business (“SDVOSB”) as designated by the federal government pursuant to 15 USC s. 632, whose status can be verified on the U.S. Vet Biz Vendor Information Page located at www.vip.VetBiz.gov . SDVOBE’s shall be provided opportunities to participate in the Project and Designer shall within 30 days of contract execution submit its Anticipated Service-Disabled Veteran-Owned Business Enterprise Participation plan to the Owner’s Compliance Office. Contractor shall report on the amount of SDVOBE participation on the Project on a regular basis, in the form, format and frequency requested by the Owner, including, but not limited to, by electronic reporting.

§ 15.23 Non-Discrimination in Employment and Affirmative Action.

§ 15.23.1 Compliance. The Designer shall comply with all Laws promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age sex, religion, physical or mental handicap, or sexual orientation or for exercising any right afforded by Law. The Designer shall comply with all applicable Laws prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; M.G.L. c. 151B, s. 4(1); and all relevant administrative orders and executive orders, including Executive Orders 478. If a complaint or claim alleging violation of such statutes, rules or regulations is presented to the Massachusetts Commission Against Discrimination (MCAD), the Designer and its agents agree to cooperate fully with MCAD in the investigation and disposition of such complaint or claim. In the event of the Designer's noncompliance with the provisions of this section, the Owner shall impose such sanctions as it deems appropriate, including, but not limited to, withholding of payments due to the Designer under this Contract until the Designer complies, and termination or suspension of this Contract.

§ 15.23.2 Nondiscrimination, Diversity, Equal Opportunity and Affirmative Action [Executive Order 526]. The Designer shall not engage in any discriminatory employment practices. By signing this Contract the Designer hereby certifies under the pains and penalties of perjury that the Designer currently complies with and will continue to comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Designer commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

§ 15.23.3 Affirmative Action Plan [Executive Order 526]. If the Owner is a state agency, then pursuant to Executive Orders 524 and 526, any Contract with a maximum obligation of fifty thousand dollars (\$50,000) or more must include an Affirmative Action Plan. If this Contract has a maximum obligation of \$50,000 or more then the Affirmative Action Plan attached hereto as **Error! Reference source not found.** is incorporated herein by reference

§ 15.23.4 Material Breach. Any breach of this Section 0 shall be regarded as a material breach and shall be subject to all other sections of this Contract. The Owner shall have access to all records which are necessary to document compliance with this section.

§ 15.24 Amendments, Severability, Waivers. No amendment to this Contract shall be effective unless it is in writing and is executed by authorized representatives of both parties. If any provision of this Contract is declared or found illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law. The Owner reserves the right to waive any provision or requirement of this Contract if the Owner determines that such waiver is justified and in the public interest. No such waiver shall be effective unless in writing and signed by the Authorized Representative of the Owner. No other action or inaction by the Owner shall be construed as a waiver of any provision of this section.

§ 15.25 Non-Appropriation. Payments are subject to appropriation and shall be made only for work performed in accordance with the terms of this Contract. The Designer shall not be obligated to perform, and may not perform, services outside the duration and scope of this Contract without an appropriate amendment to this Contract, and a sufficient appropriation(s) to support such additional services. The Commonwealth may immediately terminate or suspend this Contract in the event that the appropriation(s) funding this Contract is eliminated or reduced to an amount which will be insufficient to support anticipated future obligations under this Contract.

§ 15.26 Notices, Approvals, Invoices. Notices to the Designer shall be deemed given when hand-delivered to the Designer at the Project site, or when deposited in the U.S. mail addressed to the Designer at the Designer's address specified in this Contract, when delivered by courier to said address, or when delivered via e-mail or facsimile transmission. Unless otherwise specified in writing by the Owner, notices and deliveries to the Owner shall be effective only when delivered to the Owner at the address specified in this Contract and date-stamped at the

reception desk or for which a receipt has been signed by the agent or employee designated by the Owner to receive official notices.

§ 15.27 Certifications of Designer Made Under Pains and Penalties of Perjury. No changes shall be made in the matters represented in this Section, at any time during the life of this Contract without written notification to the Owner and when required, receipt of written Approval from the Owner. (Attach additional sheets if necessary for each section.)

