

 **AIA**[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the **Twenty-third day of May** in the year **Two Thousand Eleven**
(In words, indicate day, month and year)

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

Penn Manor School District
2950 Charlestown Road
Lancaster, PA 17603

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

Crabtree, Rohrbaugh & Associates
401 East Winding Hill Road
Mechanicsburg, PA 17055

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

CRA Project No. 2443 Penn Manor School District - New Hambright Elementary School

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.

Init.

AIA Document B101[™] – 2007 (formerly B151[™] – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved.** WARNING: This AIA[®] Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA[®] Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

TABLE OF ARTICLES

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

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article I and in optional Exhibit A, Initial Information:

To the extent any Exhibit or Addenda is comprised of documents that purport to constitute contracts between the parties thereto, the parties agree that such Exhibit or Addenda shall not be considered of any evidentiary value in any proceeding between the parties hereto unless the same is executed by both parties hereto.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To be determined at a later date

.2 Substantial Completion date:

To be determined at a later date

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§ 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. **In addition, all services performed by the Architect under this Agreement shall be in compliance with all applicable laws, regulations, rules, codes and ordinances governing the Project.**

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

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

§ 2.5 The Architect shall maintain the following insurance **until substantial completion of the Project, and for Professional Liability insurance until five years after substantial completion. However, if after substantial completion the Professional Liability limits set forth below exceed limits the Architect normally maintains, the Owner shall either waive such requirement or reimburse the Architect for any additional cost:**

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

- .1 Commercial General Liability

Each Occurrence	\$1,000,000
Fire Damage (Any One Fire)	\$1,000,000
Medical Expenses (Any One Person)	\$ 5,000
Personal & Adv. Injury	\$1,000,000
General Aggregate	\$2,000,000 (applies per Policy)
Products – Comp/Op Agg	\$2,000,000
 Excess Liability:	
Each Occurrence	\$4,000,000
Aggregate	\$4,000,000

- .2 Automobile Liability

Bodily Injury and Property Damage Combined	\$1,000,000
--	-------------

- .3 Workers' Compensation

Bodily Injury By:	
Accident	\$500,000 Each Accident
Policy Limit	\$500,000 Policy Limit
Disease	\$500,000 Each Employee

- .4 Professional Liability

Architects and Engineers	
Limit Each Claim	\$4,000,000
In the Aggregate	\$8,000,000

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. **Unless indicated clearly to the contrary herein, services not set forth in Article 3 are Additional Services pursuant to §4.2. The Architect shall enter a written**

Init.

agreement with each consultant providing any of the foregoing engineering services, which shall state expressly that the Owner is an intended third-party beneficiary to the agreement. The Architect shall provide the Owner a copy of each such agreement promptly after it is signed.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, **unless excused from attendance by the Owner**, communicate with members of the Project team and report progress to the Owner. **The Architect shall promptly prepare and distribute minutes of each Project meeting it attends, unless another meeting attendee is contractually obliged to do so.**

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants, **and Owner Requested Architectural Consultants**. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, **Owner Requested Architectural Consultants** and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information. **The Architect shall also promptly advise the Owner in writing of any defects or deficiencies in the Work of Contractors.**

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants **and Owner Requested Architectural Consultants**, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, 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.

§ 3.1.6 The Architect shall assist the Owner **with the preparation and timely filing of documents required** for the approval of governmental authorities having jurisdiction over the Project, **including Plancon submittals.**

§ 3.1.7 **Upon reasonable request of the Owner, the Architect shall make presentations to the Owner to explain the design and progress of the Project to the Owner.**

§ 3.1.8 **The Architect shall advise the Owner of any need or advisability of the Owner's securing any test, analysis, studies reports, or consultant services in connection with the development of the design and construction documents for the Project, to the extent the Architect is or reasonably should be aware of such need.**

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. **However, the Architect shall not be required as part of Basic Services to attend municipal meetings or hearings relating to subdivision or land development approval, including without limitation, zoning hearings. Attendance at all such meetings and hearings by the Architect shall be considered Additional Services.**

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, **including if the Owner's budget for the Cost of the Work is inadequate for the Project**, and (2) other information or consulting services that may be reasonably needed for the Project. **The Architect shall not be liable for inconsistencies not discovered with reasonable care.**

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:14:29 on 01/03/2012 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1281513528)

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches.

