RFQ NU-FR-03
Flood Damage Restoration Architectural-Engineering Services

1.0 Public Notice-Invitation for Flood-Damage Restoration Architectural Services
This Request for Qualifications (RFQ) is issued by:
Northwood University (hereinafter NU), 4000 Whiting Drive, Midland MI 48640.

Selected NU facilities were damaged by freshwater flooding in May 2020. NU seeks Statements of Qualifications (SOQ) from qualified entities to provide Architectural-Engineering Services for Flood-Damage Restoration project(s). The purpose of this RFQ is to select and contract with one or more Architectural-Engineering firms to provide the necessary services.

Proposers must be licensed by the State of Michigan as an Architect, and possess insurance coverages acceptable to NU as defined herein.

2.0 Scope of Services
Provide complete Architectural-Engineering Services for restoration of flood-damaged facilities referenced in Exhibit A. Portions of flood-damage restoration work have already been completed in selected buildings. Required services include those defined in the proposed Owner-Architect Agreement attached as Exhibit B.

Proposers are expected to assemble a Project Team of consultants and sub-consultants as required to provide necessary services. NU does not anticipate retaining any consultants except Disaster Recovery Program Manager CSRS, Inc.

NU will share reports from a recent Flood-Damage Assessment effort performed only on Mechanical, Electrical and Plumbing systems of selected damaged buildings identified on Exhibit A. Proposers may utilize such information at their own risk.

NU intends to assemble groupings of similarly-damaged sites into single, larger Projects. Such Project Formulation remains in-progress – groupings shown in Exhibit A are subject to revision. For Projects with more than one damaged site, the Bid documents (including associated cost estimates) must be segregated to isolate each individual damaged site.

Anticipated procurement method for construction is competitive Public Bid, in accordance with applicable State of Michigan laws and regulations. Resulting construction contract(s) with more than one damaged site must also segregate costs and records for each individual damaged site.

Anticipated schedule for award and commencement of services is indeterminate at this time, however time will be of the essence for provision of requested services, including construction durations.

3.0 General Information
NU provides equal opportunities without regard to race, color, national origin, sex, age, disabilities, or veteran status or any other classification protected by federal constitutional statutory law in educational programs and activities. This includes, but is not limited to, admissions, educational services, financial aid, employment and retention of consultants and contractors. Accordingly, all Proposers entering contracts with NU shall, upon request, be required to show proof of such nondiscrimination.
NU encourages participation from small, minority-owned, women-owned, veteran-owned and labor surplus area businesses. Incorporation of these types of firms into the Proposer’s team is encouraged.

Proposer, their consultants, sub-consultants, or other parties representing the Proposer for this solicitation may not contact any member of the NU Selection Panel concerning this project from the date of advertisement until after the date of award.

NU may award a single contract for entire scope to the Proposer achieving the highest overall point score total, as defined in the Evaluation section herein. NU reserves the right to reject any and/or all of the proposals, award portions of the proposed work, or award portions of the proposed work to more than one Proposer.

Since federal funding is anticipated for this effort, this solicitation and any contract arising from this solicitation is subject to compliance with all applicable federal contract clauses, including but not necessarily limited to, those included in the proposed Owner-Architect Agreement attached as Exhibit B.

4.0 Statement of Qualifications (SOQ)

4.1 The purpose of the SOQ is to provide members of the NU Selection Panel with specific information regarding the qualifications of the Proposer to complete the required services.

4.2 SOQ are to be submitted only on Form NU-FDR-AE, attached as Attachment 02. Instructions to complete form are included herein. Microsoft Word version of form available upon request. Inclusion of any other information, and/or failure to submit all requested information, may result in disqualification of submittal.

4.3 Proposers may submit only one SOQ, either alone or as a joint-venture. Proposers submitting more than one SOQ may be disqualified. This rule is not intended to limit consultants or sub-consultants from entering into nonexclusive agreements with more than one Proposer.

4.4 Deadline and Submittal

A. One (1) hardcopy original of completed Attachment 01- Certification Statement and,
B. One (1) hardcopy of completed Attachment 02 - Form NU-FDR-AE (stapled at upper left corner only) and,
C. One (1) electronic version consisting of single locked .pdf file exactly matching the hardcopy versions on USB drive shall be submitted to NU’s official Point of Contact not later than the date and time advertised. Proposer is solely responsible for properly labeling, mailing and/or delivering of SOQ, at Proposer’s sole cost. SOQs may be hand-delivered if preferable. No other materials or information are to be included.

D. The outside of the SOQ envelope (or outermost envelope/box if mailed by and delivered by United States Mail, Express Mail, Priority Mail, UPS, Federal Express, and all other similar types of carrier delivery,) must be labeled with Proposer’s Company Name and RFQ Number: NU-FR-03.

4.5 Official Northwood University Point of Contact, for submission of Proposals and any correspondences related to this RFQ:

Mr. David Bender
Northwood University Director of Asset Management
4000 Whiting Drive.
Midland, MI 48640
(989) 837-4374
RFQ@northwood.edu

Any inquiries or other correspondence regarding this RFQ are to be transmitted via US Mail or email to the Official Point of Contact. DO NOT CALL – the telephone number is provided for courier delivery purposes only.
4.6 Required Review and Waiver of Objections by Proposers
Proposers should carefully review this RFQ and all attachments for defects, objections, or any other matter requiring clarification or correction. Questions or comments must be received by NU in writing no later than six (6) business days prior to the RFQ submission deadline, to allow issuance of any necessary addenda.

*Submittal of a SOQ shall constitute acceptance of the terms, conditions, criteria, requirements, and evaluation process of the RFQ and resulting contract, and operates as a waiver of any objection.

4.7 Response Withdrawal
Proposers may withdraw a submitted SOQ at any time up to the deadline for submittal. To withdraw a SOQ, the Proposer must submit a written request, signed by the Proposer’s authorized representative, to the NU Point of Contact before the submission deadline. After withdrawing a previously submitted SOQ, the Proposer, may submit another SOQ at any time up to the submission deadline.

4.8 Response - Amendments and Errors
Proposers are liable for any errors or omissions contained in their SOQ. No amendments, revisions, or alterations to SOQ may be made following submission.

4.9 Property of Response
SOQ submitted in response to this RFQ become the property of NU. Selection or rejection of a response does not affect this right. All submitted information shall be held in confidence during the evaluation process.

4.10 Insurance Requirements. Proposer is required to possess the minimum insurance coverages defined in Article 2 of the proposed Owner-Architect Agreement attached as Exhibit B.

4.11 Addenda
Prior to the deadline for submission of SOQ, NU reserves the right to issue addenda to this RFQ. Proposers are responsible for ensuring receipt of all addenda and incorporating any changes into their proposal. Proposers shall acknowledge receipt of all addenda by listing those received in the SOQ. NU reserves the right to reject a SOQ for failure to acknowledge receipt of any addenda. Addenda will be posted at https://www.northwood.edu/RFQ

5.0 Evaluation Criteria and Selection Process

5.1 Evaluation and Selection
SOQ submitted in response to this RFQ will be evaluated by the NU Selection Panel for the purpose of selecting the Proposer(s) possessing the most-appropriate qualifications and experience to provide the required Scope of Services.

The following criteria will be used in evaluating and scoring each SOQ: Maximum possible Score

A. Qualifications of the Proposer to perform the required services. ................................. 25 points.
B. Proposed project team, including qualifications of key personnel and consultants. ............... 25 points.
C. Past performance on projects similar to those anticipated for this flood recovery. ................. 20 points.
D. Past performance on projects receiving funding from FEMA Public Assistance program. ........ 10 points.
E. Current workload relative to timely performance of services for this project. .......................... 10 points.
F. Past performance on projects for Northwood University. ......................................................... 10 points.

The highest possible score for any one SOQ is one-hundred points.
5.2 Selection Process
All responsible SOQ submitted for this project will be reviewed by a Selection Panel convened by NU. The selection process shall be as follows:

A. Each Selection Panel member shall independently evaluate each SOQ submitted in accordance with the evaluation criteria listed in Section 5.1 A through F.

B. Based upon each member's evaluation of the SOQ, each member shall compile a total point score for each Proposer. Each member shall list their top-scoring five (5) Proposers from the list of responsible Proposers under consideration.

C. On the first ballot, each RFQ Selection Panel member shall then rank their top-scoring five (5) Proposers in accordance with the following weighted voting schedule:
   • Five points for the first ranked Proposer
   • Four points for the second ranked Proposer
   • Three points for the third ranked Proposer
   • Two points for the fourth ranked Proposer
   • One point for the fifth ranked Proposer
   • Zero points for all other Proposers

D. The scores of all Proposers shall then be totaled.

E. At this point the RFQ Selection Panel may select the highest scoring Proposer(s) and award the contract(s). The RFQ Selection Panel may also choose to invite the top three (3) highest-ranking firms to make Oral Presentations to the RFQ Selection Panel at a subsequent meeting.

F. If oral presentations are deemed necessary by the Selection Panel, the RFQ Selection Panel shall convene to hear Oral Presentations by the top three short-listed firms. Upon completion of the Presentations each RFQ Selection Board Member shall re-evaluate and complete their scoring and the RFQ Selection Panel Members shall vote for one (1) or more firm(s) from the short list.

G. The RFQ Selection Panel reserves the right to discuss Proposers being considered prior to any voting or balloting.

6.0 Anticipated Schedule of Events
NU anticipates the following schedule for this solicitation. NU reserves the right at its sole discretion, to adjust this schedule, as it deems necessary.

Deadline for written inquiries: .................................. Friday February 5, 2021 at 5:00 pm EST.
Deadline for issuance of Addenda: .......................... Friday February 12, 2021 at 5:00 pm EST.
Proposal Due Date: ............................................. Thursday February 18, 2021 at 2:00 pm EST.
Oral Presentations, if any: .................................... TBD.
Anticipated Date of Award: ................................. TBD.
7.0 Exhibits and Attachments

Exhibit A: List of flood damaged facilities (Preliminarily assembled into Project groupings – Note groupings and Projects are subject to change).