§ 15.28 Designer’s Beneficial Owners. By signing this Contract, the Designer certifies under the penalties of perjury that the following named entities and individuals are the legal and beneficial owners of the Designer as of the date of the execution hereof [M.G.L. c. 7C, ss. 48, 51] (attach additional sheets if necessary):

CORPORATION: (Names of Officers and Shareholders of Corporation, including their titles)

_____	_____
_____	_____
_____	_____

PARTNERSHIP: (Names of all Partners):

_____	_____
_____	_____
_____	_____

INDIVIDUAL (Name of Owner):

§ 15.28.1 Persons Having an Interest in this Contract. M.G.L. c. 7A, s. 6 provides as follows: *"No contract to provide consultant services shall be awarded by the Commonwealth, or by any department, board, commission, or other agency acting in its behalf, unless the person signing such contract on behalf of the party contracting to provide such services files with the Comptroller a statement under the penalties of perjury setting forth the names and addresses of all persons having a financial interest therein, not including, however, any person whose only financial interest therein consists of the holding of one percent or less of the capital stock of a corporation contracting to provide such services."*

NOTE: Individuals who sign this Contract in their individual capacity must also complete the certification below as well as sign this Contract. For the purpose of this directive, the term "person having a financial interest" will generally refer to any person who, in some direct manner, will benefit financially from a given contractual relationship with the Commonwealth. However, this may not, in every case, preclude the possibility of an existing financial interest within the meaning of the statute where a financial benefit is to be realized in some indirect manner. Where doubts arise in a specific case, it is advisable that names and addresses be included.

By signing this Contract, the individual executing this Contract on behalf of the Designer hereby certifies under the penalties of perjury that the following sets forth the names and addresses of all persons having a financial interest in this Contract, not including any person whose only financial interest herein consists of the holding of one percent or less of the capital stock of Designer if Designer is a corporation, in addition to the persons listed in Section 0 (Designer’s Beneficial Owners) above:

<u>Name</u>	<u>Address</u>
_____	_____

§ 15.29 Professional Registrants. By signing this Contract, the individual executing this Contract on behalf of the Designer certifies under the penalties of perjury that the following named individuals are registered by the Commonwealth as architects, landscape architects, or engineers pursuant to the provisions of General Laws Chapter 112, ss. 60A - 60O and further that (a) if the Designer is an individual the Designer is the individual named below, (b) if the Designer is a partnership, the majority of all the partners are persons who are registered architects, landscape architects, or engineers, (c) if the Designer is a corporation, sole proprietorship or joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer, are persons who are registered architects, landscape architects, or engineers and the person to have the Project in his or her charge is registered in the discipline required for the Project, or (d) if the Designer is a joint venture, each joint venturer satisfies the requirements of the preceding clauses (a) – (c) as the case may be [M.G.L. c. 7C, s. 48]

<u>Name</u>	<u>Title</u>	<u>Mass. Registration</u>
<hr/>		
<hr/>		

NOTE: The above information must be completed to comply with the provisions of General Laws Chapter 7C, s. 44.

Designer warrants that the Massachusetts registered principal of the Designer responsible for the project is:

<u>Name</u>
<hr/>

§ 15.30 No Inducements. By signing this Contract, the Designer certifies under the penalties of perjury that the Designer has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the Contract for design services; no consultant to or subcontractor for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Designer; and no person, corporation or other entity, other than a bona fide full-time employee of the Designer has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining the Contract for design services upon an Contract or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Contract to the Designer. [M.G.L. c. 7C s. 51]

§ 15.31 Tax Returns. By signing this Contract, the Designer certifies under the penalties of perjury that pursuant to General Laws Chapter 62C s. 49A, the Designer has filed all state tax returns, paid all taxes and complied with all Laws of the Commonwealth relating to taxes; and that pursuant to General Laws Chapter 151A, s. 19A, the Designer has complied with all Laws of the Commonwealth relating to contributions and payments in lieu of contributions to the Employment Security System.