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

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

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

§ 3.2.6 The Architect shall submit to the Owner for approval a written estimate of the Cost of the Work prepared in accordance with Section 6.3. **The Architect's estimated Cost of the Work shall identify any discrepancy between such estimate and the Owner's budget for the Cost of the Work. The Architect shall also take any remedial action required under Section 6.5 of this Agreement.**

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

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and 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.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit to the Owner for approval the Design Development documents and an updated estimate of the Cost of the Work. **The Architect's updated estimated Cost of the Work shall identify any discrepancy between such estimate and the Owner's budget for the Cost of the Work, and the Architect shall take any remedial action required under Section 6.5.**

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

Init.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall **prepare for the Owner's review and approval the development and preparation of** (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms. **Approval of such documents by the Owner shall be based on the Owner's expectation that the Architect's design is in compliance with all requirements of this Agreement.**

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit **to the Owner for approval** the Construction Documents **and an updated estimate of the Cost of the Work**. **The Architect's updated estimate Cost of the Work shall identify any discrepancy between such estimate and the Owner's budget for the Cost of the Work, and the Architect shall take any remedial action required under Section 6.5.**

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall **prepare for the Owner's review and approval** a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

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

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

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, and, if applicable, maintaining a log of distribution;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda;
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner; and
- .6 **assist the Owner in evaluating the qualifications of bidders.**

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions.

§ 3.5.2.4 **If the aggregate lowest responsible bids exceed the Cost of the Work in the Owner's budget, and the Owner decides to rebid the Project pursuant to Section 6.6.4, the Architect, as part of Basic Services, in consultation with an at the direction of the Owner, shall provide such design modifications as are necessary to bring such costs within the Owner's budget.**

§ 3.5.3 NEGOTIATED PROPOSALS [DELETED IN ITS ENTIRETY]

(Paragraphs deleted)

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction **as amended by the Supplementary Conditions**. If the Owner and Contractor 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.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

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

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with **and to keep the Owner informed about** the progress and quality of the portion of the Work completed, **to endeavor to guard the Owner against defects and deficiencies in the Work**, 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. **As part of its duties under this paragraph, the Architect shall participate in all regularly scheduled construction site conferences and in special Project meetings where the Owner reasonably requests its attendance. The Architect shall visit the site at least once every two weeks during construction, unless the Owner approves in writing less frequent visits. In contracts with its own consultants and Owner Requested Architectural Consultants identified in paragraph 12.3, the Architect shall require that basic fee services include a level of participation in Project meetings and site visits that is, at a minimum, appropriate and customary for such consultants. The Architect shall respond promptly to address and provide input on any issues that may arise during construction, including Contractor requests for information or direction, Contractor change order requests, Contractor's failure to comply with the Contract Documents, or other issues that could cause Project delay or deficiencies. In the event of disputes among Contractors, the architect will provide input to assist in resolution of such disputes, including participating in special meetings, other communications and providing advice as needed to help resolve the problem.** On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and **promptly** report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. **In all of the above steps, the Architect shall use reasonable care as an architect to guard the Owner against defects and deficiencies in the Work. The duration of construction administration services is based upon the duration for construction in the original construction schedule prepared by the Contractor and approved by the Owner. Services extending beyond this date shall be considered additional services, subject to the provisions of 4.3.2.6 except for services provided pursuant to Section 3.6.6.5 or to the extent Project delay is caused by the Architect's failure to comply with its obligations under this Agreement. The Architect shall include in the Contract Documents a provision that a Contractor causing Project delay shall be liable for, among other things, reimbursing the Owner for any additional fees to the Architect resulting from such delay.**

§ 3.6.2.2 The Architect shall reject Work that does not conform to the Contract Documents **to the extent Architect has actual knowledge of such Work, unless the Owner accepts in writing such non-conforming Work.** Whenever the Architect considers it necessary or advisable, the Architect shall have the authority, **with the Owner's written approval**, 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 Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work. **This section is not intended to make Architect liable for failing to discover using reasonable care such non-conforming Work.**

Init.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

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

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated 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 deviations from the Contract Documents prior to completion, (4) to specific qualifications expressed by the Architect, and (5) to any later discovery of defective or deficient Work. **The issuance of a Certificate for Payment shall not excuse a Contractor's nonperformance of its duties or waive a Contractor's liability for such nonconformance. The Architect shall not be responsible for securing any waivers or partial waivers of mechanics' lien claims from Contractor.**