Exhibit B: Proposed Owner-Architect Agreement AIA B101-2017 including its Exhibits, amended by Owner.

Attachment 01: Certification Statement form.

Attachment 02: SOQ Form NU-FDR-AE.

8.0 Instructions for completing SOQ Form NU-FDR-AE:

Microsoft Word version of form available upon request.

Block 1: Indicate the complete project name provided in the Advertisement, if not already published on Form.

Block 2: Indicate Project Number(s) provided in the Advertisement, if not already published on Form.

Block 3a: Indicate complete name of the Proposer’s Firm (as registered with the State of Michigan) and official mailing address of the primary office to perform the work.

Block 3b: Indicate Name, Title, State Architect’s License number, telephone number, fax number and e-mail address of the official with signing authority for this contract. Must be the same person listed on Attachment 01 – Certification Statement as the Proposer’s Authorized Representative.

Block 3c: Affirm, with Yes or No answer, that Proposer’s Firm may offer Architect Services in the State of Michigan in accordance with requirements of Michigan Compiled Laws Section 339.2010.

Block 3d: Indicate acknowledgement of Addenda by including all addendum number(s) and date(s) issued.

Block 4: Signature of the Proposer’s Authorized Representative, and date signed.

Block 5: Indicate by discipline the number of all Proposer’s employees presently employed at the office location listed at Block 3a as of the date this form was signed. While some personnel may be qualified in several disciplines, each person should be counted only once in accordance with his or her primary function. The term “Architect”, “Engineer”, “Surveyor”, “Landscape Architect” or “Interior Designer” shall mean a currently-licensed Professional registered or licensed by the State of Michigan. Indicate the total number of personnel in each category and include Total Personnel count.

Block 6: Indicate the specific services, and the corresponding percentage of the total services, that will be self-performed (i.e., without Consultants) by the Proposer at or from the office location listed at Block 3a.

Block 7: Indicate if Proposer intends to use Consultant(s) to perform portions of the total services. If so, list name(s) and address of the proposed Consultant(s), specific responsibilities and scope of work to be
performed, percentage of total services to be performed, and whether or not the Consultant has worked with the Proposer on similar projects within the last ten (10) years.

Block 8: Indicate the proposed organization chart for this project showing individual members of the project team and their technical or professional responsibilities. Include individual members of any Consultants, if applicable. Include Proposer’s Authorized Representative indicated in Block 3b and indicate their relationship to the project team.

Block 9: Indicate brief resumes of key personnel that are proposed to participate on this project. Limit resumes to only those key persons or specialists and who will have major project responsibilities. Each resume must include: (a) name and title; (b) the position or assignment that person is proposed to fulfill in connection with this project; (c) name of firm employing that person full-time; (d) years of professional or relevant experience with present firm and other firms; (e) education, degrees, years and specialization; (f) if registered as a licensed professional indicate discipline and the year registration was first acquired; and (g) indicate specific experience and qualifications relevant to this project. A maximum of six (6) additional reproduced sheets may be utilized to provide this information. Include no other information or attachments.

Block 10: Indicate up to five (5) projects the Proposer has successfully completed that demonstrate the Proposer’s experience and competence to provide services anticipated on this project. List projects in chronological order with most-recent at top. Required information includes: (a) project name, project description, name of Architect in charge and Client Contact name and phone number; (b) indicate if project included flood-damage restoration and if project was funded in total or in part by FEMA Public Assistance Programs; (d) nature of firm’s responsibility on the project; (d) actual (A) or estimated (E) Contract Sum; (e) current status or percent complete; and (f) actual (A) or estimated (E) completion date.

Block 11: Indicate up to five (5) of the largest current projects under contract or under contract negotiations that are being (or will be) performed at or from the office location listed at Block 3a. List projects in chronological order with most-recent at top. Required information includes: (a) project name, project description, name of Architect in charge and Client Contact name and phone number; (b) nature of firm’s responsibility on the project; (d) actual (A) or estimated (E) Contract Sum; (d) current status or percent complete; and (e) actual (A) or estimated (E) completion date.

Block 12: Indicate up to five (5) projects for Northwood University successfully completed by Proposer. List projects in chronological order with most-recent at top. Required information includes: (a) project name, project description, name of Architect in charge and Client Contact name and phone number; (b) nature of firm’s responsibility on the project; (d) actual (A) or estimated (E) Contract Sum; (d) current status or percent complete; and (e) actual (A) or estimated (E) completion date.

Block 13: Indicate qualifications of the Proposer to provide services for this project, or any additional information or resources supporting Proposer’s qualifications. Information referencing the evaluation criteria specified in the RFQ (Section 5.1) and the Project’s anticipated scope of work should be included. A maximum of three (3) additional reproduced sheets may be utilized to provide this information. Include no other information or attachments.

End of Instructions
EXHIBIT A to RFQ NU FR-03

2020 Flood Recovery – Preliminary Project Formulation

1. Conventional flood-damaged building restorations: Approx. flood-damaged area:
   - Bennett Sports Center Building* ................................................................. 56,279 sf.
   - Devos Turf Building ...................................................................................... 68,342 sf.
   - Hach Athletic Center Building ........................................................................ 56,214 sf.
   - Hantz Football Stadium Buildings* # (Home side only, including Ticket Booth) ........... 6,554 sf.

2. Conventional flood-damaged building restorations:
   - Griswold Communication Center Building* # .................................................. 6,9922 sf.
   - Jordan Hall Building # ................................................................................... 14,500 sf.
   - Strosacker Library Building* # ........................................................................ 12,318 sf.

3. Alternative flood-damaged building restoration (meaning, existing floor plan will be significantly altered, requiring conventional Design Phase efforts in addition to flood-damage-restoration):
   - Miner Hall Building # ................................................................................... 12,824 sf.

* Flood-damaged elevators in these four buildings are being repaired under separate Contract; no other elevators exist.

# Flood-damage assessments of Mechanical, Electrical and Plumbing systems only are available for these buildings. These assessments were performed by Tower Pinkster Titus Associates in November 2020.
AGREEMENT made as of the day of ___ in the year 2020
(In words, indicate day, month and year.)

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

Northwood University
4000 Whiting Drive
Midland, MI 48640
(800) 622-9000

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

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

Damaged Site: _________________
Flood Damage Restoration

The Owner and Architect agree as follows.
ARTICLE 1  INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner’s program for the Project:
(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)

Selected facilities owned by Northwood University were damaged by freshwater flooding in May 2020. This Project involves restoration of flood-damaged buildings and associated site elements, including modifications necessary for restored Project to comply with current applicable codes and regulations, including compliance with FEMA’s Consensus-Based Codes, Specifications and Standards for Public Assistance promulgated by FEMA Recovery Interim Policy FP-104-009-11 Version 2.1

This Project may include restorative work at multiple damaged sites. If so, all work must be segregated by individual damaged site. Design Phase submittals, Construction Documents and all cost estimates must maintain segregation of individual damaged sites.

§ 1.1.2 The Project’s physical characteristics:

The referenced Damaged Site(s) is an existing Northwood University educational facility entitled ______________________ located at ______________________

§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:
§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

   .1 Program Confirmation/Schematic Design Phase Submittal due date: insert

   .2 Design Development Phase Submittal due date: insert

   .3 Construction Document Phase Submittal due date (See Section 12.1): insert

.2 Anticipated Construction commencement date:

   To be determined

.3 Anticipated Substantial Completion date or dates:

   To be determined

.4 Other milestone dates:

   To be determined, if any

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

Design- Public Bid- Build

§ 1.1.6 (Paragraphs deleted)

Intentionally Omitted.

(Paragraph deleted)

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

CSRS, Inc.
6767 Perkins Road, Suite 200
Baton Rouge, LA 70808
(225) 769-0546

§ 1.1.8 (Paragraphs deleted)

Intentionally Omitted.

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

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

.1 Program Manager:

   CSRS, Inc.
   6767 Perkins Road, Suite 200
   Baton Rouge, LA 70808

   (Paragraphs deleted)

(225) 769-0546
§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2 that are approved by Owner. Architect shall furnish copies of all subconsultant agreements to Owner for its review and approval prior to signature. Architect’s consultants shall not perform any services prior to entering into an Owner-approved subconsultant agreement. The subconsultant Agreement shall incorporate all terms and conditions of this Agreement unless otherwise approved in writing by the Owner. Owner is a third party beneficiary of all Architect’s subconsultant agreements and Owner may take an assignment of any of the subconsultant agreements upon termination of this Agreement with Architect:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:
.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

§ 1.1.11.2 Consultants retained under Supplemental Services:

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

The Owner intends to pursue reimbursement of eligible Project costs from Federal Emergency Management Administration (FEMA) Public Assistance program, therefore compliance with applicable Federal Contract Clauses (attached as Exhibit A) is required.
§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect’s services, schedule for the Architect’s services, and the Architect’s compensation but only as authorized in writing by a change in services authorization in substantially the form attached as Exhibit E ("Change in Services Authorization"). The Owner shall adjust the Owner’s budget for the Cost of the Work and the Owner’s anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

(Paragraphs deleted)

ARTICLE 2 ARCHITECT’S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect and Architect’s consultants shall perform all design and construction administration services necessary or appropriate to complete the design and allow for construction of the Project. The Architect shall be fully responsible for the acts and omissions of Architect and the Architect’s consultants.

§ 2.2 The Architect shall perform its services with at least the same degree of care and diligence in accordance with the Architect’s standard of care that an architect of similar experience, qualifications and reputation would exercise under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project and in the best interests of the Owner.

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

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement at no additional cost to Owner. The Owner shall have the right to purchase the following insurance on behalf of Architect and Architect’s consultants should the Architect fail to do so and charge the Architect the cost to the Owner for purchasing the insurance, which Owner may elect to be reimbursed by offsetting such amount against the amount owed the Architect by the Owner:

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars ($1,000,000) for each occurrence and Two Million Dollars ($2,000,000) in the aggregate for bodily injury and property damage together with a Five Million Dollar ($5,000,000) in the aggregate umbrella/excess liability policy.

