

THE UNIVERSITY OF RHODE ISLAND

Solicitation Information 11/18/2022

RFP# 101227

TITLE: RADIO TOWER DESIGN SERVICES

Submission Deadline: 12/16/2022 2:30 pm (Eastern Time)

PRE-BID/ PROPOSAL CONFERENCE: YES

MANDATORY: NO

If YES, any Vendor who intends to submit a bid proposal in response to this solicitation must have its designated representative attend the mandatory Pre-Bid/ Proposal Conference. The representative must register at the Pre-Bid/ Proposal Conference and disclose the identity of the vendor whom he/she represents. A vendor's failure to attend and register at the mandatory Pre-Bid/ Proposal Conference shall result in disqualification of the vendor's bid proposals as non-responsive to the solicitation.

DATE: 11/29/2022 10:00 AM EST

LOCATION: Office of Capital Projects, Sherman Building, 60 Tootell Road, Kingston, RI 02881

Questions concerning this solicitation must be received by the URI Purchasing Department at URIPurchasing@uri.edu no later than **12/2/2022 12:00 PM (EST)**. Questions should be submitted in a *Microsoft Word attachment*. Please reference the RFP# on all correspondence. Questions received, if any, will be posted on the Division of Purchases' website as an addendum to this solicitation. It is the responsibility of all interested parties to download this information.

BID SURETY BOND REQUIRED: NO

PAYMENT AND PERFORMANCE BOND REQUIRED: NO

ANDREA TURANO, Assistant University Purchasing Agent

Note to Applicants:

- Applicants should register on-line at the URI Controller's Website at <https://web.uri.edu/controller/accounts-payable/suppliers/>
- Proposals received without a completed URI Bidder Certification Form may result in disqualification.

University of Rhode Island Bidder Certification Form

ALL OFFERS ARE SUBJECT TO THE REQUIREMENTS, PROVISIONS AND PROCEDURES CONTAINED IN THIS CERTIFICATION FORM. Offerors are expected to read, sign and comply with all requirements. Failure to do so may be grounds for disqualification of the offer contained herein.

Rules for Submitting Offers

This Certification Form must be attached in its entirety to the front of the offer and shall be considered an integral part of each offer made by a vendor to enter into a contract with the University of Rhode Island. As such, submittal of the entire Bidder Certification Form, signed by a duly authorized representative of the offeror attesting that he/she (1) has read and agrees to comply with the requirements set forth herein and (2) to the accuracy of the information provided and the offer extended, is a mandatory part of any contract award.

To assure that offers are considered on time, each offer must be submitted with the specific Bid/RFP/LOI number, date and time of opening marked in the upper left hand corner of the envelope. Each bid/offer must be submitted in separate sealed envelopes.

A complete signed (in ink) offer package must be delivered to the University of Rhode Island Purchasing Office by the time and date specified for the opening of responses in a sealed envelope.

Bid responses must be submitted on the URI bid solicitation forms provided, indicating brand and part numbers of items offered, as appropriate. Bidders must submit detailed cuts and specs on items offered as equivalent to brands requested WITH THE OFFER. Bidders must be able to submit samples if requested.

Documents misdirected to other State or University locations or which are not present in the University of Rhode Island Purchasing Office at the time of opening for whatever cause will be deemed to be late and will not be considered. For the purposes of this requirement, the official time and date shall be that of the time clock in the reception area of the University of Rhode Island Purchasing Office. Postmarks shall not be considered proof of timely submission.

RIVIP SOLICITATIONS. To assure maximum access opportunities for users, public bid solicitations shall be posted on the RIVIP for a minimum of seven days and no amendments shall be made within the last five days before the date an offer is due. Except when access to the Web Site has been severely curtailed and it is determined by the Purchasing Agent that special circumstances preclude extending a solicitation due date, requests to mail or fax hard copies of solicitations will not be honored.

PRICING. Offers are irrevocable for sixty (60) days from the opening date (or such other extended period set forth in the solicitation), and may not be withdrawn, except with the express permission of the University Purchasing Agent. All pricing will be considered to be firm and fixed unless otherwise indicated. The University of Rhode Island is exempt from Federal excise taxes and State Sales and Use Taxes. Such taxes shall not be included in the bid price.

PRICES QUOTED ARE FOB DESTINATION.

DELIVERY and PRODUCT QUALITY. All offers must define delivery dates for all items; if no delivery date is specified, it is assumed that immediate delivery from stock will be made. The contractor will be responsible for delivery of materials in first class condition. Rejected materials will be at the vendor's expense.