§ 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 Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. 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 **timely** review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with information given and the Contract Documents. **However**, review of such submittals is not for the purpose of determining the accuracy and completeness of dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, 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 Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:14:29 on 01/03/2012 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1281513528)

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 **timely** 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 Contractor 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, **and shall provide prompt written notice to the Owner of any such minor change.** Subject to the provisions of Section 4.3, the Architect shall prepare **proposed** Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. **The Architect shall include with any proposed Change Order or Construction Change Directive its recommendation on approval by the Owner, and supporting data and information regarding any associated change in the cost or time of the Project.**

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

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 When the Contractor provides notice that it has achieved Substantial Completion, the Architect shall require that the Contractor provide a list of items the Contractor believes must be finally completed. Upon receipt of such list, the Architect shall promptly inspect the Work, and thereafter shall promptly report in writing to the Contractor and the Owner the following: (1) whether Substantial Completion is achieved, and if not what must still be accomplished to achieve Substantial Completion; (2) any items on the Contractor's list that remain to be completed or corrected; and (3) any items not on the Contractor's list that must be completed or corrected. If Substantial Completion is not achieved at the time of such inspection, the Architect shall repeat the foregoing upon further notice by the Contractor that Substantial Completion has been achieved. When the Contractor provides notice that it has achieved Final Completion, the Architect shall promptly inspect the Work, and thereafter shall promptly report in writing to the Contractor and the Owner the following: (1) whether Final Completion is achieved; and (2) if Final Completion has not been achieved, items that must be completed or corrected and the Architect's estimated cost to complete or correct each item. The Architect shall receive from the Contractor 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 Contractor, and shall 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 Contractor 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 Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. **The Architect shall provide in the Contract Documents that the Owner's retainage upon Substantial Completion shall be the greater of (a) 5% of the Contract Sum adjusted by change orders, or (b) the amount necessary to protect the Owner's interest, a minimum of 200% of the Architect's estimated cost to complete or correct Work at the time of Substantial Completion.**

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2)

Init.

affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Prior to the expiration of one year from the date of Substantial Completion, the Architect shall, as part of Basic Services, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1

(Paragraphs deleted)

Please refer to §4.2 for additional information.

(Table deleted)

§ 4.2 The Architect shall furnish or provide the following services only if specifically designated. To the extent the following services are the sole responsibility of the Owner, they shall be hereafter referred to as "Owner" or "Owner Requested Architectural Consultant". 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. See also Article 12 regarding Owner Requested Architectural Consultants.

DEFINITIONS:

Basic Services	Services provided as part of Architect's Basic Services and are included in the Architect's Basic Fee (see §11.1)
Additional Services	Not part of Architect's Basic Services. These services will be provided by the Architect and billed in accordance with §11.2 and 11.3
Owner Requested Architectural Consultant	Not part of Architect's Basic Service. These services will be billed in accordance with §11.3.
Under Separate Contract	Not part of Architect's Basic Services. These services will be provided under a separate contract and will be billed in accordance with the terms of that contract.

Service	Responsibility	Type of Services			
		Basic Services	Additional Services	Owner Requested Architectural Consultant	Under Separate Contract
§4.2.1	Programming				
§4.2.2	Multiple preliminary designs	X			
§4.2.3	Measured drawings				
§4.2.4	As Built Existing Facilities Surveys				
§4.2.4.1	Visual Inspection of Existing Facilities				
§4.2.5	Site Evaluation and Planning (B203™-2007)				
§4.2.6	Building information modeling LOD 300 (see §12.5 and §12.6)	X			
§4.2.7	Space Schematic/Flow Diagrams	X			
§4.2.8	Economic Feasibility				

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:14:29 on 01/03/2012 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1281513528)