§ 2.5.2 Automobile Liability covering vehicles owned by the Architect, and non-owned vehicles used by the Architect with policy limits of not less than One Million Dollars ($1,000,000) per claim and Two Million Dollars ($2,000,000) in the aggregate for bodily injury, death of any person, and property damage along with any other statutorily required automobile coverage.

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

§ 2.5.4 Workers’ Compensation at statutory limits.

§ 2.5.5 Employers’ Liability with policy limits not less than ($ ) each accident, ($ ) each employee, and ($ ) policy limit.
§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than 1,000,000 per claim and ($ ) in the aggregate, with a maximum deductible of fifty-thousand dollars ($50,000.00).

§ 2.5.7 The Architect shall require that any and all consultants engaged or employed by Architect are included in the Architect’s policies as additional insured or carry and maintain similar insurance with reasonably prudent limits and coverages in light of the services to be rendered by such consultants. Architect shall submit to Owner proof of such insurance coverages in amounts satisfactory to the Owner.

§ 2.5.8 All insurance policies shall be written by companies authorized to do business in Michigan and shall incorporate a provision requiring written notice to the Owner at least 30 days prior to any cancellation or non-renewal by the insurance company. If the Architect cancels or does not renew, he shall notify the Owner within 24 hours. Any insurance company shall have a least an "A-" rating according to the latest A.M. Best Report. Any deductible shall be the responsibility of the Architect.

§ 2.5.9 All "Errors & Omissions" or Professional Liability insurance policies provided by Architect or Architect’s Consultants shall be a "claims made" type of policy. In the event at any time any such policies are cancelled or non-renewed, Architect shall immediately provide a substitute insurance policy with terms, conditions, and in amounts which comply with the terms of this Agreement. Such substitute policy shall be a "claims made" policy and shall provide for retroactive coverage retroactive to the date of commencement of the work under this Agreement.

§ 2.5.10 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner and Owner’s authorized representative as an additional insured for claims caused in whole or in part by the Architect’s negligent acts or omissions. If the Owner designates an Owner’s Representative under Section 1.1.7, the Owner, and the Owner’s authorized representative shall be specifically-named as additional-insureds. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.11 The Architect shall provide certificates of insurance and copies of all additional insured endorsements to the Owner that evidence compliance with the requirements in this Section 2.5. Upon Owner’s request, Architect shall furnish confirmed copies of all insurance policies.

ARTICLE 3  SCOPE OF ARCHITECT’S BASIC SERVICES

§ 3.1 The Architect’s Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering; and architectural interior design and Furniture, furnishing and equipment design, as required to satisfactorily restore damaged facilities. Services not set forth in this Article 3 are Supplemental or Additional Services. As initial phase of Basic Services, the Architect shall review and validate existing hurricane-damage assessments, restoration Scopes of Work and FEMA Grant Application Cost Estimates provided by Owner or Owner’s consultants, and consult with Owner as required to ensure such documents are accurate and documented in writing in format acceptable to Owner. Restoration Scopes of Work and Cost Estimates, once reviewed by Architect and approved by Owner, comprise the Program and preliminary Budget for the Project’s Work.

§ 3.1.1 The Architect shall manage and administer the Project, the Architect’s services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall make a prompt written record of all meetings, conferences, discussions and decisions made between and/or among the Owner, Program Manager, Architect, and Contractor during all phases of the Project and concerning any material condition in the requirements, scope, performance and /or sequence of the Work. The Architect shall generate and distribute minutes of each meeting to all participants within three (3) business days of each meeting.

§ 3.1.2 The Architect shall coordinate its services and those of Architect’s consultants with those services provided by the Owner and the Owner’s consultants. The Architect shall carefully review, based on its standard of care, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner’s consultants, subject to review and validation of such information required by Section 3.1. The Architect shall provide
§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner’s approval a schedule for the performance of the Architect’s services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner’s review, for the performance of the Owner’s consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner’s approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall prepare and submit any documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible for obtaining any and all approvals, acceptances, permits, and certificates required for occupancy and use of the project from any Federal, State, or local governmental authority having jurisdiction over the Project.

§ 3.1.7 Notwithstanding anything to the contrary in this Agreement, no changes to scope of services, Architect’s compensation or schedule shall be effective against the Owner unless authorized by the Owner as evidenced by execution of a Change in Services Authorization.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect’s services and provide written analysis regarding whether there are any violations or other concerns.

§ 3.2.1.1 If requested by Owner, the Architect shall thoroughly investigate existing conditions, systems or facilities, and produce measured drawings and/or other documentations of existing conditions as required.

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

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to ascertain Owner’s needs including, without limitation, aesthetic, functional, time, cost limitations, and other design-related issues and shall establish the requirements for the Project, including the budget parameters, and taking into account the needs and requirements of the Owner, shall develop a written evaluation of the Project within the time frame established by the Schedule. The Architect shall reach an understanding with the Owner regarding the requirements of the Project. The Architect shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.

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

§ 3.2.5 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner’s approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may
§ 3.2.5.1 In addition to considering sustainable design alternatives required by FEMA’s Consensus-Based Codes, the Architect shall consider sustainable design alternatives, such as material choices, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner’s program, schedule and budget for the Cost of the Work.

§ 3.2.5.2 In addition to considering alternative materials, building systems and equipment required by FEMA’s Consensus-Based Codes, the Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner’s program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. The Architect shall consult with Owner to determine if the Schematic Design Phase Cost Estimate is commensurate with current FEMA Grant Application Cost Estimates and if not, recommend revisions to either estimate and/or the Scope of Work to align both Estimates.

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

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

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3. The Architect shall consult with Owner to determine if the Design Development Phase Cost Estimate is commensurate with current FEMA Grant Application Cost Estimates and if not, recommend revisions to either estimate and/or the Scope of Work to align both Estimates.

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

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

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3. The Architect shall consult with Owner to determine if the Construction Document Phase Cost Estimate is commensurate with current FEMA Grant Application Cost Estimates and if not, recommend revisions to either estimate and/or the Scope of Work to align both Estimates. The final Construction Document Phase Cost Estimate, when approved by Owner, is the Owner’s Available Funds for Construction (AFC) referenced in Article 11.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner’s approval. Review or approval by the Owner shall not constitute Owner’s approval of the means, techniques or particular materials recommended by the Architect.

§ 3.4.6 If required by the Project and requested by Owner, the Architect shall prepare Construction Documents for alternate, separate or sequential bids.

§ 3.5 Procurement Phase Services
§ 3.5.1 General
Following the Owner’s approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids in accordance with Michigan State Law; (2) confirming responsiveness of bids; (3) determining the successful bid, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.1.1 Procurement activities shall comply with Michigan Compiled Laws Section 18.1241.

§ 3.5.1.2 If required by the Project and requested by Owner, the Architect shall provide services in connection with bidding and construction for alternate, separate or sequential bids.

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

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

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

§ 3.5.3 In the event the lowest responsible bid exceeds the final estimate of Construction Cost provided by the Architect and accepted by the Owner, the Architect, at the Architect’s costs and expense, and in consultation with and at the direction of the Owner, shall modify the Project’s program, scope or quality and the Contract Documents as necessary to bring the cost of the Project within the Project’s budget approved by Owner.

(Paragraphs deleted)

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

§ 3.6.1 General

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

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

§ 3.6.1.3 The Architect shall design the Project in accordance with all applicable laws. Design changes required by changes in applicable laws that occur through the end of the Construction Document Phase shall be included as part of the Architect’s Basic Services without additional compensation. The Architect shall be responsible for monitoring in accordance with its Standard of Care proposed changes in applicable laws that affect the design of the Project. So long as the Architect has complied with the preceding sentence and notified Owner of any potential changes in the applicable laws and the Owner has elected not to make such changes to address the potential changes, the revisions during the Construction Phase Services of the Project required by applicable laws shall be performed by the Architect as Additional Services for which the Architect shall receive additional compensation as a Change in Services Authorization. In addition, in the event there is a conflict between applicable laws and the requirements of the applicable governmental authority having jurisdiction over the Project, the Architect shall work diligently to resolve the conflict. If despite such efforts, the Architect cannot resolve the conflict, the Architect shall notify the Owner of the nature and impact of the conflict. The Owner agrees to cooperate and work with the Architect in an effort to resolve the conflict.

§ 3.6.1.4 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates at end of Warranty Phase.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, for the purpose of carefully inspecting the Work (both in progress and completed portions) to determine if it is being performed in accordance with the Contract Documents and the design is in compliance with all Applicable Laws. The Architect shall perform such visits at the site of the Work only with competent personnel who are experienced in such tasks and reasonably acceptable to the Owner. On the basis of these on-site inspections, the Architect shall keep the Owner informed of the progress and quality of the Work pursuant to the Owner’s meeting schedule. The Architect shall also be responsible for identifying defects and deficiencies in the Architect’s design or specifications during such visits, and upon such discovery, promptly curing such defects at no cost to the Owner, and if the Work of the Contractor has commenced, the Architect will promptly reimburse the Owner for all damages, if any, resulting from the use of such defective designs or specifications; provided, however, that if the defective design or specification omitted certain Work for which the Owner intended to pay, the Owner shall be responsible for the difference in the cost of the materials already purchased by the Owner for the non-conforming Work and the cost of the new materials for the proper Work. The Architect will exercise the care and diligence in discovering and promptly reporting to the Owner any defects or deficiencies in the Project or the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the Work in the construction of the Project as required by the Architect’s standard of care in this Agreement. The presence of the Owner’s representative at an inspection will not in any way reduce the responsibility of the Architect. The Architect shall conduct its visits to the Project site so as not to cause any delay in the Work by the Contractor. The Architect shall promptly submit to the Owner a detailed written report of the results of each visit to the site. If the Architect fails to make such site visits at intervals appropriate to the stage of construction as provided above or otherwise in
contravention of this Agreement, the Architect shall be responsible for all damages, if any, resulting from the delay. The Owner’s approval, acceptance, use of, or payment for all or any part of the Architect’s services hereunder or of the Project itself shall in no way alter the Architect’s obligations or the Owner’s rights hereunder. However, the Architect shall not be responsible for construction means, methods or safety.