§ 15.32 Existing Government Contracts. By signing this Contract, the Designer certifies under the penalties of perjury that the following is a listing of all other existing contracts or income derived by Designer from the Commonwealth or any political subdivision thereof or public authority therein, from the Federal Government or any agency thereof, and from the Owner or any governmental source for services rendered. [M.G.L. c. 7C s. 48]:

Contract Description & Awarding Authority	Present Status % Design/Construction	Fee	Total Fee	
			Received	Anticipated
<hr/>				

§ 15.33 Annual Reports; Corporate Filings. By signing this Contract, the Designer certifies under the penalties of perjury that, if the Designer is a corporation, the Corporation has filed with the State of Secretary all certificates and annual reports required by Chapter 156B, s. 109 (Business Corporation), by Chapter 156D (Foreign Corporation), or by Chapter 180, s. 26A (Non-Profit Corporation) of the Massachusetts General Laws.

§ 15.34 Dependent Care Assistance Program. By signing this Contract, the Designer certifies under the penalties of perjury that, at the time of execution, Designer is in compliance with the provisions of section 7 of Chapter 521 of the Acts of 1990 as amended by Chapter 329 of the Acts of 1991, and 102 CMR 12.00 and the Contractor is either a "qualified employer" because it has fifty (50) or more full time employees and has established a dependent care assistance program, child care tuition assistance, or on-site or near-site child care placements, or is an "exempt employer."

§ 15.35 Debarment; Suspension. By signing this Contract, the Designer certifies under the penalties of perjury that the Designer is not currently debarred or suspended by the Commonwealth of Massachusetts, or any of its entities or subdivisions under any Commonwealth law or regulation, including but not limited to M.G.L. c. 29, s. 29F and M.G.L. c. 152, s. 25C and that it is not currently debarred or suspended by the Federal Government under any federal law or regulation.

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

OWNER *(Signature)*

« »« »

(Printed name and title)

ARCHITECT *(Signature)*

« »« »

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

EXHIBIT A

DSB Advertisement

EXHIBIT B

PROPOSED FORM OF AMENDMENT CONTRACT FOR DESIGNER SERVICES

AMENDMENT NO. _____

WHEREAS, the _____ (“Owner”) and _____, (the “Designer”) (collectively, the “Parties”) entered into a Contract for Designer Services for the _____ Project (Project Number _____) at the _____ School on _____ “Contract”; and

WHEREAS, effective as of _____, the Parties wish to amend the Contract:

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Amendment, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. The Owner hereby authorizes the Designer to perform services for the Design Development Phase, the Construction Phases, and the Final Completion Phase of the Project, pursuant to the terms and conditions set forth in the Contract, as amended.
2. For the performance of services required under the Contract, as amended, the Designer shall be compensated by the Owner in accordance with the following Fee for Basic Services:

Fee for Basic Services:	Original Contract	After this Amendment
Feasibility Study Phase	\$ _____	\$ _____
Schematic Design Phase	\$ _____	\$ _____
Design Development Phase	\$ _____	\$ _____
Construction Document Phase	\$ _____	\$ _____
Bidding Phase	\$ _____	\$ _____
Construction Phase	\$ _____	\$ _____
Completion Phase	\$ _____	\$ _____
Total Fee	\$ _____	\$ _____

This Amendment is a result of: _____

3. The Construction Budget shall be as follows:

Original Budget: \$ _____

Amended Budget \$ _____

4. The Project Schedule shall be as follows:

Original Schedule: \$ _____

Amended Schedule \$ _____

5. This Amendment contains all of the terms and conditions agreed upon by the Parties as amendments to the original Contract. No other understandings or representations, oral or otherwise, regarding amendments to the original Contract shall be deemed to exist or bind the Parties, and all other terms and conditions of the Contract remain in full force and effect.

IN WITNESS WHEREOF, the Owner, with the prior approval of the Authority, and the Designer have caused this Amendment to be executed by their respective authorized officers.

OWNER

(print name)

(print title)

By _____
(signature)

Date _____

DESIGNER

(print name)

(print title)

By _____
(signature)

Date _____

EXHIBIT C

PARTICIPATION SCHEDULE FOR DESIGNER CONTRACTS BY SDO CERTIFIED MINORITY/WOMEN BUSINESS ENTERPRISES

This form shall be submitted to the Owner by the Designer upon execution of the Contract for Designer Services attached hereto.