	Survey					
§4.2.9	Owner Supplied Data Coordination	Owner				
§4.2.10	Schedule Development and Monitoring	Architect (Design Schedule Only)	X			
§4.2.11	Civil engineering, Design and Municipal Approval	Owner			X	
§4.2.12	Landscape design	Owner			X	
§4.2.13	Architectural Interior Design	Architect	X			
§4.2.14	Bidding or Negotiation	Architect	X			
§4.2.15	Value Engineering	Owner/Architect	X			
§4.2.16	Detailed cost estimating	Not Provided				
§4.2.17	On-site project representation	Owner				
§4.2.18	Conformed construction documents	Architect		X		
§4.2.19	As-designed record drawings	Architect		X		
§4.2.20	As-constructed record drawings	Architect		X		
§4.2.21	Post occupancy evaluation	Not Provided				
§4.2.22	Facility Support Services (B210™-2007)	Owner				
§4.2.23	Tenant-related services	Not Provided				
§4.2.24	Coordination of Owner's Security and IT consultants	Architect	X			
§4.2.25a	Telecommunications/data raceway and cabling design	Architect	X			
§4.2.25b	Telecommunications/data equipment design and procurement	Owner				
§4.2.26	Security Evaluation and Planning (B206™-2007)	Owner				X
§4.2.27	Commissioning (B211™-2007)	Owner				X
§4.2.28	LEED® Certification (B214™-2007)	Owner				X
§4.2.29	Fast-track design services	Not Provided				
§4.2.30	Historic Preservation (B205™-2007)	Owner				
§4.2.31	Furniture, Finishings and Equipment Design	Architect		X		
§4.2.32	Food Service Consultants	Owner			X	
§4.2.33	Local and Regulatory Application	Architect	X			
§4.2.34	Environmental/Asbestos/ Geotechnical Engineering	Owner			X	
§4.2.35	Codes Consultant	Owner			X	
§4.2.36	Testing and Inspection Services	Owner			X	
§4.2.37	All Plancon related services and approvals (applicable to PA Educational Projects)	Owner/Architect	X			
§4.2.38	Technical Lab, Equipment and Utility Layout	Owner			X	

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§4.2.39	Assistance with Grants	Owner/Architect		X		
§4.2.40	Public Hearings (Planning, Zoning, etc.)	Owner		X		
§4.2.41	Exhibit/Graphic Design	Architect		X		
§4.2.42	Web-based Construction Administration	Owner		X		
§4.2.43	Property surveys as defined in §5.4	Owner			X	

§ 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. **The Architect shall provide in the Project specifications that any Contractor creating the need for Additional Services by the Architect will pay all costs associated with such Additional Services, and the Architect shall prepare and present to the Owner for approval a Change Order or Construction Change Directive regarding such costs.**

§ 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 authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method or **alternate bids for Work not included in the Plan on Part D estimate referred to in §11.1;**
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 **Intentionally deleted;**
- .7 **Intentionally deleted;**
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 **Intentionally deleted;**
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 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, **within 24 hours of the Architect's explanation of the facts and circumstances giving rise to the need for Additional Services, determines that all or parts of those services are not required, and, within such time period gives notice to the Architect of the Owner's determination, then the Owner shall have no further obligation to compensate the Architect for the following services:**

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require **extensive** evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating **more than five** Claims as the Initial Decision Maker;

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

- .5 Evaluating substitutions proposed by the Owner or Contractor 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 90 days after the date of Substantial Completion of the Work **if the Architect has been diligent in its duties attempting to move the Project from Substantial Completion to Final Completion.**

§ 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 up to 2 (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 up to an average of one (1) visit per two weeks to the site by the Architect over the duration of the Project during construction
- .3 up to 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 up to 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 **forty eight (48)** 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, and information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights. **The Architect shall in a timely manner review such information and advise the Owner of any concerns or deficiencies with the information provided.**

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including the budget for the Cost of the Work as defined in Section 6.1. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project, **but only to the extent authorized in writing by the Board of School Directors.** 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.

§ 5.4 **If requested by the Architect and needed for the Project, then through an Owner Requested Architectural Consultant,** 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.

§ 5.5 **If requested by the Architect and needed for the Project, then through an Owner Requested Architectural Consultant,** 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.

§ 5.6 The Architect shall coordinate the services of **Owner Requested Architectural 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

init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:14:29 on 01/03/2012 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1281513528)

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 Architect shall require that the Owner Requested Architectural Consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 If requested by the Architect and needed for the Project, then through an Owner Requested Architectural Consultant, the Owner shall furnish tests, inspections, IBC 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.

§ 5.8 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.

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

§ 5.10 Except as otherwise provided in this Agreement, at **Project Meetings** or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 The Cost of the Work shall be the estimated costs of all elements of the Project designed or specified by the Architect, taking into account the current market rates of labor and materials to be furnished by the Owner or Contractors, a reasonable allowance for Contractors' overhead and profit, and reasonable contingencies for bidding, changes in the Work and other factors. The Cost of the Work does not include the cost of the Architect, the Architect's Consultants, the Owner Requested Architectural Consultants, Construction Management costs incurred by the Owner, the land, rights-of-way, financing, or other so-called "soft costs" that are the responsibility of the Owner.

