

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: February 4, 2019

SUBJECT: Hendersonville High School

PRESENTER: Russ Burrell, County Attorney
John Mitchell, Business and Community Development Director

ATTACHMENTS: Yes

- 1) Cover Letter
- 2) AIA Contract
- 3) Proposed Budget
- 4) Schedule

SUMMARY OF REQUEST:

At the January mid-month meeting of the Board of Commissioners, the Board approved a plan to renovate and expand Hendersonville High School. The Board directed staff to negotiate a contract with PFA Architects to proceed with the project.

The proposal is for approximately 180,700 sq ft. of space, representing a combination of renovated buildings and new construction. The total cost is budgeted at \$59,175,605 with a construction budget of \$48,498,634. PFA's proposed fee for the project is 6% of the construction budget: \$2,910,000.

The school is scheduled to be open for the fall term of 2023.

BOARD ACTION REQUESTED:

The Board is requested to discuss the proposal, and direct staff accordingly concerning the future of the project.

Suggested Motion(s):

I move to accept/deny the contract with PFA Architects for Hendersonville High School.

EXHIBIT "A"

January 29, 2019

Mr. John Mitchell
Business and Community Development Director
Henderson County
johnmitchell@hendersoncountync.org
828-697-4819

Re: Henderson County Public Schools
Hendersonville High School
Architectural and Engineering Services Proposal

Dear John:

PFA Architects is honored to submit this proposal for basic design services for Hendersonville High School. We believe this project will be an extraordinary revitalization of the existing high school campus, and we are eager to move into the next design phase, building upon our work completed in the late fall and winter of 2018/2019. Based upon the work done in Advance Planning, we have arrived at a mutually agreed upon program as indicated in the most recent concept drawings and renderings presented to you, the Henderson County Board of Commissioners, and the Henderson County Public Schools Board.

Now that our Advance Planning work has been approved by the Henderson County Board of Commissioners, we offer the following proposal for basic design services for Hendersonville High School. The total project budget is \$59,175,605 from the Vannoy Construction cost estimate developed January, 2019 at your request. In addition, the planning phase has prioritized the following for the design of the project:

- A revitalized campus plan will support the program requirements of Hendersonville High School for a 900 student high school with 1,000 student core capacity.
- HHS will remain operational during construction.
- The design will utilize and renovate the Stillwell Building for classrooms and other educational uses.
- The design will utilize and renovate the Main Gym Building built in 1974.
- The Old Gym, Cafeteria Building, and Band Building are planned to be removed to provide space for the new addition.
- The Vocational Building will be used as swing space until the new addition is constructed and the Stillwell Building is renovated and then removed to provide a courtyard/commons space.
- Fire truck access and turn-around will be provided in the courtyard commons space.
- The new addition will tie the Stillwell Building to the Main Gym building via a two-story, fully accessible new structure.
- The Stillwell Auditorium will be renovated to increase the seating capacity and enhance the performance lighting and sound systems.
- The team will pursue Conditional Zoning District Approval per the City of Hendersonville requirements.
- An increase in parking capacity on the campus will be provided.
- Queuing area for car traffic will be provided on campus property.

- Enhanced security features will be included in the new addition design as well as Stillwell Building and Main Gym renovations.
- A new auxiliary gym will be provided.
- The project is divided into two main phases: the construction of the new addition and the renovation of Stillwell Building. Mini-milestones to turn over the gymnasiums and the Auditorium will be prioritized.

This proposal includes design and construction document activities: schematic design (SD), design development (DD) through construction documents (CD), as well as all construction related administration and review including coordination with CMAR during bidding/negotiation (B/N), construction administration (CA) and project closeout (PC). This proposal includes services for Civil, Landscape, Architectural, Structural, Plumbing, Mechanical, Electrical and Fire Protection Engineering as follows:

Basic Services (SD, DD, CD, BN, CA, PC):

Per the Vannoy Construction cost estimate dated January 11, 2019, the following project costs are used for fee calculations.

Estimated construction cost* \$48,498,634* @ 6%.....\$2,910,000 (rounded)

*includes design and owner contingencies of \$966,247 each as a percentage of the construction cost.