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

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

§ 3.6.2.4 Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, and shall always act as a representative and solely in the interests of the Owner. The Architect’s decisions on matters relating to aesthetic effect shall be made by the Owner and the Architect in consultation with one another.

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

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates for payment in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s inspection of the Work and evaluation of the Contractor’s Application for Payment as provided in Section 3.6.2 and on the data comprising the Contractor’s Application for Payment, that, to the best of the Architect’s knowledge, information and belief and based on the standard of care, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations to the extent it is based on assumption that cannot by virtue of the type of Work being completed, are subject to (1) an inspection of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect shall either certify or reject the Contractor’s Application for Payment within [______ (___) days]. If the Architect rejects any Application for Payment, it shall set forth the reasons for its rejection in writing.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review, and take all appropriate action upon, the Contractor’s submittal schedule and all other submittals for the purpose of determining the accuracy and completeness of other details such as dimensions and qualities and to ascertain if the Work, when completed, will be complete and fit for its intended purpose and in compliance with all applicable laws and the Contract Documents and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the
approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review.

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

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall review such matters and specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. The Architect’s review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, unless the Architect should know or does know such certification is inaccurate.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect’s response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information without additional charge to the Owner.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may not order minor changes in the Work. Subject to Section 4.2, the Architect shall prepare Drawings, Specifications and other documentation and supporting data, evaluate Contractor’s proposals, and provide other services in connection with Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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

§ 3.6.6.2 The process to achieve Substantial Completion and Final Completion shall be as follows:

§ 3.6.6.2.1 When the Contractor believes that the Work has achieved Substantial Completion, such Person will notify Owner and Architect that the Work is ready for the Substantial Completion inspection. Upon receipt of such notification, Architect shall coordinate with Owner and the Contractor a date for the inspection. At or prior to the
§ 3.6.6.2.2 When the Contractor believes that the Work has achieved Final Completion, the Contractor will notify Owner and Architect that such Work is ready for final inspection. Upon receipt of this notification, Architect shall coordinate with Owner and the Contractor a date for the inspection. At the Final Completion inspection, Architect shall: (i) Carefully review the Work or such required portion of the Work if it is to be completed in phases; (ii) Determine whether the Contractor has satisfactorily completed and corrected all items on its Punch List; (iii) Determine whether such Work generally complies with the Contract Documents and customary construction and workmanship standards; (iv) Determine whether required inspections as well as approvals by the governmental authorities have been satisfactorily completed; and (v) Determine, in consultation with Owner, whether such Work has achieved Final Completion. If the Work has not obtained Final Completion, the process shall be repeated until Final Completion of the applicable Work is achieved. When Architect determines that the Work is finally complete, Architect shall notify Owner in writing. To the extent Architect incurs additional costs in connection with the need to conduct more than one (1) Final Completion inspection per discipline or trade breakdown for the Work, Architect shall be entitled to an equitable adjustment in its Architect’s Fee as mutually agreed to by Owner and Architect in advance of any additional Final Completion inspections, which adjustment in the Architect’s Fee shall be effective only upon execution of a Change in Services Authorization. Provided all the requirements set forth in this Section have been met, Architect shall issue the Certificate for Final Payment. If Architect determines that the Work (or such required portion of the Work if it is to be completed in phases) is not ready for Architect to perform its review as required herein, Architect and Owner agree that Architect shall not perform its obligations as required by this Section and Architect Fee shall be effective only upon execution of a Change in Services Authorization.

When the Contractor believes that the Work has achieved Final Completion, the Contractor will prepare and furnish to Architect a Punch List of items to be corrected and state the time within which the listed items will be corrected by the Contractor. At the Substantial Completion inspection, Architect shall: (i) Carefully review the Work or such required portion of the Work if it is to be completed in phases; (ii) Add to the applicable Punch List any other items that need to be completed or corrected as identified by Architect’s careful review or otherwise known to Architect; and (iii) Determine, in consultation with Owner, whether such Work has achieved Substantial Completion. If the Work has not obtained Substantial Completion, the process shall be repeated until Substantial Completion of the applicable Work is achieved. When Owner, Architect and the Contractor agree that the Work is substantially complete, they shall each sign the Punch List and Architect shall issue the Certificate of Substantial Completion. To the extent Architect incurs additional costs in connection with the need to conduct more than one (1) Substantial Completion inspection per discipline or trade breakdown for the Work, Architect shall be entitled to an equitable adjustment in its Architect Fee as mutually agreed to by Owner and Architect in advance of any additional Substantial Completion inspections, which adjustment in the Architect Fee shall be effective only upon execution of a Change in Services Authorization.

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

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

§ 3.6.6.5 The Architect shall provide complete As-Constructed Record Drawings.

§ 3.7 Warranty Phase Services
§ 3.7.1 General

§ 3.7.1.1 The Architect shall monitor the Project during the one-year warranty period, promptly advise the Owner and Contractor in writing of any potential warranty claims detected or reported, investigate potential warranty claims to verify culpability and monitor Contractor’s remedy of warranty claim items.
§ 3.7.1.2 If requested by Owner, the Architect shall provide assistance in the utilization of mechanical or electrical equipment or systems such as testing, adjusting and balancing, training the Owner’s personnel for operation and maintenance, and consultation during operation.

§ 3.7.1.3 The Architect shall be responsible for reporting any work found not to be in accordance with the Contract Documents for a period of one (1) year from the date of the recording of the Substantial Completion of each assigned Project. The one-year period shall be extended for any portions of the Work completed after the date of recording the Substantial Completion. This obligation shall survive acceptance of the Project as providing in the Contact Documents.

§ 3.7.1.4 The Architect shall conduct a thorough inspection of the Project approximately one month prior to expiration of the warranty period, notify Owner and Contractor of any items requiring replacement or correction under the terms of the warranty, and monitor satisfactory completion of any required warranty Work.

§ 3.7.1.5 Immediately following the warranty inspection, the Architect shall conduct a meeting with the Owner to review outstanding warranty items, facility operations and performance. Compliance with the foregoing will constitute completion of the Architect’s basic services for compensation purposes for each assigned Project, however the Architect shall be required to monitor completion of items to be corrected during the warranty period for the Project.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically requested and authorized by Owner and the Owner shall compensate the Architect as agreed upon in the Authorization. However, if any Supplemental or Additional Services are required as a result of the fault, neglect, or omission of the Architect, then such services shall be performed at the sole costs and expense of the Architect. In such circumstance or event, the Owner shall not be liable to the Architect for any fees or expenses.

<table>
<thead>
<tr>
<th>Supplemental Services</th>
<th>Responsibility (Architect, Owner, or not provided)</th>
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<tbody>
<tr>
<td>§ 4.1.1.1 Not Used</td>
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<tr>
<td>§ 4.1.1.2 Multiple preliminary designs</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<td>§ 4.1.1.3 Not Used</td>
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<td>§ 4.1.1.4 Not Used</td>
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<td>§ 4.1.1.5 Not Used</td>
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<td>§ 4.1.1.6 Building Information Model management responsibilities</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<tr>
<td>§ 4.1.1.7 Development of Building Information Models for post construction use</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<td>§ 4.1.1.8 Not Used</td>
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<td>§ 4.1.1.9 Landscape design</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<td>§ 4.1.1.10 Not Used</td>
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<tr>
<td>§ 4.1.1.11 Value analysis</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<tr>
<td>§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<td>§ 4.1.1.13 On-site project representation</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<td>§ 4.1.1.14 Conformed documents for construction</td>
<td>Architect, if authorized as a Supplemental Service</td>
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<tr>
<td>§ 4.1.1.15 As-designed record drawings</td>
<td>Architect, if authorized as a Supplemental Service</td>
</tr>
</tbody>
</table>
### § 4.1.1.16 Not Used

### § 4.1.1.17 Post-occupancy evaluation

Architect, if authorized as a Supplemental Service

### § 4.1.1.18 Facility support services

Architect, if authorized as a Supplemental Service

### § 4.1.1.19 Not Used

### § 4.1.1.20 Not Used

### § 4.1.1.21 Telecommunications/data design

Architect, if authorized as a Supplemental Service

### § 4.1.1.22 Security evaluation and planning

Architect, if authorized as a Supplemental Service

### § 4.1.1.23 Commissioning

Architect, if authorized as a Supplemental Service

### § 4.1.1.24 Not Used

### § 4.1.1.25 Fast-track design services

Architect, if authorized as a Supplemental Service

### § 4.1.1.26 Not Used

### § 4.1.1.27 Historic preservation

Architect, if authorized as a Supplemental Service

### § 4.1.1.28 Not Used

### § 4.1.1.29 Other services provided by specialty Consultants

Architect, if authorized as a Supplemental Service

### § 4.1.1.30 Other Supplemental Services

Architect, if authorized as a Supplemental Service

### § 4.1.2 Description of Supplemental Services

#### § 4.1.2.1

Scope of Work, schedule and compensation for Supplemental Services to be defined as part of Owner’s request and authorization.

### § 4.2 Architect’s Additional Services

The Architect may provide Additional Services, including and in addition to those identified on Section 4.1 above, after execution of this Agreement without invalidating the Agreement with the prior written authorization of Owner. When specific Additional Services are requested and authorized by Owner Scope of Work, schedule and compensation for Additional Services to be defined as part of Owner’s request and authorization.

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

1. Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project, not caused by the fault of the Architect or Architect’s Consultants, including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method;

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

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

4. Consultation concerning replacement of Work resulting from fire or other cause during construction.
ARTICLE 5   OWNER’S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner, with the assistance of the Architect, shall provide information in a timely manner regarding requirements for and limitations on the Project, including existing flood-damage assessments, restoration Scopes of Work and FEMA Grant Application Cost Estimates, which shall set forth the Owner’s objectives; schedule, constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements as may be reasonably necessary for the Architect to perform Architect’s services.