PREVAILING WAGE, OSHA SAFETY TRAINING and APPRENTICESHIP REQUIREMENTS. Bidders must comply with the provisions of the Rhode Island labor laws, including R.I. Gen. Laws §§ 37-13-1 et seq. and occupational safety laws, including R.I. Gen. Laws §§ 28-20-1 et seq. These laws mandate for public works construction projects the payment of prevailing wage rates, the implementation and maintenance of occupational safety standards, and for projects with a minimum value of \$1 Million, the employment of apprentices. The successful Bidder must submit certifications of compliance with these laws from each of its subcontractors prior to their commencement of any work. Prevailing wage rates, apprenticeship requirements, and other workforce and safety regulations are accessible at www.dlt.ri.gov.

PUBLIC RECORDS. Offerors are advised that all materials submitted to the University for consideration in response to this solicitation will be considered without exception to be Public Records pursuant to Title 38 Chapter 2 of the Rhode Island General Laws, and will be released for inspection immediately upon request once an award has been made. Offerors are encouraged to attend public bid/RFP openings to obtain information; however, bid/RFP response summaries may be reviewed after award(s) have been made by visiting the Rhode Island Vendor Information Program (RIVIP) at www.purchasing.ri.gov > Solicitation Opportunities > Other Solicitation Opportunities. Telephone requests for results will not be honored. Written requests for results will only be honored if the information is not available on the RIVIP.

Award will be made to the responsive and responsible offeror quoting the lowest net price in accordance with specifications, for any individual item(s), for major groupings of items, or for all items listed, at the University's sole option.

BID SURETY. Where bid surety is required, bidder must furnish a bid bond or certified check for 5% of the bid total with the bid, or for such other amount as may be specified. Bids submitted without a required bid surety will not be considered.

SPECIFICATIONS. Unless specified “no substitute”, product offerings equivalent in quality and performance will be considered (at the sole option of the University) on the condition that the offer is accompanied by detailed product specifications. Offers which fail to include alternate specifications may be deemed nonresponsive.

VENDOR AUTHORIZATION TO PROCEED. When a purchase order, change order, contract/agreement or contract/agreement amendment is issued by the University of Rhode Island, no claim for payment for services rendered or goods delivered contrary to or in excess of the contract terms and scope shall be considered valid unless the vendor has obtained a written change order or contract amendment issued by the University of Rhode Island Purchasing Office PRIOR to delivery.

Any offer, whether in response to a solicitation for proposals or bids, or made without a solicitation, which is accepted in the form of an order OR pricing agreement made in writing by the University of Rhode Island Purchasing Office, shall be considered a binding contract.

REGULATIONS, GENERAL TERMS AND CONDITIONS GOVERNING STATE AND THE UNIVERSITY OF RHODE ISLAND CONTRACTS. This solicitation and any contract or purchase order arising from it are issued in accordance with the specific requirements described herein, and the State’s Purchasing Laws and Regulations and other applicable State Laws and Regulations, including the Board of Governors for Higher Education Regulations and General Terms and Conditions of Purchase. The Regulations and General Terms and Conditions are incorporated into all University of Rhode Island contracts and can be viewed at: <https://web.uri.edu/purchasing/files/BOGREG.pdf> and www.ridop.ri.gov .

EQUAL EMPLOYMENT OPPORTUNITY. Compliance certificate and agreement procedures will apply to all awards for supplies or services valued at \$10,000 or more. Minority Business Enterprise policies and procedures, including subcontracting opportunities as described in Title 37 Chapter 14.1 of the Rhode Island General Laws also apply.

PERFORMANCE BONDS. Where indicated, successful bidder must furnish a 100% performance bond and labor and payment bond for contracts subject to Title 37 Chapters 12 and 13 of the Rhode Island General Laws. All bonds must be furnished by a surety company authorized to conduct business in the State of Rhode Island. Performance bonds must be submitted within 21 calendar days of the issuance of a tentative notice of award.

DEFAULT and NON-COMPLIANCE Default and/or non-compliance with the requirements and any other aspects of the award may result in withholding of payment(s), contract termination, debarment, suspension, or any other remedy necessary that is in the best interest of the state/University of Rhode Island.

COMPLIANCE Vendor must comply with all applicable federal, state and local laws, regulations and ordinances.