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project **with written approval of the Owner**; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

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

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

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the **aggregate low responsible bids**, the Owner shall

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The 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 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, **or in connection with future repairs, renovations or additions to the Project** provided that the Owner substantially performs its obligations, including prompt payment of all **undisputed** 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 Contractor, 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, **or in connection with future repairs, renovations or additions to 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 author 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. **Upon termination of this Agreement prior to completion of the Project, the Owner shall be permitted to continue to use the Instruments of Service solely for the**

Init.

completion of the Project, so long as the Owner employs similarly credentialed design professionals to reproduce and where permitted by law, to make changes, corrections, or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project. If the Architect is finally adjudged to have not been in default of this Agreement at the time the Owner terminates the Agreement, then the foregoing license shall be unaffected, but the Architect shall be entitled to payment by Owner of all of its fee for services performed prior to termination and 10% (ten percent) of its anticipated fee for services called for under this Agreement but not performed after termination.

§ 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, with the doctrine of nullum tempus applicable to any claims or causes of action by the Owner, subject, however, to the twelve year statute of repose.

§ 8.1.2 Intentionally deleted.

§ 8.1.3 Intentionally deleted.

§ 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 only if both parties elect to pursue mediation.

§ 8.2.2 Intentionally deleted.

§ 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

(Paragraphs deleted)

Intentionally deleted.

§ 8.3 ARBITRATION

§ 8.3.1 Any claim, dispute or other matter up to a value of \$100,000 in question arising out of or related to this Agreement or breach thereof shall be subject to binding arbitration at the sole discretion and election of Owner. Owner must elect arbitration either before initiating litigation or within 30 days of service of original process of litigation upon Owner. Prior to arbitration, the parties upon mutual agreement may endeavor to resolve disputes by mediation in accordance with Section 8.2.

(Paragraph deleted)

§ 8.3.2 In any arbitration proceeding commenced pursuant to this Agreement, the parties shall be entitled to conduct pre-hearing discovery for a period of ninety (90) days, which discovery may include depositions, written requests for the inspection and reproduction of relevant documents or tangible things. Responses to written interrogations and document requests shall be served within thirty (30) days of service thereof. With respect to expert testimony and discovery related thereto, Rule 4003.5 of the Pennsylvania Rules of Civil Procedures shall apply. The arbitrator(s) shall have the authority to issue appropriate orders to enforce the parties' entitlement to discovery hereunder and, upon disobedience of any such order, may prohibit the disobedient party from introducing in evidence designated documents, thing or testimony.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§ 8.3.3 Claims, disputes and other matters in question between the parties that are decided by arbitration shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties agree otherwise. The Owner's demand for arbitration must be filed in writing with the other party to this Agreement, other parties joined in the arbitration and with the American Arbitration Association.

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

§ 8.3.3.2 The parties will be obliged to include, as a part of any arbitration proceedings, by joinder or consolidation, all persons or entities not a Part to this Agreement to the extent necessary for resolution of the matter in controversy. All contracts relating to this Project shall include this provision. The foregoing including the obligation to arbitrate with an additional person or entity by joinder or consolidation shall be specifically enforceable in accordance with applicable law in any court having jurisdiction. Joinder or consolidation of necessary or interested parties shall be a condition precedent to the obligation to arbitrate.

§ 8.3.3.3 In the event a dispute arising under this Agreement is not arbitrated, the parties agree that it shall be subject to bench trial in the Court of Common Pleas of Lancaster County, Pennsylvania, and the parties waive the right to a jury in such proceeding.

§ 8.3.3.4 The Architect shall include these provisions applicable to dispute resolution in all contracts with its consultants, Owner Requested Architectural Consultants, and in the Contractor Specifications for this Project.