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

§ 5.3 The Owner shall identify a representative authorized to act on the Owner’s behalf with respect to the Project. The Owner assigns a separate Program Manager as Owner’s Representative. No responsibilities for services contracted to the Architect in this Agreement shall be shared by the Owner or any assigned Owner’s Representative. Any review and or approval by the Owner or its representatives shall not relieve the Architect of responsibility for the accuracy of the Architect’s services, drawings, and documents furnished pursuant to this Agreement. The Architect has an affirmative duty and obligation to communicate with the Owner, via the assigned Owner’s Representative.

§ 5.4 Topographical survey data shall be provided by Owner if and when both parties agree that survey data is required to complete the design contract. When required, the Architect will inform the Owner as to what survey data is required. The Owner will provide a professional land survey, based on the Architect’s recommendations, where survey data can be obtained through non-destructive processes.

§ 5.5 Geotechnical Investigation data shall be provided by Owner if and when both parties agree that such dates is required to complete the design contract. When required, the Architect will inform the Owner as to what geotechnical investigation data is required. The Owner will provide such data based on the Architect’s recommendations.

§ 5.6 Intentionally Omitted.

§ 5.7 Intentionally Omitted.

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

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials, except as otherwise provided in this Agreement. Architect shall carefully review all such tests.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests, but such shall not include representing the Architect.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner discovers any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect’s Documents (which are sometimes referred to as Instruments of Service), including, without limitation, all Drawings and Specifications. However, the Owner shall have no duty to make any such discovery, and its failure to do so shall not affect the Owner’s rights against the Architect in any way whatsoever. The Architect shall have the responsibility to carefully review and verify in
§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect’s services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect’s consultants shall be through the Architect.

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

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

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

ARTICLE 6   COST OF THE WORK

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

§ 6.2 The Owner’s budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 3.1, 5.2, 6.4 and 6.5. Evaluations of the Owner’s budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect’s judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor’s methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, so long as Architect acted in accordance with its standard of care, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner’s budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 The Architect’s estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques, and shall not include any contingency. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate as a Supplemental Service.

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

§ 6.5 If at any time the Architect’s estimate of the Cost of the Work exceeds the Owner’s budget for the Cost of the Work, the Architect, without additional cost to the Owner, in consultation with the Contractor and Owner, shall as part of its Basic Services, make appropriate recommendations to the Owner to adjust the Project’s size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid, but it was determined prior to bidding to be within the construction cost estimate and/or the Owner’s budget and is not the result of a design error or omission arising from breach of Architect’s standard of care or Architect’s failure to make changes when the Documents were first identified as outside of the construction cost estimate or Owner’s budget, as applicable, the Owner shall

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User Notes:
1. give written approval by a Change in Services Authorization of an increase in the budget for the Cost of the Work. The Architect’s fee however shall remain based on the approved Owner’s Budget for the Cost of the Work at end of Construction Document phase and shall not be based on the increased budget amount;
2. authorize rebidding or renegotiating of the Project within a reasonable time following Architect’s completion of revisions required by Section 3.5.3;
3. terminate in accordance with Section 9.5;
4. in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
5. implement any other mutually acceptable alternative.

(Paragraph deleted)

ARTICLE 7  COPYRIGHTS AND LICENSES

§ 7.1 Any and all plans, designs, specifications, or other construction documents resulting from professional services paid for by the Owner shall remain the property of the Owner whether the Project for which they are prepared is constructed or not.

§ 7.2 The Architect is granted a license to use same provided that the Architect provides written notice to the Owner of the subsequent use at least 30 days prior.

§ 7.3 Notwithstanding that the Owner owns the plans and documents and has full authority, control, and use thereof the Architect grants to the Owner a nonexclusive license to use the Architect’s Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. The Architect shall obtain similar nonexclusive licenses from the Architect’s consultants consistent with this Agreement.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect’s consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner’s use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. Any unauthorized use of the Instruments of Service shall be at the Owner’s sole risk and without liability to the Architect and the Architect’s consultants.

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

ARTICLE 8  CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Architect waives all rights against the Owner and against its contractors, consultants, agents, and employees for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended and modified. The Architect shall require of the Architect’s consultants, agents, and employees of similar waivers in favor of the other parties enumerated herein and shall obtain consent, if necessary, from the appropriate insurers.

§ 8.1.3 Architect and Owner waive all claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver of consequential damages only includes: (1) damages incurred by Owner for
§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation. 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 litigation.

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

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

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

(Paragraphs deleted)

litigation in the 42nd Circuit Court, 301 W. Main St., Midland, MI 48640. Specifically, Owner and Architect each irrevocably and unconditionally: (i) accept and submit to the jurisdiction of the Circuit Court for Midland County, Michigan in any action or proceeding arising out of or related to this Agreement; (ii) waive any objection either may now or hereafter have to the laying of venue of any such action or proceeding brought in such court, and agree not to plead or claim in such court that such action or proceeding has been brought in an inconvenient forum; (iii) agree that service of all process in any such action or proceeding in such court may be made by either certified mail, return receipt requested, or sent via a recognized national overnight courier service that tracks receipt of packages (such as Federal Express) to such party at their respective addresses provided for notices; and, (iv) agree that service as provided in clause (iii) above is sufficient to confer personal jurisdiction over such party in any such action proceeding in such court and otherwise constitutes effective and binding service in every respect. Owner and Architect further agree that the prevailing party in such action or proceeding is entitled to recover from the other party or parties reasonable attorneys’ fees and all other costs and expenses incurred in such action or proceeding, in addition to any other relief to which it may be entitled. The prevailing party shall be the party whose pre-trial claims and defenses, as applicable, most closely approximate (a) the claims or defenses to which a remedy is in fact granted or denied and (b) the type and degree or quantum of the remedy, in each case as contained in a final judgment that is no longer subject to appeal.

§ 8.2.5 If the parties agree to mediation, this agreement to mediate shall include the obligation to include as part of any medication, by joinder or consolidation, all persons or entities not a party to this Agreement to the extent necessary for the resolution of the matter in dispute involving the Project. The Architect shall include a similar mediation provision.
in all agreements with the Architect’s independent consultants retained for the Project. Should any party required to mediate by this Agreement refuse to mediate [and not be ordered to mediate by a court of competent jurisdiction], then the agreement to mediate between the Architect and the Owner shall be terminated.

§ 8.3 Arbitration
§ 8.3.1 This Agreement and any claim, dispute or other matter arising out of or related to this Agreement or the Project shall not be subject to arbitration, unless otherwise separately agreed in writing by the parties. Further, the Architect shall ensure no references to arbitration exist in any and all contract documents related to the Project.

*(Paragraphs deleted)*

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

**ARTICLE 9   TERMINATION OR SUSPENSION**

§ 9.1 Unless said non-payment is for cause attributable to the Architect, if the Owner fails to make payments to the Architect in accordance with this Agreement and Owner fails to cure the default in making payment within seven (7) days after the Owner receives a written notice of default from the Architect specifying the payment and further provided such failure to make payment is not the result of a good faith dispute between the Owner and the Architect over the payment, 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 fifteen days’ prior 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. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If, through no fault of the Architect, the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 Intentionally Omitted.

§ 9.4 Except as otherwise provided in Section 9.1 above, either party may terminate this Agreement upon not less than seven days’ written notice should the other party fail to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement at any time upon not less than seven days’ written notice to the Architect for the Owner’s convenience and without cause. If this Agreement is so terminated, the Architect as its sole and exclusive remedy hereunder shall be entitled to receive compensation for services performed in accordance with this Agreement prior to the date of termination and for any Reimbursable Expenses incurred to date and substantiated.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred prior to termination.

§ 9.7 *(Paragraphs deleted)*

Owner shall have the right to terminate this Agreement for Architect’s default upon seven (7) days’ notice. Owner may thereafter, in its sole discretion, prosecute Architect’s services to completion by contracting with an alternate architect or other party as Owner may select and take ownership of all documents in whatever state they are in. Architect will be liable to Owner for costs and damages sustained by Owner to the extent caused by Architect’s default or breach of this Agreement and the enforcement of these provisions, which rights shall survive termination of this Agreement. Owner, upon final acceptance of the Project where Architect has been terminated for cause, may deduct from the Architect’s Fee the actual cost of completing the Architect’s Services together with any other direct and indirect costs caused by Architect’s performance or nonperformance, including losses, costs and damages Owner incurs as a consequence of delays in completing the Project. If these costs and damages exceed the unpaid balance of the Architect’s Fee owed on the Project, Architect is liable to Owner for the difference, which Architect will promptly pay to Owner. If the costs of completing the Architect’s services and other resulting losses, costs and damages are less
than the unpaid balance of the Architect’s Fee for the Project, Owner will, upon Owner’s completion of the Project, pay Architect such unpaid amount that was approved for payment but withheld pursuant to the termination. If this Agreement is terminated as a result of Architect’s default under this Agreement as provided in this Section, and it is determined, through dispute resolution as provided in Article 8 above that Architect was not in default, such termination of this Agreement will be deemed to have been for the convenience of Owner pursuant to Section 9.5 above.

(Paragraphs deleted)

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located. The Owner and the Architect expressly and exclusively consent to the venue and jurisdiction states in Section 8.2.4 for binding dispute resolution.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended by Owner as modified for this Project, unless otherwise provided herein.

§ 10.3 This Agreement represents the entire and integrated agreement between the Owner and the Architect. All prior negotiations, representations and agreements, either written or oral, are merged herein. The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement. The Owner may require, and the Architect shall execute, as part of its Services hereunder, any certificates or certifications customarily, commonly, or reasonably required on projects of this type.