Owner _____

Project No: _____

<u>Name of Company</u>	<u>Description of Work</u>	<u>M/WBE</u>	<u>Dollar Value Participation</u>
1. _____	_____	_____	\$ _____
2. _____	_____	_____	\$ _____
3. _____	_____	_____	\$ _____
4. _____	_____	_____	\$ _____
5. _____	_____	_____	\$ _____
6. _____	_____	_____	\$ _____

Dollar Value of MBE Commitment: \$ _____

Dollar Value of WBE Commitment: \$ _____

Total Dollar Value Commitment: \$ _____

Original Fee for Basic Services Amount \$ _____

DESIGNER CERTIFICATION

The undersigned certifies under the penalties of perjury that (1) it intends to subcontract with the above listed firms for the identified work and dollar amounts and (2) certifies that he/she has read the terms and conditions of the Designer Contract with regards to MBE/WBE participation and is authorized to bind the Designer to the commitment set forth above.

Date _____

Name of Architect/Engineer

Authorized Signature

Address

City, State & Zip Code

EXHIBIT D

**M.G.L. c.30 §39R - INTERNAL ACCOUNTING CONTROLS
APPLIES TO CONTRACTS OF \$100,000 OR MORE
SAMPLE LETTER TO BE PREPARED ON DESIGNER'S LETTERHEAD**

Date

Owner

_____ Street

RE:

Dear:

This Statement of Internal Accounting Controls is being submitted in accordance with Article 17.5.3 of the Contract for Design Services for the above captioned project. Please be advised that our firm, the Designer under the Contract, has a system of internal accounting controls which assures that:

1. transactions are executed in accordance with management's general and specific authorization;
2. transactions are recorded as necessary, to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;
3. access to assets is permitted only in accordance with management's general or specific authorization; and
4. the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

Sincerely,

EXHIBIT E

**MGL c.30 §39R – INTERNAL ACCOUNTING CONTROLS
APPLIES TO CONTRACTS OF \$100,000 OR MORE
SAMPLE LETTER TO BE PREPARED ON CPA'S LETTERHEAD**

Owner
_____ Street

RE:

Dear

Please be advised that we have reviewed the Statement of Internal Accounting Controls prepared by the _____ in connection with the

Name of Designer

above-captioned project. This statement is required under M.G.L. c.30 §39R. In our opinion, representations of management are consistent with our evaluations of the system of internal accounting controls. In addition, we believe that they are reasonable with respect to transactions and assets in the amount which would be material when measured in relation to the firm's financial statements.

Sincerely,

(CPA)

EXHIBIT F

COLLATERAL ASSIGNMENT OF ARCHITECT'S CONTRACT

FOR VALUE RECEIVED, as of the ____ day of _____, 202_, The Benjamin Franklin Classical Charter Public School, a Massachusetts public charter school ("Assignor") hereby assigns to _____, ("Assignee"), and grants to Assignee a security interest in, all of Assignor's right, title and interest in and to a certain Contract _____ dated as of _____ between Assignor and _____ ("Architect"), as amended (as so amended, the "Architect's Contract"), relating to architectural services for interior design (collectively, the "Project") to be carried out on property of Assignor at 500 Financial Park, Franklin, Massachusetts 02038.

In addition, the parties hereto agree as follows:

This Assignment is made as additional security for the performance by Assignor of all of its obligations under that certain Continuing Covenants Agreement dated as of _____ (the "Covenants Agreement") among Assignor, Benjamin Franklin Classical Charter Public School and Assignee and each of the "Related Documents" described in the Covenants Agreement, each as delivered or to be delivered to Assignee and/or to Citizens Funding Corp.

Unless an Event of Default (as defined in the Covenants Agreement) shall have occurred and be continuing beyond the expiration of all applicable cure periods, if any, Assignor shall be entitled (subject to the provisions of Section 7 below) to enjoy and enforce all of its rights under the Architect's Contract. If such an Event of Default shall occur and be so continuing and Assignee shall give written notice to Architect specifically referring to this Assignment and stating that such an Event of Default has occurred and is continuing beyond the expiration of all applicable cure periods, if any, and that Assignee intends to exercise its rights hereunder (an "Exercise Notice"), then Assignee shall be entitled thereafter to enjoy and enforce all of the rights of Assignor under the Architect's Contract and shall become bound to perform all future obligations of Assignor thereunder, it being understood that in no event shall Assignee be liable for payments or costs relating to any work which Architect had performed prior to the date of Assignee's delivery of such Exercise Notice. Unless and until such Exercise Notice is given, Assignee shall not be obliged to perform any of the obligations of Assignor under the Architect's Contract. Assignor agrees that Architect shall rely conclusively upon any Exercise Notice given by Assignee to Architect without further inquiry on the part of Architect and agrees that, until further notice is given by Assignee to Architect, Assignee may exercise all of its rights hereunder. Architect, by its signature below, agrees to be bound by any such Exercise Notice.