§ 8.3.4 CONSOLIDATION OR JOINDER [Section intentionally deleted in its entirety]

(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 pursuant to Section 9.4 or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the 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 and all reimbursable expenses. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

§ 9.4 Either party may terminate this Agreement upon not less than **fourteen (14) 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. **PROVIDED, however, that the defaulting party shall have fourteen (14) days from the date of such notice to cure any specifically noticed failure to substantially perform. If the cure of such material failure to perform cannot be completed within the time period set forth in this §9.4, then so long as the defaulting party shall have undertaken a good faith effort to effect such cure, and such cure will be completed within a reasonable time after the good faith effort has been undertaken, then the other party shall not have the right to terminate this Agreement.**

§ 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.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§ 9.7 Intentionally deleted.

§ 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.

§ 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, as amended by Supplementary General Conditions.

§ 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 Upon written approval of the Owner, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials, except approval is not required to include such materials in responses to written requests from prospective clients of the Architect. 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," 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, (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) others as required by law.

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.)

Fee will be a lump sum fee based on Five and Three Quarters Percent (5.75%) of the Cost of the Work (defined in Section 6.1) approved by the Board at the time of submission of Plancon D.

Fee(s) for any other project(s) will be negotiated at the time the Owner proceeds with a project.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§ 11.2 For Additional Services designated in Article 4, 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.)

A lump sum proposal as agreed to by the Owner and Architect, or for hourly additional services at the billable rates as identified in §11.7. Compensation for services rendered by Consultants shall be based on a multiple of one point two (1.2) time the amounts billed by the Architect's Consultants and approved by the Owner, and of one point one (1.1) times the amounts billed by Owner Requested Architectural Consultants and approved by the Owner.

§ 11.3
(Paragraphs deleted)
 Intentionally deleted.

§ 11.4 Intentionally deleted.

§ 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	Twenty five	percent (25	%)
Design Development Phase	Thirty Five	percent (35	%)
Construction Documents Phase	Twenty Five	percent (25	%)
Bidding or Negotiation Phase	Five	percent (5	%)
Construction Phase	Ten	percent (10	%)
Total Basic Compensation	One Hundred	percent (100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted prior to the submission of Plancon D, compensation for such deleted portions shall be based on the extent of work completed under §11.5 and the most recent estimate of the Cost of the Work for such portions of the Project.

§ 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.)

Principal -	\$280 per hour
Director	\$200 per hour
Senior Project Manager	\$155 per hour
Project Architect	\$145 per hour
<i>(Table deleted)</i>	
Project Manager	\$135 per hour
Construction Admin Representative	\$135 per hour
Project Architectural Coordinator	\$110 per hour
Graphic Designer	\$110 per hour
Office Manager	\$110 per hour
Technical Level 1	\$ 90 per hour
Interior Design – Project Manager	\$ 90 per hour
Senior Interior Designer	\$ 90 per hour
Intern Architect	\$ 85 per hour
Interior Designer	\$ 75 per hour
Technical Level 2	\$ 70 per hour
Administration	\$ 65 per hour

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

§ 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:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 **Item intentionally deleted;**
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 **Overnight delivery or expedited delivery charges;**
- .6 **Item intentionally deleted;**
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's and Consultant's 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 **Item intentionally deleted;**
- .10 **Item intentionally deleted;** and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus **Ten (10%)** of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE [Section intentionally deleted in its entirety]

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of **Zero (\$ 0.0)** shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 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. **Undisputed** amounts unpaid **Forty Five (45)** 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.)

Ten Percent Per Year

§ 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. However, the Owner shall not be required to pay invoices for Additional Services of the Architect to the extent such services are caused by, or arise out of the Architect's violation of its duties under this Agreement.**

§ 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:

§12.1 Intentionally deleted.

§12.2 If the Owner for any reason fails to pay the undisputed portion of the Architect's invoice within 45 days of presentation, then after seven (7) days written notice to the Owner and failure to cure, Architect shall have the right to cease work on the project and Owner shall waive any claim against Architect for cessation of service, and shall defend and indemnify Architect from and against any claims for injury or loss stemming

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:14:29 on 01/03/2012 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1281513528)

from Architect's cessation of service. Owner shall also pay Architect the cost associated with premature project demobilization. In the event the project is remobilized, the Owner shall also pay the cost of remobilization, and shall renegotiate appropriate contract terms and conditions, such as those associated with budget, schedule, or scope of service.