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

§ 10.6 Should the Architect suspect the presence of hazardous material or toxic substances on any Project site, the Architect shall immediately report the suspected presence to the Owner in writing. The Architect shall cooperate with and assist the Owner in resolution of problems related to hazardous or toxic materials. Further, the Architect shall not knowingly specify or approve for use in the Project any materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances, as defined under the Federal Toxic Substances Control Act, 15 U.S.C. 2601 et seq. and the rules and regulations promulgated pursuant thereto, including, specifically, 40 C.F.R. Section 763.103(c)(1988). The Architect shall hold the Owner harmless and indemnify the Owner to the full extent of the law with respect to claims arising out of the Architect’s non-compliance with this requirement or with his failure to promptly report the presence of any suspected asbestos or hazardous material. The Architect shall visit the site and review the AHERA inventory or manual prior to the preparation of the Construction Documents, and shall have an affirmative duty to promptly advise the Owner of suspected presence and locations of asbestos, asbestos containing materials, hazardous material, or other toxic substances which exist at the site. Furthermore, at any time during the project upon suspected discovery thereof, the Architect shall promptly notify the Owner in writing.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for
the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

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

The fee for Basic Services, as described in Article 3, shall be calculated as the product of the fee percentage, multiplied by the actual cost of the Work and adjusted by complexity and renovation factors described below.

.1 The fee percentage shall be computed by the formula:

\[
\text{FEE PERCENTAGE} = \frac{46.10}{\log(\text{AFC} \times \frac{1975 \text{ BCI}}{\text{Current BCI}})}
\]


Since the annual average computed in December of the BCI and CPI are used, fee percentage calculations are based upon the most current calendar year average of both indices at the time the contract is signed. Should fee percentage modifications occur during the course of the Project, the BCI and CPI index factors used to calculate the original fee percentage shall be used. If a Project, through no fault of the Architect, is inactive for more than 24 months, the BCI and CPI index factors current as of the date of resumption of work shall be applied to the project once re-activated.

.2 The fee for Basic Services shall be computed as follows:

The fee equals the product of the Fee Percentage using the formula in 11.1.1 multiplied by the actual cost of the Work.

\[
\text{FEE} = \text{FEE PERCENTAGE} \times \text{ACTUAL COST OF THE WORK}
\]

The actual cost of the Work will be determined initially by the Owner’s Available Funds for Construction (AFC) and adjusted to the actual construction cost at bid award and again to final construction contract amount at substantial completion. The final construction contract amount
used to determine the final fee may be reduced to exclude any change orders that are determined by the Owner to have not increased the basic services of the architect.

.3 Fee for basic services during design
The Owner’s AFC shall be used to calculate the fee through the bidding phase using the formula in 11.1.2.

\[ \text{FEE} = \text{FEE PERCENTAGE} \times \text{AFC} \]

.4 Fee adjustment at bid award:
The fee percentage for Basic Services shall be recalculated using the formula in 11.1.1 replacing the AFC with the amount of the actual bid award including any additive alternates accepted by the owner. The Architect will not receive an adjustment to increase fee at bid award for the phases of Program Completion, Schematic Design Phase, and Design Development Phase, and Construction Documents phase if the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid.

The fee for Basic Services shall be computed by multiplying the adjusted Fee Percentage by the amount of the bid award.

\[ \text{FEE} = \text{FEE PERCENTAGE} \times \text{AMOUNT OF BID AWARD} \]

.5 Fee for Alternates not taken:
The architect shall be paid a lump sum fee for Bid Alternates not awarded which will be calculated as follows:

The amount of the fee percentage determined at the bid award multiplied times the cost of the alternates not awarded multiplied by 65% representing the percentage of the work completed through the bidding phase as shown in 11.5.1.

\[ \text{FEE PERCENTAGE} \times \text{COST OF ALTERNATES NOT AWARDED} \times 65\% \]

The cost of the alternates not awarded will be determined using the bid amount of the alternate not awarded from the lowest bid including all alternates. In some cases, this may not be the amount of the alternate(s) from the contractor actually awarded the project.

.6 Fee adjustment at Substantial Completion:
The fee percentage for Basic Services shall be recalculated using the formula in 11.1.1 replacing the AFC with the amount of the actual final cost of the work including all change orders. The Architect will not receive an adjustment to increase fee at substantial completion for the phases of Program Completion, Schematic Design Phase, and Design Development Phase, and Construction Documents phase if the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid.

The final fee for Basic Services shall be computed to reflect the basic services performed and separated into design and construction administration.

Design portion of the fee shall be calculated by multiplying the adjusted Fee Percentage determined above by the amount of the adjusted final construction contract amount less all deductive change orders multiplied by 65% representing the percentage of the work completed through the bidding phase as shown in 11.5.1.

\[ \text{DESIGN FEE} = \text{FEE PERCENTAGE} \times \text{FINAL CONSTRUCTION CONTRACT AMOUNT INCLUDING ADDITIVE CHANGE ORDERS ONLY} \times 65\% \]
Construction Administration portion of the fee shall be calculated by multiplying the adjusted Fee Percentage by the amount of the adjusted final construction contract amount less all deductive change orders multiplied by 35% representing the percentage of the work completed during the Construction Administration and Close-Out phases as shown in 11.5.1.

\[
FEE = \text{FEE PERCENTAGE} \times \text{FINAL CONSTRUCTION CONTRACT AMOUNT INCLUDING BOTH ADDITIVE AND DEDUCTIVE CHANGE ORDERS} \times 35%
\]

When the Construction Contract Award has been made and again at substantial completion when the fee is adjusted as described above, amounts due to the Architect shall also be adjusted either upward or downward, as appropriate.

The calculated fee determined above shall be adjusted as follows for this Project: Amount Due Architect = Calculated Fee above times XX modifier. For flood-restoration projects, the modifier will be between 1.0 and 1.25. The Owner will evaluate the scope and complexity of the Project to derive the Project-specific modifier.

Multiple Contracts. If the Owner determines that the best interest of the Project is served by bidding and constructing the Project under two or more separate contracts, the fee shall be established for each portion by application of the formula in 11.1 above.

Extended Construction Administration Services:

Architect’s compensation if Owner authorizes extended Construction Administration services: In the event Contractor fails to achieve Substantial Completion by the scheduled date of Substantial Completion (evidenced by the approved Project Schedule in-force at the time of such failure), and such failure is due to no fault of the Architect, and Architect recommends imposition of Liquidated Damages, the Owner may authorize Architect to extend duration of Construction Administration duties. If Owner authorizes such an extension, Architect will be compensated for the extended duration solely by an extended Construction Administration daily rate calculated as follows:

\[
\text{Extended Construction Administration daily rate} = \frac{\text{Total Fee for Basic Services (calculated using awarded construction Contract Sum)}}{ \text{times twenty-four percent (24%)}} \times \text{divided by number of calendar days in original Contract Time.}
\]

To determine amounts due Architect, this calculated daily rate will be multiplied by the actual number of calendar days between the scheduled Substantial Completion date and the date the Contractor achieves Substantial Completion. Should the Contract Time be extended for whatever reason following commencement of such authorized extended Construction Administration services, the number of days eligible for payment of the daily rate is reduced accordingly.

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and authorized in writing by the Owner, the Owner shall compensate the Architect as follows:

Compensation for Supplemental Services to be defined as part of Owner’s request and authorization. Should the Owner authorize an hourly fee arrangement for a particular Supplemental Service effort, the hourly rates listed below may be charged for work by personnel in the positions listed, and a maximum fee amount may be imposed by Owner.

| .1 | Principal of Architectural/Engineering firm | @ $200.00/hour |
| .2 | Registered Architects/Engineers | @ $150.00/hour |
| .3 | Senior Draftsmen (persons with degree in Architecture or Engineering with minimum 5 years experience) | @ $120.00/hour |
| .4 | Intern Architects and Engineers | @ $100.00/hour |
| .5 | Draftspersons | @ $75.00/hour |
§ 11.2.1 Routine change orders do not entitle the Architect to extra compensation. The Owner shall have the right to make this determination. Prior to the Architect preparing a change order for which Architect believes entitled to extra compensation in connection with any change order or other Modification to the Owner/Contractor Agreement, the Architect shall so notify the Owner and secure Owner’s prior written approval to proceed with the change order or other Modification. When final payment is made to the Architect, all such change orders will be reviewed by the Owner and the Architect’s Contract will be amended to reflect any extra compensation agreed to by Owner for change orders or other Modifications which the Owner has determined merit additional fee. The fee will be computed by increasing or decreasing the Contract award by the amount of change orders or other Modifications. The Architect’s fee shall be reduced for errors and omissions by the amount of any additional cost to the Owner attributable to such errors and/or omissions.

§ 11.2.2 Architect shall prepare change orders caused by errors or omissions of the Architect without additional compensation. The Architect shall be financially responsible for all costs, expenses and fees, including but not limited to attorney fees, incurred by the Owner or Program Manager that result from errors and/or omissions that exceed an acceptable level pursuant to the standard of care as described in Article 2.2. The Owner shall participate in the cost of such omissions only to the extent of the value received by the Owner.

§ 11.2.3 Preparation of documents required for change orders for any cause, including requests for pricing to contractors, shall not commence without Owner’s prior written approval.

§ 11.2.4 Payments on account of Architect’s Services shall be made as follows. Unless otherwise provided herein, payments to the Architect shall be made within forty-five (45) days of the Owner’s approval of the Architect’s invoice.

(Paragraphs deleted)

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

Compensation for Additional Services to be defined as part of Owner’s request and authorization. Should the Owner authorize an hourly fee arrangement for a particular Additional Service effort, the hourly rates listed at Section 11.2 may be charged for work by personnel in the positions listed, and a maximum fee amount may be imposed by Owner.

(Paragraphs deleted)

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be authorized in writing in advance by Owner, and the amount shall be that invoiced to the Architect with no markup.