A/E Fee Basic Services are broken down as follows:

- Schematic Design (15%)
- Design Development (20%)
- Construction Documents (40%)
- Bidding and Negotiation Phase (5%)
- Construction Administration (19%)
- Contract Closeout (1%)
- Total Basic Compensation (100%)

Optional Additional Services and Special Consultants not included but may be provided for additional fee:

- Outsourced Professional Renderings other than computer generated by PFA Architects
- Special Consultants outside of the services consultants listed in this outline
- Architectural Interior Design
- Furniture and Loose Equipment Selection (except Kitchen Equipment and window coverings), Artwork Specification, Bidding and Consulting
- Coordination of Furniture Layout from Owner's consultant
- Third Party Acoustical Consulting, Acoustical Modeling, Acoustical Testing (Acoustical Treatment specifications will be provided in house for Band and Chorus rooms)
- Daylighting Modeling
- Telecommunications design and consulting: Telephone, Data cabling, switches, devices. Drawings providing telephone/data outlet locations, back boxes and conduit requirements will be provided.
- Security System Design & Special Engineering Consultants
- Audio Visual design engineering and consulting
- Offsite Improvements, including off-campus utility relocation & routing
- Environmental Assessments / Environmental Impact Statements
- Stream Impact Studies and Mitigation
- Road improvements during or post construction activities

- Traffic Impact Analysis - Pre-project and post-project traffic studies, Traffic Analysis as requested by NCDOT
- Work related to design of pedestrian crossings or reconfiguration of traffic lanes at adjacent streets, except for turning or bus lanes on school property
- Additional Surveying, topographical or for utilities - exploration/scoping of existing utility lines
- Permitting and review fees
- Fast tracking of the project schedule
- Detailed Cost Estimates , Life Cycle Cost Analyses
- Future Expansions (Building Additions or Additional Parking)
- Special Inspections
- Soils/Geotechnical Investigations and Testing
- Construction Materials and Compaction Testing
- Hazardous Material Testing, Analysis, Documentation and Abatement
- Athletic Field Improvements (track, artificial turfing and underdrainage system of existing football field)
- Renovations to accessory buildings at football field
- Work related to relocation of utility lines beneath the football field
- Design-bid-build, public bidding process services
- Multiple designs documented in construction documents (Minor bid alternates for budget control to be included)
- Multiple Bid packages
- LEED or other green building certification
- Commissioning Services

Reimbursable Expenses:

- Expenses in connection with out-of-town travel (considered outside of Hendersonville and Asheville) shall be considered Reimbursable Expenses, except one trip to Raleigh to DPI/DOI as required.
- Long-distance communication expenses and cell phone or other data communication expenses shall be included as a part of Basic Services.
- Fees paid for securing approval of authorities having jurisdiction over the Project shall be considered Reimbursable Expense.
- Included in Basic Services is 2 sets of Record Drawing Documents. Any additional sets or drawings will be made available to the Owner at cost of production/printing.
- Expense of reproduction documents prior to bidding/construction and the expense of reproduction including postage and handling of bid/construction documents shall be considered Reimbursable Expenses.
- Expense of overtime work of Architect or its sub-consultants requiring higher than regular rates, if authorized in advance by the Owner in writing, shall be Reimbursable Expense.
- General Revit generated renderings used for design clarity shall be considered Reimbursable Expenses. Services to provide highly rendered images, professional renderings, models or mock-ups requested by Henderson County shall be Additional Services.

2019 PFA Architects Hourly Bill-Out Rates (Subject to Change on an Annual Basis):

Principal in Charge	\$180.00/hr.
Project Architect	\$140.00/hr.
Design Staff	\$115.00/hr.
Interior Designer	\$105.00/hr.
Administrative Staff	\$100.00/hr.

Thank you for the confidence in our team, and we look forward to working with you on this very important project. PFA Architects is looking forward to building a relationship with Henderson County and as always, we welcome the opportunity to further discuss any questions you may have.

Sincerely,
PFA Architects, PA



Maggie Carnevale, AIA, LEED® AP
c: 828.712.8525
mcarnevale@pfarchitects.com



Scott T. Donald, AIA
c: 828-215-6551
sdonald@pfarchitects.com



AIA® Document B133™ – 2014

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

AGREEMENT made as of the **Thirty-First (31st)** day of **January** in the year **2019**.
(In words, indicate day, month and year.)