If Assignor defaults in making any required payment or in performing any other obligation under the Architect's Contract, and Architect deems such to be a default under the Architect's Contract, Architect shall give prompt written notice thereof to Assignee. Unless and until such notice is given to Assignee, and for a period of 15 business days thereafter, Architect shall not exercise any of its rights or remedies against Assignor under the Architect's Contract (including, without limitation, the right to terminate the Architect's Contract or to stop work thereunder). After such notice is given and for a period of 15 business days thereafter, Assignee may, at its option, cure (but shall have no obligation to cure) any such default by Assignor and, if such default is so cured during such notice period, Architect shall continue performance under the Architect's Contract.

By its execution hereof, Architect agrees to look solely to Assignor, its successors and assigns for performance of Assignor's obligations under the Architect's Contract unless and until it shall have received an Exercise Notice from Assignee.

Notwithstanding any other provision contained in the Architect's Contract, Architect consents to the foregoing assignment and agrees that, after the occurrence of an Event of Default and the giving of an Exercise Notice by Assignee, Architect will perform all of its obligations under the Architect's Contract, Assignee being liable to pay the costs thereof relating to services performed, if any, at the direction of Assignee after the giving of the Exercise Notice. However, Assignee is not and will in no event become liable for any costs, charges, expenses and liabilities incurred under the Architect's Contract or otherwise unless it has given the Exercise Notice (and, if it has given the Exercise Notice, Assignee will not become liable for any such costs, charges or expenses incurred prior to the giving of such Exercise Notice) and the fact that Assignor may not have paid and/or may be unable to pay any such costs, charges, expenses or liabilities may not be asserted by Architect as a defense to its obligations to perform services for Assignee as set forth herein.

Architect hereby agrees that, notwithstanding anything hereinabove contained or contained in the Architect's Contract to

the contrary, upon Architect's receipt of an Exercise Notice, Assignee will have (i) all the rights and obligations of Assignor under the Architect's Contract, without any increase in the costs that Assignor would have incurred in the absence of the Exercise Notice and (ii) the right to receive and to use (without cost to Assignee, other than payment of amounts owed to the extent provided for in Section 5 above), in connection with the Project only and not for any other purpose, any and all plans, specifications, drawings, renderings and other materials for the Project, as the same may be amended or modified from time to time, which Architect may own or have the right to use and to grant others the right to use. Architect further agrees that, upon the written request of Assignee following Architect's receipt of an Exercise Notice, it will execute and deliver a certification confirming Assignee's rights with respect to such plans, specifications and drawings as Assignee from time to time may reasonably be requested.

Assignor and Architect each represent and warrant that the Architect's Contract is in full force and effect, that same has not been modified in any respect and that to the knowledge of each of them there are no defaults thereunder by either party thereto. Assignor and Architect further represent and warrant that neither of them has made any assignment of the Architect's Contract or its respective rights thereunder (other than to Assignee) and each of Architect and Assignor agrees not to make or suffer any future assignment or encumbrance of such rights. Assignor and Architect further agree that they will not amend the Architect's Contract (except pursuant to change orders and other amendments expressly permitted by the Disbursement Agreement (as defined in the Covenants Agreement)) without the prior written consent of Assignee, nor will the Architect's Contract be terminated except for default of Assignor continuing after the 15-day notice and cure period described above.

Architect represents to Assignee that all sums due and owing to Architect to date under the Architect's Contract have been duly paid in full.

Assignee may assign its rights under this Assignment and the Architect's Contract to any assignee of Assignee's rights under the Covenants Agreement, and the rights and obligations of such assignee and Architect shall be the same as provided herein as to Assignee and Architect.