(Paragraphs deleted)

§ 11.5.1 Basic Services

Upon satisfactory completion of all Basic Services for each phase as described in Article 3, submission of all documents to the Owner and upon the Owner’s approval of same, which approval shall not be arbitrarily withheld, payment for the following phases of the Architect’s services will be made in one lump sum; such payments shall be up to the following percentages of the Architect’s fee, which percentages are cumulative:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Confirmation/Schematic Design</td>
<td>Twenty-Five percent (25 %)</td>
</tr>
<tr>
<td>Design Development Phase</td>
<td>Fifteen percent (15 %)</td>
</tr>
<tr>
<td>Construction Documents Phase</td>
<td>Twenty-Five percent (25 %)</td>
</tr>
<tr>
<td>Bidding or Negotiation Phase</td>
<td>Five percent (5 %)</td>
</tr>
<tr>
<td>Construction Phase</td>
<td>Twenty-Four percent (24 %)</td>
</tr>
<tr>
<td>Project Completion Phase</td>
<td>Three percent (3 %)</td>
</tr>
<tr>
<td>Warranty Phase</td>
<td>Three percent (3 %)</td>
</tr>
<tr>
<td>Total Basic Compensation</td>
<td>one hundred percent ( 100 %)</td>
</tr>
</tbody>
</table>
§ 11.5.2 If any phase or phase payment is delayed through no fault of the Architect, the Owner and Architect may negotiate a partial interim payment.

§ 11.5.3 Payments on account of Architect’s Supplemental Services, Additional Services and for Reimbursable Expenses shall be due forty-five (45) days after approval of Architect’s invoices with supporting data, provided that Architect’s invoices are accompanied by a copy of the Owner’s prior written approval for said Services or Reimbursable Expenses, and for Supplemental or Additional Services, a copy of the executed Contract Amendment covering same.

§ 11.5.4 Payments to the Architect on Termination, Abandonment or Suspension shall be made in accordance with Articles 9 and 10.

§ 11.6 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.

§ 11.7 Intentionally Omitted.

§ 11.8 Compensation for Reimbursable Expenses

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

.1 Intentionally Omitted.
.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 at actual cost, except not for those convenience copies needed for the Architect’s in-house coordination and/or distribution for use by other consultants. The number of sets required for bidding will be reimbursed MINUS the number of sets for which no deposit is returned to a bidder. The Architect shall furnish the Owner a legible register of all printed sets, identifying the bid set numbers, their respective recipients and dates transmitted. The Architect shall solicit unit price bids for the printing of the Contract Documents sets and submit a written summary of the bids to the Owner. A copy of each print invoice shall be furnished by the Architect for all requested reimbursable printing;
.5 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants with no markup.

§ 11.9 Intentionally Omitted.

§ 11.10 Payments to the Architect

§ 11.10.1 Intentionally Omitted.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable within thirty (30) days after presentation of the Architect’s invoice and supporting documentation, which shall always include unconditional lien waivers for services performed and already paid for by the Owner. Amounts unpaid thirty-one (31) days after Owner’s receipt of the properly prepared and
submitted invoice and supporting documents shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the place of the Project.

§ 11.10.2.2 Except as provided by Section 12.1, the Owner shall not withhold amounts from the Architect’s compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect is responsible for such amounts.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times. The Owner shall have the right to audit the Architect’s Records and Reimbursable Expenses incurred. The Architect shall maintain such books and records in accordance with generally accepted accounting principles for a period of five (5) years from the earlier of (a) the date the Project achieves Final Completion, or (b) the date that this Agreement is terminated, which period is automatically extended as required by Applicable Laws or when the Project is the subject of a Claim. Such audit rights shall be for the benefit of the Owner during the Architect’s regular business hours. Upon seven (7) days’ written notice, Architect shall make its Records available, as well as its employees available for interview, during normal business hours to Owner and its authorized representative(s) or designee(s). Owner and its authorized representative(s) or designee(s) shall be entitled to inspect, examine, review and copy Architect’s Records at Owner’s reasonable expense, within adequate work space at Architect’s Office. Failure by Architect to supply substantiating Records shall be reason to exclude the related costs from amounts which might otherwise be payable by Owner to Architect pursuant to this Agreement or any Work Order. If an audit discloses overcharges (of any nature) of or to Owner by Architect (including Architect’s Consultants), Architect shall: (i) reimburse Owner for such overcharge paid by Owner (or Owner may make adjustments to the Architect’s Fee for the overcharges to correct the overcharge), and (ii) if the overcharge is three percent (3%) or more of Architect’s Fee paid to date by Owner, reimburse Owner the actual cost of Owner’s audit not to exceed the amount overcharged by Architect. Any adjustments and/or payments which must be made as a result of any such audit or inspection of Architect’s Records shall be made within a reasonable amount of time (not to exceed sixty [60] days) from presentation of Owner’s findings to Architect. Architect shall require all Architect’s Consultants to comply with the provisions of this Section by including all of the foregoing requirements into the written Subconsultant Agreement between Architect and Architect’s Consultants for Owner’s benefit. Architect will ensure Owner has the same right to audit Architect’s Consultants’ Records as provided herein.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)

ARTICLE 12 SPECIAL TERMS AND CONDITIONS
Special terms and conditions that modify this Agreement are as follows:

§ 12.1 Liquidated Damages

§ 12.1.1 In the event the Architect exceeds the established time schedule for delivery of completed Construction Documents as defined in Section 1.1.4.1.3, including any extensions of time approved by the Owner, then the amount of the fee shall, as Liquidated Damages, be reduced by two-hundred-fifty dollars ($250.00) for each calendar day past the due date that the Architect has not delivered all Construction Documents to the Owner complete, coordinated and ready to bid.

§ 12.2 Interpretation
The normal rules of interpretation or construction that any ambiguities in a Document are to be construed against the drafter shall not be employed in interpretation of this Agreement.

§ 12.3 Conflicting Terms
In the event of any vagueness, ambiguousness, conflict or discrepancy between the terms or conditions of any agreement or documents related to the Project, the terms of the B101-2017 as amended by Owner, shall control. Notwithstanding, the Architect shall have an affirmative duty to timely notify the Owner of any conflict in the documents and seek clarification.
12.4  Representations and Warranties of the Architect

§12.4.1  The Architect represents and warrants to the Owner that the Architect is properly licensed by the applicable authority to engage in the services agreed to be performed by the Architect, the person signing on behalf of the Architect is authorized to bind the Architect to the terms of this Agreement, the Architect is experienced in designing the type of project requested by the Owner and has adequate experience and personnel to fulfill the Architect’s obligations under this Agreement in a timely manner, Architect’s key employees shall work on the Project and not be substituted without Owner’s consent, and that the Architect is a solvent entity.

§12.4.2  Architect further represents and warrants that its documents will be free of any copyright claims, patent claims, trade secrets or other proprietary rights with respect to such documents, including, but not limited to, the right to copy the documents and the right to prepare derivative works based in whole or in part on the documents.

§12.5  Architect shall defend and indemnify the Owner and the Owner’s partners, principals, directors, members, officers, agents, employees, successors and assigns (collectively, the "Indemnites") against and hold them harmless from any and all losses, claims, liabilities, injuries, damages and expenses whatsoever, including actual attorneys’ fees, that the Indemnites may incur by reason of (i) the breach of this Agreement by the Architect; (ii) any injury or damage sustained to any person or property (including, but not limited to, any one or more of the Indemnites) arising out of, or occurring in connection with, the Architect’s errors, omissions, or negligent acts or those of any firm or person employed by the Architect or for whom it is responsible, or (iii) the performance or lack of performance by the Architect of its duties and obligations under or pursuant to this Agreement.

ARTICLE 13  SCOPE OF THE AGREEMENT

§ 13.1  This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect. This Agreement may be executed by each of the parties hereto in separate counterparts and have the same force and effect as if all of the parties had executed it as a single document. Facsimile or email signature pages of this Agreement shall be valid and binding as original signatures and shall be considered an agreement of such party to fully execute and deliver originally signed copies of this Agreement.

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

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

.2  Exhibits:

   Exhibit A: Federal Contract Clauses (6 pages).
   Exhibit B: Damage Assessment information (XX pages).
   Exhibit C: Restoration Scope of Work (XX pages).
   Exhibit D: Restoration Cost Estimate (XX pages).
   Exhibit E: Change in Service Authorization form (XX pages)

.3  Other documents:

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

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

OWNER (Signature)  ARCHITECT (Signature)

Bernard Reeves  Bernard Reeves
Vice President, Finance and Administration  Vice President, Finance and Administration
Northwood University  Northwood University
(Printed name and title)  (Printed name, title, and license number, if required)
Exhibit E
Change in Services Authorization

In accordance with the AIA B101 (collectively "Agreement") between Owner – NORTHWOOD UNIVERSITY, and Architect – , this Change in Services Authorization describes the Owner’s and Architect’s agreed upon changes to the Architect’s Services, Design Schedule, Architect’s Fee and Reimbursable Expenses, as applicable.

Project Name: Flood Damage Restoration

Architect name and Project/reference: # __________ _____________
Reference: Drawing No. Specification No. Other:

The Agreement is hereby changed for the Project as follows:

Justification for Change:

CHANGE TO THE DESIGN FEE
Original Design Fee:$
Current Design Fee, including previous Change in Services Authorizations:$
The Design Fee due to this Change in Services Authorization will be increased or decreased by:$
The new Design Fee resulting from this Change in Services Authorization is:$

CHANGE TO THE DESIGN SCHEDULE
The time in the Design Schedule for Phase/Milestone will be increased or decreased by calendar days.
The date for completion of all Architect’s Services governed by the Design Schedule under the Agreement will be: , 202 .

EXCEPT AS PROVIDED IN THIS CHANGE IN SERVICES AUTHORIZATION, ALL TERMS AND CONDITIONS OF THE AGREEMENT REMAIN UNCHANGED

The terms of this Change in Services Authorization is agreed to and acknowledged by the following signatures of the authorized Owner’s Representative and Architect’s Representative.

OWNER- NORTHWOOD UNIVERSITY

ARCHITECT- ____________________

Signature

Typed Name/Title

Date of Signature

(Table deleted)(Paragraphs deleted)
Owner (Northwood University) intends to pursue reimbursement of eligible Project costs from the Federal Emergency Management Agency (FEMA), therefore this Agreement is subject to compliance by Contractor (Consultant) with all applicable federal contract clauses, including but not limited to, the following:

**Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms**

Owner encourages participation from small, minority-owned, women-owned, and labor surplus area business. Incorporation of these types of firms into the project team is encouraged. Additionally, prime contracts are required, if subcontracts are to be let, to take the following affirmative steps 1 through 5 of this section.