§12.3 Where the list of services at Section 4.2 identifies the Owner as being solely responsible, such work is not within the Architect's Basic Services. Instead, upon request by the Owner, the Architect shall arrange for such work to be performed by a qualified "Owner Requested Architectural Consultant" as an Additional Service and will be billed as set forth in paragraph 11.2. Costs for Owner Requested Architectural Consultants shall not be included in the Cost of the Work pursuant to Section 6.1. The Architect makes no representation or warranties regarding the qualifications of such Owner Requested Architectural Consultants, and both parties acknowledge that the Architect's role in retaining such Consultant(s) as set forth herein is simply as a convenience to the Owner.

§ 12.4 Owner Requested Architectural Consultants shall be subcontractors to the Architect, subject to the following:

- (a) The Architect shall provide a list of entities or individuals which or who hold themselves out as offering the type of service requested by the Owner; PROVIDED, however, that by providing such a list, the Architect makes no representation whatsoever regarding the qualifications or competency of any entity or individual on such list, and the Owner is responsible for evaluating the qualifications or competency of each such entity or individual and for ultimately choosing such entity or individual.
- (b) The Architect shall prepare and enter a written contract for each Owner Requested Architectural Consultant, which agreement shall be previously approved by the Owner and provide expressly that the Owner is a third party beneficiary to the agreement, PROVIDED, however, that the Owner shall be responsible for preparing any job or work description contained in any such contract with the assistance of the Architect.
- (c) The Architect shall coordinate the work by the Owner Requested Architectural Consultants, but only to the extent necessary to facilitate communication between such Consultant, the Architect and the Clerk of the Work, shall review the work product of the Owner Requested Architectural Consultants, and shall incorporate into the Project Specifications and Drawings the work product of the Owner Requested Architectural Consultants without accepting responsibility for the content of such work product.
- (d) The Owner expressly acknowledges that the Architect assumes no liability whatsoever for any work or service performed by the Owner Requested Architectural Consultant, including any and all general, special or consequential damages caused by or resulting directly or indirectly from any act or omission of whatever nature by the Owner Requested Architectural Consultant.
- (e) The Architect hereby assigns to Owner any and all rights and claims of any nature whatsoever against each and every Owner Requested Architectural Consultant that may arise out of, from, or as a result of any services provided by any such Owner Requested Architectural Consultant in connection with the above referenced project(s). Provided, however, that the Architect reserves the right to participate in any action against an Owner Requested Architectural Consultant to the extent that the Architect suffers any actual harm as a result of any act or omission of whatever nature by the on the part of any Owner Requested Architectural Consultant.
- (f) Owner agrees that no arbitration or litigation will be instituted against the Architect to recover any damages or whatever nature or kind directly or indirectly resulting from any act or omission of whatever nature by the Owner's Requested Architectural Consultant. To the extent that the Owner should seek to join the Architect in any such proceeding, the Architect shall be entitled to be immediately released from such proceeding, and the Owner shall pay all of the Architect's costs, including reasonable attorney's fees, incurred in enforcing this provision. Nothing herein shall prohibit the Owner from instituting arbitration or litigation against the Architect for the Architect's failure to fulfill its own duty to the Owner; and
- (g) Notwithstanding any other language contained herein, Architect reserves the right to decline to retain

Init.

any Owner Requested Architectural Consultant if, in the Architect's sole discretion, the Architect's retention of any such Consultant will expose the Architect to any potential liability whatsoever. Should the Architect make such a determination regarding any such Owner Requested Architectural Consultant, the Architect will nevertheless retain such Owner Requested Architectural Consultant if the Owner agrees in writing to fully indemnify the Architect from and against any and all claims or damages that may arise against the Architect as a result of the retention of the Owner Requested Architectural Consultant.

§12.5 Change orders can be expected during the construction process. The Architect's Lump Sum fee is a percentage based upon the Cost of the Work as established in Section 6.1, and such Cost of the Work includes a contingency for change orders. Therefore, there shall be no additional payment to the Architect for its work on change orders, except to the extent an "Owner Requested Change Order" or an "unforeseeable or Concealed Condition Change Order" involves a substantial alteration to the Project and requires time by the Architect that is disproportionate to the Architect's fee on the change order contingency.