This Assignment shall not be deemed to release or affect in any way the obligations of Assignor to Architect under the Architect's Contract.

Architect hereby waives all provisions in the Architect's Contract which would impair, hinder or prevent the making of the assignment by Assignor or the enforcement thereof by Assignee.

Nothing herein shall be construed to impose upon Assignee any duty to oversee, assure or verify the application of the proceeds of Bonds (as defined in the Covenants Agreement).

If Assignee cures any default on the part of Assignor or makes any payment as contemplated by Section 3 and/or Section 5 above, Assignor will, promptly upon demand, reimburse Assignee for the costs of such cure or other payment, with interest (at the rate provided for in the Covenants Agreement for overdue payments under the Covenants Agreement) from the date of demand through the date of payment in full.

IN WITNESS WHEREOF, Assignor, Assignee and Architect have duly executed this Assignment, as of the day and year first above written.

ASSIGNOR:

BENJAMIN FRANKLIN CLASSICAL CHARTER
PUBLIC SCHOOL

By: _____

Name:

Title:

ASSIGNEE:

LENDER:

By: _____

Name:

Title:

ARCHITECT:

By: _____

Name:

Title:

EXHIBIT G

ARCHITECT'S CERTIFICATE

TO: Lender

RE: Interior Design

The undersigned, _____, does hereby certify as follows:

The undersigned and The Benjamin Franklin Classical Charter Public School (the "Borrower") have entered into a Contract for Interior Design Services dated as of _____, as amended (as so amended, the "Architect's Agreement").

Pursuant to the Architect's Agreement, we prepared plans and specifications for the above-referenced Project (the "Architect's Plans and Specifications"). We have been advised by the Borrower that copies of the Architect's Plans and Specifications have been previously delivered to you. In our professional opinion, the Architect's Plans and Specifications comply (and the Project, when completed substantially in accordance with the Architect's Plans and Specifications, will comply) with the applicable building codes, rules, regulations and other legal requirements. Without limitation of the foregoing, the Project described in the Architect's Plans and Specifications, when so completed, will comply with the building permit for the Project heretofore issued by the Town of Franklin and the related site plan approval.

To the best of our knowledge, information and belief, the certificates, approvals and permits ("Permits") required to undertake and construct the Project are set forth below:

Building Permit by the Town of Franklin, MA (to be issued)

Other:

Of the Permits described above, the following have been issued and we have no reason to believe that they are not in full force and effect.

To the best of our knowledge, information and belief, access to and egress from the Project and the improvements constructed or to be constructed thereon are or will be (if the Project and improvements are constructed substantially in accordance with the Architect's Plans and Specifications) in accordance with applicable legal requirements. To the best of our knowledge, information and belief, all utilities, and systems are or will be installed in the locations indicated on the Plans and Specifications and are or will be adequate to serve the Project, as designed (if the Project and improvements are constructed substantially in accordance with the Architect's Plans and Specifications).

To the best of our knowledge, information and belief: (a) there are no petitions, actions or proceedings to revoke, rescind, alter or declare invalid any laws, ordinances, regulations, permits, certificates or agreements for, or relating to, the Project; and (b) there are no changes in any building, zoning or environmental codes or regulations affecting the design, construction or use of the Project which would affect adversely the completion of the Project or the ability of the Borrower to obtain a Certificate of Occupancy for the Project once the construction has been completed.

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate.

ARCHITECT:

By: _____
Name:
Title:

Dated:

EXHIBIT I

CERTIFICATE OF VOTE

At a duly authorized meeting the Board of Directors of the _____
held on _____ it was VOTED, THAT

(Name)

(Officer)

of _____ be and hereby is authorized to execute contracts in the name of and on behalf of said
_____, and affix its corporate seal hereto; and such execution of any contract or obligation in the
name of _____ on its behalf by such officer under seal of _____, shall be valid and
binding upon _____.

I hereby certify that I am the clerk of the above named _____ and that _____ is
the duly elected officer as above of said _____, and that the above vote has not been amended or rescinded
and remains in full force and effect as the date of this contract.

(Date)

(Clerk)

EXHIBIT J

DESIGNER'S BILLING RATES AND ASSIGNED PERSONNEL