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

**County of Henderson, a body corporate & politic
One Historic Courthouse Square, Suite One
Hendersonville, NC 28792**

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

**PFA Architects, P.A.
196 Coxe Avenue
Asheville, NC 28801
Office: 828.254.1963
Fax: 828.253.3307**

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

**Hendersonville High School
1 Bearcat Blvd., Hendersonville, NC 28791
Revitalization of the existing High School campus; including a new addition and
several renovations to existing buildings. Refer to Attachment "A" dated January 29,
2019 for full description of Scope of Work.**

Third Party Beneficiary:
(Name, legal status, address and other information)
**Henderson County Board of Education, a body corporate corporate
414 Fourth Avenue West
Hendersonville, NC 28739
Main Office: 828.697.4802
Main Fax: 828.698.6126**

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

**James R. Vannoy & Sons Construction Co., Inc. (aka Vannoy Construction)
551 Brevard Road; Suite 111
Asheville, NC 28806
Main Office: 828.575.1300
Main Fax: 828.575.1374**

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Documents A201™–2007, General Conditions of the Contract for Construction; A133™–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134™–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

N/A

§ 1.1.2 The Project's physical characteristics:

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

Refer to attached Exhibit "A" – PFA's proposal letter; dated January 29th, 2019 [4 pgs.].

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

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

Refer to attached Exhibit "B" – Estimated Cost of Work; dated January 30th, 2019 [1 pg.].

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

.1 Design phase milestone dates, if any:

Tentative Milestone Schedule to be based on contract execution date:

- **Schematic Design Phase: February 15th, 2019 thru April 30th, 2019**
- **Design Development Phase: March 1st, 2019 thru May 31st, 2019**
- **Construction Documents Phase: May 16th, 2019 thru November 30th, 2019**

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.2 Commencement of construction:

May 2020

.3 Substantial Completion date or milestone dates:

May 2023

.4 Other:

See attached Exhibit "D" - Projected Construction Timeline (1 pg.).

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling or phased construction are set forth below:
(List number and type of bid/procurement packages.)

N/A

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner's sustainable objective, if any, or historic preservation requirements.)

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address and other information.)

Mr. John Mitchell, Business & Community Development Director
Henderson County
100 North King Street
Hendersonville, NC 28792
Office: 828.553.2857
Email: johnmitchell@hendersoncountync.gov

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

N/A

§ 1.1.10 The Owner will retain the following consultants:
(List name, legal status, address and other information.)

.1 Construction Manager:

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(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1)

Mr. Brian Walker, LEED®AP; Vice-President
Vannoy Construction
551 Brevard Road; Suite 111
Asheville, NC 28806
Office: 828.575.1300 / Fax: 828.575.1374 / Mobile: 828.772.4711
Email: brian.walker@jrvannoy.com

- .2 Cost Consultant (if in addition to the Construction Manager):
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

N/A

- .3 Land Surveyor:

Ed Holmes & Associates Land Surveyors, P.A.
Attn: Joshua E. Holmes, Vice-President/Director of Business Development
300 Ridgefield Court; Suite 301
Asheville, NC 28806
Office: 828.225.6562 x305
Mobile: 828.337.8906

- .4 Geotechnical Engineer:

Wood Environment & Infrastructure Solutions, Inc.
Attn: Jill M. Heimborg, P.E., Senior Engineer 2 / Project Manager
1308 Patton Avenue; Suite C
Asheville, NC 28806
Office: 828.252.8130
Mobile: 828.989.2253

- .5 Civil Engineer:

N/A

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

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address and other information.)

Maggie Carnevale, AIA, LEED®AP; Vice-President/Treasurer
Mobile: 828.712.8525
Email: mcarnevale@pfarchitects.com
PFA Architects, P.A.
196 Coxe Avenue
Asheville, NC 28801
Office: 828.254.1963 or Toll-Free 888.263.5281
Fax: 828.253.3307

Scott T. Donald, AIA; President/Secretary
Mobile: 828.215.6551
Email: sdonald@pfarchitects.com

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

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§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

TBD

.2 Mechanical Engineer:

TBD

.3 Electrical Engineer:

TBD

§ 1.1.12.2 Consultants retained under Additional Services:

N/A

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

Refer to attached Exhibit "A": PFA's proposal letter; dated January 29th, 2019 [4 pgs.].