Subject to the above, the following categories define the Owner's and Architect's responsibilities as to change orders:

- (a) **Owner Requested Change Order.** Owner Requested Change Orders are for additional work requested by the Owner. The Owner shall pay the Contractors' cost for performing such change orders as provided in the Contract Documents. There will be no additional fee to the Architect, unless an Owner Requested Change Order involves a substantial alteration to the Project and requires time by the Architect that is disproportionate to the Architect's fee based on the change order contingency included in the Lump Sum fee.
- (b) **Unforeseen or Concealed Conditions Change Order.** When the Architect has used reasonable care in evaluating existing drawings and field conditions, but during construction discovers that existing conditions are not in accordance with the Construction Documents and therefore require additional work or cost by the Contractors, the cost of performing such additional work shall be paid by the Owner as provided in the Contract Documents. There will be no additional fee to the Architect, unless an Unforeseen or Concealed Condition Change Order involves a substantial alteration to the Project and requires time by the Architect that is disproportionate to the Architect's fee based on the change order contingency included in the Lump Sum fee.
- (c) **Value Added Change Orders.** When the Architect does not include an item, or omits items which were documented to be included in the Project, thereby creating a Value-Added Change Order, the Architect shall receive no compensation for the change order. Any claim by the Owner against the Architect for costs associated with performance of a Value Added Change Order shall be negotiated by the Owner and Architect or determined in accordance with Article 8 of this Agreement.
- (d) **No Value Change Orders.** Occur when the Architect incorrectly designs or specifies an item in the Construction Documents or negligently omits an item from its design or specifications, where the correct design or specification would have added no additional value to the Project and where there are costs associated with correcting the Architect's error. The Architect will receive no compensation for its services associated with No Value Change Orders. Liability of the Architect for costs associated with replacement or correction of the defective item shall be **negotiated by the Owner and Architect** or determined in accordance with **Article 8 of this Agreement**.

§12.5 BUILDING INFORMATION MODEL (BIM)

§12.5.1 Definition: A Building Information Model(s) is a digital representation of the physical and functional characteristics of the Project. "Building Information Modeling" means the process and technology used to create the Model.

§12.5.2 Level of Development: The Level(s) of Development (LOD) describes the level of completeness to which the Model is developed.

§12.5.3 Coordination and Conflicts: Where conflicts are found in the Model, regardless of the phase of the Project or

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

LOD, the discovering party shall promptly notify the Model Author(s). Upon such notification, the Model Author(s) shall act promptly to mitigate the conflict.

§12.5.4 Model Ownership: In contributing content to the Model, the Model Author does not convey any ownership right in the content provided or in the software used to generate the content. Unless otherwise granted in a separate license, any subsequent Model Author's and Model User's right to use, modify, or further transmit the Model is specifically limited to the design and construction of the Project, and nothing contained in this Exhibit conveys any other right to use the Model for another purpose.

§12.5.5 Model Management: The Architect will manage the Model from the inception of the Project.

§12.6 BUILDING INFORMATION MODEL (BIM) – LEVELS OF DEVELOPMENT (LOD)

§12.6.1 LOD 100

§12.6.1.1 Model Content Requirements. Overall building massing indicative of area, height, volume, location, and orientation may be modeled in three dimensions or represented by other data.

§12.6.2 LOD 200

§12.6.2.1 Model Content Requirements. Model Elements are modeled as generalized systems or assemblies with approximate quantities, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements.

§12.6.3. LOD 300

§12.6.3.1 Model Content Requirements. Model Elements are modeled as specific assemblies accurate in terms of quantity, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements.

§12.6.3.2 Authorized Uses

§12.6.3.2.1 Analysis. The purpose of the Model to be generated for this Project is to assist in identify and resolving building element conflicts and during the design phase.

§12.6.3.2.2. Authorized Uses. Upon Project delivery to the Owner, the Model will be provided to, and may be used by the Owner for their purposes in using, maintaining, altering or adding to the Project in the future. The Model is not intended and shall not be used for estimating, bidding or shop drawing and other construction-related purposes.

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 B101™–2007, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)

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

OWNER

PENN MANOR SCHOOL DISTRICT



(Signature)


Dr. Richard L. Frerichs
President of Board of School Directors

(Printed name and title)

DATE: 2/6/2012

ARCHITECT

CRABTREE, ROHRBAUGH & ASSOCIATES



(Signature)

J. Brian Haines, AIA
Director of Contract Administration

(Printed name and title)

ATTEST: 

G. Douglas Rohrbaugh, Secretary

SEAL

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:43:44 on 12/21/2011 under Order No.4310214412_1 which expires on 05/25/2012, and is not for resale.

User Notes: rev 9-19-11; JBH added BIM language; 12/20/11 JBH TCC HK review

(1986689383)