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Clean Water Act & Federal Water Pollution Control Act**

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

Contractor agrees to comply with all applicable standards, orders or regulations issues pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C 1251 et seq.
**Clean Air Act**
The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities.

**Energy Efficiency**
The Contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

**Suspension and Debarment**
Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into to the extent set forth elsewhere in this contract. This certification is a material representation of fact relied upon by Owner. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Owner, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**Anti-Kickback Clause**
The Contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each Contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.
Record Retention, Record Ownership, & Access to Records
The Contractor shall maintain all records in relation to this Agreement for a period of at least five (5) years after final payment.

All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of the Owner and shall, upon request, be returned by Contractor to Owner, at Contractor's expense, at termination or expiration of this contract. Contractor agrees to allow the Owner access to Contractor’s records.

No Obligation by Federal Government
The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Equal Employment Opportunity
Contractor agrees to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended the Vietnam Era of 1975, and the Americans with Disabilities Act of 1990. Contractor agrees not to discriminate in its employment practices, and will render services under this Agreement and any contract entered into as a result of this Agreement, without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement and any contract entered into as a result of this agreement.

Pursuant to 2 C.F.R. Part 200, Appendix II, C, the contract must include all clauses from 41 C.F.R. § 60-1.4(b). These are:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor’s legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers’ representative of the contractor’s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor’s noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as
provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Byrd Anti-Lobbying
Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended) Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. §1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient. Sample certification is attached on following page.
BYRD ANTI-LOBBYING CERTIFICATION
RE: RFP NU-FR-03 - FLOOD DAMAGE RESTORATION ARCHITECTURAL-ENGINEERING SERVICES

Byrd Anti-Lobbying Certification
for Contracts, Grants, Loans, and Cooperative Agreements
(To be executed with Agreement if Contract Sum exceeds $100,000)

The undersigned [Consultant] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Consultant, _____________________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

____________________________________________
Signature of Consultant’s Authorized Representative

____________________________________________
Name and Title of Consultant’s Authorized Representative

________________________
Date
The undersigned hereby acknowledges Proposer has read and understands all requirements of the above-referenced Request for Qualifications (RFQ), including exhibits and attachments.

OFFICIAL CONTACT: Northwood University requires the Proposer designate one person to conduct official communications regarding this RFQ and Proposer’s Statement of Qualifications (SOQ) submitted in response to this RFQ:

- Company (Proposer) Name: _______________________________________________________________
- Official Contact Name: __________________________________________________________________
- Email Address: ________________________________________________________________________
- Telephone Number: ______________________________________________________________________
- US Mail Address: _______________________________________________________________________

By its submission of a Statement of Qualifications (SOQ) and authorized signature below, Proposer certifies that the information contained in its response to this RFQ is true and accurate;

Proposer complies with each of the mandatory requirements listed in the RFQ and will meet or exceed the functional and technical requirements specified therein;

Proposer accepts the procedures, evaluation criteria, mandatory contract terms and conditions, and all other administrative requirements set forth in this RFQ, and;

Proposer understands that if selected as the successful Proposer, Proposer will have 10 business days from the date of delivery of final contract to execute the final contract document;

Proposer’s Authorized Representative:

- Printed Name: _________________________________________________________________________
- Title: _______________________________________________________________________________
- Email address: ________________________________________________________________________
- Company (Proposer) Name: _____________________________________________________________
- Address: _____________________________________________________________________________
- ___________________________________________________________________________________
- Telephone Number: _____________________________________________________________________
- State of Michigan Architect’s License Number(s): ___________________________________________

SIGNATURE of Proposer’s Authorized Representative:

_____________________________________________________________________________________

Date: ________________________________________________________________________________
<table>
<thead>
<tr>
<th>Northwood University</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form NU-FDR-AE</td>
</tr>
<tr>
<td>Architectural &amp; Engineering Services</td>
</tr>
</tbody>
</table>

**1. Project Name:** Flood Damage Restoration Architectural-Engineering Services – various projects  
**2. Project Number:** TBD

**3a. Proposer’s Firm Name (exactly as registered with the State of Michigan) and official mailing address of the office to perform work:**

<table>
<thead>
<tr>
<th>3b. Name, Title, Michigan State Architect’s License number, telephone number, fax number and e-mail address of the official with signing authority for this contract: (Proposer’s Authorized Representative from Attachment 01 - Certification Statement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
</tr>
<tr>
<td>Title:</td>
</tr>
<tr>
<td>Michigan State Architect’s License Number(s):</td>
</tr>
<tr>
<td>Telephone No.:</td>
</tr>
<tr>
<td>Fax No.:</td>
</tr>
<tr>
<td>E-Mail:</td>
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</table>

**3c. Affirmation that Proposer’s Firm may offer Architect Services under Michigan Compiled Laws Section 339.2010 (Yes or No):**

**3d. Acknowledgement of Addenda (include Addendum Number and Date issued):**

**4. I certify that the information provided in this Form NU-FDR-AE is accurate and complete to the best of my knowledge (must be same person identified at 3b):**

Signature: ____________________________  
Date: __________________

**5. Full-time personnel on Proposer’s payroll who work from the primary office location identified in 3a above:**

<table>
<thead>
<tr>
<th>Administrative Personnel</th>
<th>Interior Designers</th>
<th>Mechanical Engineers</th>
<th>Construction Administrators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensed Architects</td>
<td>Landscape Architects</td>
<td>Geotechnical Engineers</td>
<td>Construction Inspectors</td>
</tr>
<tr>
<td>Intern Architects</td>
<td>Cost Estimators</td>
<td>Environmental Engineers</td>
<td>Other ______________________</td>
</tr>
<tr>
<td>Architectural Designers</td>
<td>Civil Engineers</td>
<td>Engineers-In-Training</td>
<td>Other ______________________</td>
</tr>
<tr>
<td>Draftspersons/CADD Operators</td>
<td>Structural Engineers</td>
<td>Professional Land Surveyors</td>
<td>Other ______________________</td>
</tr>
<tr>
<td>Specification Writers</td>
<td>Electrical Engineers</td>
<td>Land Surveyors-In-Training</td>
<td>Total Personnel</td>
</tr>
</tbody>
</table>
6. Indicate the specific services, and corresponding percentage of total services, to be self-performed by Proposer for this project:

7. Does the Proposer intend to use a Consultant(s)? _____ yes _____ no. If yes, list proposed Consultant(s) below:

<table>
<thead>
<tr>
<th>Consultant Name and address</th>
<th>Specific responsibilities and scope of work on this project</th>
<th>Percentage of total services to be performed by the Consultant</th>
<th>Has Consultant worked with Proposer on similar projects within last ten (10) years? (Yes/No)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
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<tr>
<td>5.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
8. Project organization chart. Identify key personnel and indicate their responsibilities for this project. Include Consultants as appropriate.
9. **Brief resumé of key persons anticipated to work on this project. These must be employed by the Proposer or Consultant(s).** A maximum of six (6) additional reproduced sheets may be utilized to provide this information. Include no other information or attachments.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Name and title</td>
<td>b. Position or Assignment for this project</td>
</tr>
<tr>
<td>c. Name of firm by which employed full time</td>
<td>d. Years experience:</td>
</tr>
<tr>
<td></td>
<td>With this firm: With other firms:</td>
</tr>
<tr>
<td>e. Education: Degree(s) / Years / Specialization</td>
<td>f. Active Professional Licensure: Year first licensed:</td>
</tr>
<tr>
<td></td>
<td>Discipline: State: License No.:</td>
</tr>
<tr>
<td>g. Specific experience and qualifications relevant to this project</td>
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</table>
**10. Work by firm which best illustrates project experience relevant to the proposed services described in RFQ NU-FR-03** (List not more than five (5) Projects).

<table>
<thead>
<tr>
<th>a. Project Name</th>
<th>b. Indicate if Project was Flood Recovery and if FEMA-funded</th>
<th>c. Nature of firm’s responsibility</th>
<th>d. Actual (A) or estimated (E) Contract Sum</th>
<th>e. Current status or percent complete</th>
<th>f. Actual (A) or estimated (E) completion date</th>
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</thead>
<tbody>
<tr>
<td>Project Description</td>
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<tr>
<td>Name of Architect in charge of Project</td>
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<tr>
<td>Client Contact Name and Phone Number</td>
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</table>
11. List five (5) largest current projects under contract or under contract negotiations that are being (or will be) performed by Proposer from the primary office listed in Item 3a.

<table>
<thead>
<tr>
<th></th>
<th>Project Type or Name</th>
<th>Project Description</th>
<th>Name of Architect in charge of Project</th>
<th>Client Contact Name and Phone Number</th>
<th>Nature of firm’s responsibility</th>
<th>Actual (A) or estimated (E) Contract Sum</th>
<th>Current status or percent complete</th>
<th>Actual (A) or estimated (E) completion date</th>
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</table>
12. List up to five (5) Northwood University projects which have been awarded to Proposer during the past ten (10) years.

<table>
<thead>
<tr>
<th>a. Project Type or Name</th>
<th>b. Nature of firm’s responsibility</th>
<th>c. Actual (A) or estimated (E) Contract Sum</th>
<th>d. Current status or percent complete</th>
<th>e. Actual (A) or estimated (E) completion date</th>
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<tbody>
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<td>Project Description</td>
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<td>NU Contact Person</td>
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13. Use this space to describe qualifications of the Proposer to provide services for this project, or any additional information or resources supporting Proposer’s qualifications. Information referencing the evaluation criteria specified in the RFQ (Section 5.1) and the Project’s anticipated scope of work should be included. A maximum of three (3) additional reproduced sheets may be utilized to provide this information. Include no other information or attachments.