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

§ 1.3 Third-Party Beneficiary.

The Third-Party Beneficiary is a third-party beneficiary to this Agreement and is entitled to the rights and benefits hereunder and may enforce the provisions hereof as if it was a party hereto.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

§ 2.2.1 The Architect acknowledges that the owner is relying on the Architect's special skill and expertise in projects of this type herein. Therefore, the Architect's services shall be performed as expeditiously as is consistent with the highest standard of care and with the utmost diligence and the orderly progress of the Project. Architect acknowledges that it will furnish the most skilled personnel for the Project and will give the Project the highest priority. Architect further warrants that it is skilled and experienced in projects of the type herein; has experience with the designs, details, materials, procedures, and methods intended for this Project; and has the capacity to meet all of the Owner's schedules. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Subparagraph 1.1.4; and which shall be adjusted, if necessary and if approved by Owner, as the Project proceeds. This schedule shall include Allowances for period of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submission by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not be exceeded by the Architect. Upon approval of any such schedule submitted by the Architect, such approved schedule shall be deemed a part of this Agreement. Architect also agrees that it will not be damaged by any delay caused by Owner or its consultants and shall not be entitled to any additional compensation for such delay, an extension of time in which Architect is to provide its services being the sole remedy for any delay caused by other parties.

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Refer to attached Exhibit "D" – Henderson County Attorney’s letter dated January 28th, 2019 [3 pgs.]

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 **Insurance.** The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

§ 2.6.1 Commercial General Liability with policy limits of not less than **One Million Dollars (\$ 1,000,000.00)** for each occurrence and **Two Million Dollars (\$ 2,000,000.00)** in the aggregate for bodily injury and property damage.

§ 2.6.2 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 (\$ 1,000,000.00)** per accident/claim and **One Million Dollars (\$ 1,000,000.00)** in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.

§ 2.6.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits of not less than **One Million Dollars per accident (\$ 1,000,000.00)**; and **policy limit is One Million Dollars (\$1,000,000.00)**.

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than **One Million Dollars (\$ 1,000,000.00)** per claim and **Two Million Dollars (\$ 2,000,000.00)** in the aggregate.

§ 2.6.6 The Owner shall be an additional insured on the Architect’s primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

§ 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies.

ARTICLE 3 SCOPE OF ARCHITECT’S BASIC SERVICES

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner’s consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner’s consultants. The

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Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

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

§ 3.1.5.1 The Architect represents that it is familiar with, and experienced in the interpretation and implementation of, laws, codes, and regulations applicable to the Architect's services and the Project in general. Accordingly, the Architect shall be subject to the highest standard of care in its execution of the work of this Project and as applicable to such laws, codes and regulations. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on Architect's expertise in laws, codes and regulations concerning projects of this type. The Architect warrants that all work performed by the Architects, any consultants of the Architect, and any other party being coordinated by the Architect for this Project, shall fully comply with all such laws, codes and regulations. In the event that the Project fails to comply with the Contract Documents, then the Architect shall be responsible to the Owner for any damages, including costs of replacement, lost income and all other direct and indirect costs associated with such failure.

Refer to attached Exhibit "C" – Henderson County Attorney's letter dated January 28th, 2019 [3 pgs.]

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

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

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

§ 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

§ 3.2.2 During one of the design phases, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors,

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omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

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

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

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.

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

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

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

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

§ 3.4 Design Development Phase Services

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

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

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

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

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.

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

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201-2007, 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 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. 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 such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

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

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

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

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

§ 3.6.3.2 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 material suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

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

§ 3.6.4 Submittals

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

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

§ 3.6.4.4 Subject to the provisions of Section 4.3, 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 requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

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

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Assistance with selection of the Construction Manager	Not Provided	
§ 4.1.2 Programming (B202™–2009)	Not Provided	
§ 4.1.3 Multiple preliminary designs	Not Provided	
§ 4.1.4 Measured drawings	Architect	
§ 4.1.5 Existing facilities surveys	Not Provided	
§ 4.1.6 Site evaluation and planning (B203™–2007)	Not Provided	
§ 4.1.7 Building information modeling (E203™–2013)	Not Provided	
§ 4.1.8 Civil engineering	Architect	
§ 4.1.9 Landscape design	Architect	
§ 4.1.10 Architectural interior design (B252™–2007)	Not Provided	
§ 4.1.11 Value analysis (B204™–2007)	Not Provided	
§ 4.1.12 Detailed cost estimating	Not Provided	
§ 4.1.13 On-site project representation (B207™–2008)	Not Provided	
§ 4.1.14 Conformed construction documents	Not Provided	
§ 4.1.15 As-designed record drawings	Not Provided	
§ 4.1.16 As-constructed record drawings	Architect	
§ 4.1.17 Post occupancy evaluation	Not Provided	

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§ 4.1.18	Facility support services (B210™-2007)	Not Provided	
§ 4.1.19	Tenant-related services	Not Provided	
§ 4.1.20	Coordination of Owner's consultants	Not Provided	
§ 4.1.21	Telecommunications/data design	Not Provided	
§ 4.1.22	Security evaluation and planning (B206™-2007)	Not Provided	
§ 4.1.23	Commissioning (B211™-2007)	Not Provided	
§ 4.1.24	Extensive environmentally responsible design	Not Provided	
§ 4.1.25	LEED® certification (B214™-2012)	Not Provided	
§ 4.1.26	Historic preservation (B205™-2007)	Not Provided	
§ 4.1.27	Furniture, furnishings, and equipment design (B253™-2007)	Not Provided	

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

Refer to attached Exhibit "A" (PFA's proposal letter dated January 29th, 2019) with regards to Optional Additional Services. These Additional Services will not be performed without direct consultation with, review, approval, and coordinated with Owner's written consent to proceed for Additional Fee(s).

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

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

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- .15 Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

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

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

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

- .1 **Two (2)** reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 **Seventy-Two (72)** visits to the site by the Architect over the duration of the Project during construction
- .3 **Two (2)** inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 **Two (2)** inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within **Fifty (50)** months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. 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.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

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

§ 5.4 The Owner shall establish and periodically update 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 furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's

budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

§ 5.7 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

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

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

§ 5.12 The Owner shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Managers' general conditions costs, overhead, and profit. The Cost of the Work does not include the compensation of the Architect, the compensation of the Construction Manager for Preconstruction Phase services, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

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

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

§ 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.

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

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

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

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

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

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

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

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

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§ 8.2 Mediation

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

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

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

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

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

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

§ 8.3 Arbitration

Refer to attached Exhibit "C" – Henderson County Attorney's letter dated January 28th, 2019 [3 pgs.].

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

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

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," **to the extent and only to such extent as such information qualifies as "confidential information: pursuant to N.C. Gen. Stat. §132-1.2,** the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

Refer to attached Exhibit "C" – Henderson County Attorney’s letter dated January 28th, 2019 [3 pgs.].

ARTICLE 11 COMPENSATION

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

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

Refer to attached Exhibit "A" – PFA’s proposal letter dated January 29th, 2018 [4 pgs.].

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

Refer to Article 11.7 for Current 2019 Bill-out Rates; which are subject to change on an annual basis.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Refer to Article 11.7 for Current 2019 Bill-out Rates; which are subject to change on an annual basis.

§ 11.4 Compensation for Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus **Twenty** percent (**20** %), or as otherwise stated below:

Refer to Article 11.7 for Current 2019 Bill-out Rates; which are subject to change on an annual basis.

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

Schematic Design Phase	Fifteen	percent (15)	(%)
Design Development Phase	Twenty	percent (20)	(%)
Construction Documents Phase	Forty	percent (40)	(%)
Construction Phase	Twenty-Five	percent (25)	(%)
<hr/>					
Total Basic Compensation	one hundred	percent (100)	(%)

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

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Principal in Charge	\$180.00/hr.
Project Architect	\$140.00/hr.
Design Staff	\$115.00/hr.
Interior Design	\$105.00/hr.
Administrative Staff	\$100.00/hr.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows (Refer to attached Exhibit "A" – PFA's proposal letter dated January 29th, 2019; pg. 3 specifies changes to this Article §11.8.1):

- .1 Transportation and authorized out-of-town travel and subsistence [Expenses in connection with out-of-town travel (considered outside of Hendersonville & Asheville) shall be considered Reimbursable Expenses, except one trip to Raleigh to DPI/DOI as required];
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets are included as a part of Basic Services;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents [Basic Services includes two (2) Sets of Record Drawing Documents; any additional sets or drawings will be made available to the Owner at cost of production/printing. Expense of reproduction documents prior to bidding/construction & the expense of reproduction, including postage & handling of bid/construction documents, shall be considered Reimbursable Expenses];
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner [General Revit generated renderings used for design clarity shall be considered Reimbursable Expenses. Services to provide highly rendered images, professional renderings, models or mock-ups requested by Henderson County or Henderson County Board of Education shall be Additional Services];
- .8 Architect's consultants' expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

Refer to attached Exhibit "A" – PFA's proposal letter; dated January 29th, 2019 [4 pgs.]. Page 3 specifies/clarifies changes to Article §11.8.1 above with regards to Reimbursable Expenses.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus **Zero** percent (**0.00** %) of the expenses incurred.

§ 11.8.3 If the insurance requirements listed in Section 2.6 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

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The Owner shall reimburse the Architect for the actual cost, with no mark-up, should this be a requirement in excess of what the Architect's normal limits and types are.

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

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

N/A

§ 11.10 Payments to the Architect

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

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid **Sixty (60)** days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

Eight % per annum

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

N/A

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

- **Exhibit "A": PFA Architects, P.A.'s fee proposal dated January 29th, 2019 [4 pgs.]**
- **Exhibit "B": PFA Architects, P.A.'s Cost Estimate dated January 30th, 2019 [1 pg.]**
- **Exhibit "C": Henderson County Attorney's letter dated January 28th, 2019 [3 pgs.]**
- **Exhibit "D" - Projected Construction Timeline (1 pg.).**
- **PFA Architects, P.A.'s Current Certificate of Insurance [1 pg.]**
- **Completed 2019 IRS form W-9 [1 pg.]**

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

COUNTY OF HENDERSON
(a body corporate and politic)

PFA ARCHITECTS, P.A.

OWNER *(Signature)*

Grady Hawkins, Chairman
Henderson County Board of Commissioners

(Printed name and title)

ARCHITECT *(Signature)*

Martha V. Carnevale, AIA; LEED ®AP
Architect/Vice-President/Treasurer

(Printed name and title)

COUNTY OF HENDERSON
(a body corporate and politic)

PFA ARCHITECTS, P.A.

Attested By *(Signature)*

Teresa Wilson, Clerk to the Board
Henderson County Board of Commissioners

(Printed name and title)

Attested By *(Signature)*

Scott T. Donald, AIA
Architect/President/Secretary

(Printed name and title)

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EXHIBIT "B"

CONCEPTUAL BUDGET ESTIMATE prepared by PFA Architects

HENDERSONVILLE HIGH SCHOOL

30-Jan-19

	Preliminary Estimate	Notes
	<i>Totals</i>	
ESTIMATED CONSTRUCTION COSTS		
Sitework		
Construction Cost	\$7,472,804	per Vannoy estimate dated 1/11/19
Contingency - Construction	\$224,184	
Sub-Total	\$7,696,988	
Renovation		
Existing Gym Building	\$3,463,411	per Vannoy estimate dated 1/11/19
Contingency - Construction	\$103,902	
Stillwell Building (High School Renovations)	\$11,177,244	
Contingency - Construction	\$335,317	
Contingency - Stillwell Water Issues/Unknowns Allowance	\$750,000	
Sub-Total	\$15,829,874	
New Construction		
Academic Building	\$22,368,231	per Vannoy estimate dated 1/11/19
Contingency - Construction	\$671,047	
Sub-Total	\$23,039,278	
Sub-Total - Construction Costs	\$46,566,140	
Design Contingency	\$966,247	per Vannoy estimate dated 1/11/19
Owner Contingency	\$966,247	

ESTIMATED CONSTRUCTION COSTS	\$48,498,634
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ESTIMATED SOFT COSTS		
CM Fee Construction	\$1,746,230	per Vannoy estimate dated 1/11/19
CM Precon Fee	\$241,562	per Vannoy estimate dated 1/11/19
Professional/Technical/Inspection Fees	\$4,522,038	
Fixtures, Furnishings & Equipment; Technology	\$3,517,141	
Permit Fees	\$300,000	per Vannoy estimate dated 1/11/19
Electrical utility relocations	\$350,000	per Vannoy estimate dated 1/11/19
Sub-Total Soft Costs	\$10,676,971	

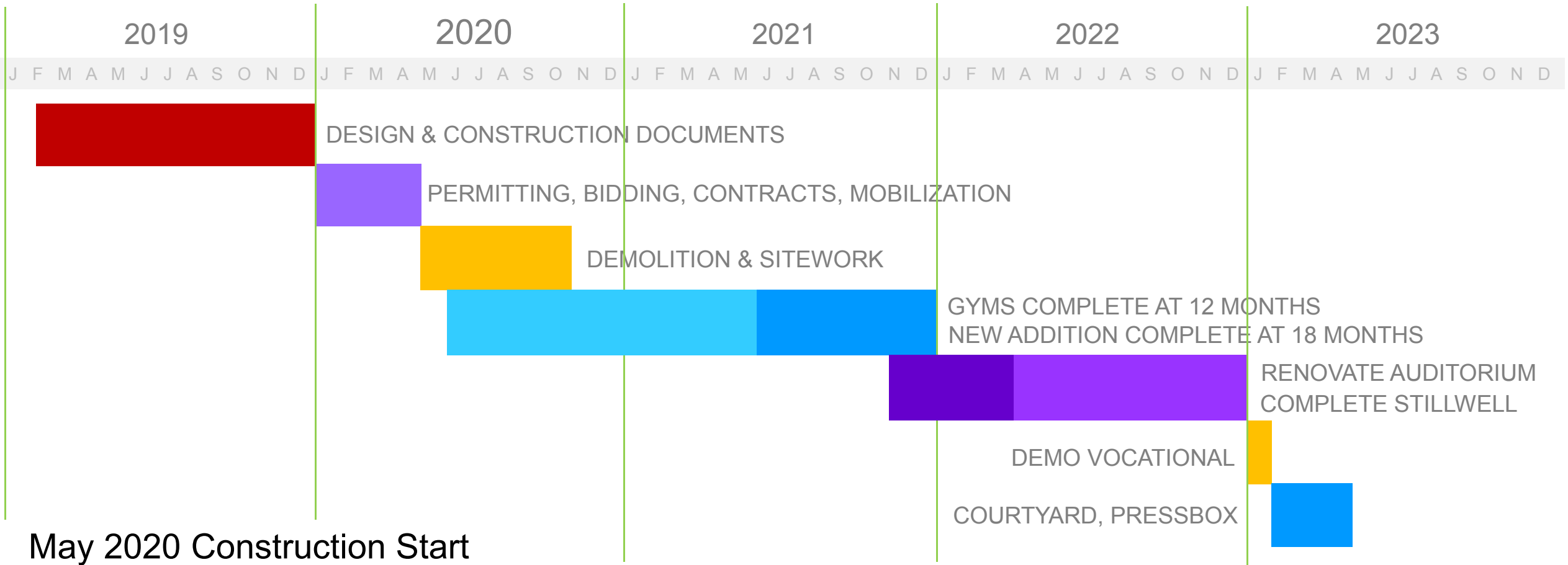
ESTIMATED TOTAL PROJECT BUDGET	\$59,175,605
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FIELD IMPROVEMENTS PROJECT (Not included in PFA scope of work)		
Synthetic Field Turf and Resurface of Track	\$1,100,000	per Medallion estimate dated 1/29/19 no stormwater or sewer relocation included

ESTIMATED GRAND TOTAL BUDGET OF 2 PROJECTS	\$60,275,605
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PROJECTED CONSTRUCTION TIMELINE

EXHIBIT "D"



May 2020 Construction Start

June 2021 New Auxiliary Gym & Gym Renovation Complete

December 2021 New Addition Complete

December 2022 Educational Facilities Complete

May 2023 Project Completion