SPRINKLER IMPAIRMENT AND HOT WORK. The Contractor agrees to comply with the practices of the State’s Insurance carrier for sprinkler impairment and hot work. Prior to performing any work, the Contractor shall obtain the necessary information for compliance from the Risk Management Office at the Department of Administration or the Risk Management Office at the University of Rhode Island.

Each bid proposal for a *public works project* must include a “public copy” to be available for public inspection upon the opening of bids. **Bid Proposals that do not include a copy for public inspection will be deemed nonresponsive.**

For further information on how to comply with this statutory requirement, see R.I. Gen. Laws §§ 37-2-18(b) and (j). Also see State of Rhode Island Procurement Regulation 5.11 at <https://www.ridop.ri.gov/rules-regulations/>

ALL CONTRACT AWARDS ARE SUBJECT TO THE FOLLOWING DISCLOSURES & CERTIFICATIONS

Indicate Yes (Y) or No (N):

____ 4 State whether any officer, director, manager, stockholder, member, partner, or other owner or principal of the Bidder is serving or has served within the past two calendar years as either an appointed or elected official of any state governmental authority or quasi-public corporation, including without limitation, any entity created as a legislative body or public or state agency by the general assembly or constitution of this state. If Yes, then provide details below.

Vendors must provide all relevant information. Bid proposals submitted without a complete response may be deemed nonresponsive.

List each officer, director, manager, stockholder, member, partner, or other owner or principle of the Bidder, and each intermediate parent company and the ultimate parent company of the Bidder. For each individual, provide his or her name, business address, principal occupation, position with the Vendor, and the percentage of ownership, if any, he or she holds in the Vendor, and each intermediate parent company and the ultimate parent company of the Vendor.

[illegible]

SECTION 4 - CERTIFICATIONS

Bidders must respond to every statement. Bid proposals submitted without a complete response may be deemed nonresponsive.

Indicate "Y" (Yes) or "N" (No), and if "No," provide details below.

THE VENDOR CERTIFIES THAT:

____ 1 I/we certify that I/we will immediately disclose, in writing, to the University Purchasing Agent any potential conflict of interest which may occur during the course of the engagement authorized pursuant to this contract.

____ 2 I/we acknowledge that, in accordance with (1) Chapter §37-2-54(c) of the Rhode Island General Laws "no purchase or contract shall be binding on the state or any agency thereof unless approved by the Department [of Administration] or made under general regulations which the Chief Purchasing Officer may prescribe," and (2) RIGL section §37-2-7(16) which identifies the URI Board of Trustees as a public agency and gives binding contractual authority to the University Purchasing Agent, including change orders and other types of contracts and under State Purchasing Regulation 8.2.B any alleged oral agreement or arrangements made by a bidder or contractor with any agency or an employee of the University of Rhode Island may be disregarded and shall not be binding on the University of Rhode Island.

____ 3 I/we certify that I or my/our firm possesses all licenses required by Federal and State laws and regulations as they pertain to the requirements of the solicitation and offer made herein and shall maintain such required license(s) during the entire course of the contract resulting from the offer contained herein and, should my/our license lapse or be suspended, I/we shall immediately inform the University of Rhode Island Purchasing Agent in writing of such circumstance.

____ 4 I/we certify that I/we will maintain required insurance during the entire course of the contract resulting from the offer contained herein and, should my/our insurance lapse or be suspended, I/we shall immediately inform the University of Rhode Island Purchasing Agent in writing of such circumstance.

____ 5 I/we certify that I/we understand that falsification of any information herein or failure to notify the University of Rhode Island Purchasing Agent as certified herein may be grounds for suspension, debarment and/or prosecution for fraud.

____ 6 I/we acknowledge that the provisions and procedures set forth in this form apply to any contract arising from this offer.

____ 7 I/we acknowledge that I/we understand the State's Purchasing Laws (§37-2 of the General Laws of Rhode Island) and Purchasing Regulations and General Terms and Conditions available at the Rhode Island Division of Purchases Website (<https://www.ridop.ri.gov/rules-regulations/>) and the Board of Governors Regulations on the URI Purchasing Website (<https://web.uri.edu/purchasing/files/BOGREG.pdf>) apply as the governing conditions for any contract or purchase order I/we may receive from the University of Rhode Island, including the offer contained herein.

____ 8 I/we certify that the bidder: (i) is not identified on the General Treasurer's list, created pursuant to R.I. Gen. Laws § 37-2.5-3, as a person or entity engaging in investment activities in Iran described in § 37-2.5-2(b); and (ii) is not engaging in any such investment activities in Iran.

____ 9 If the product is subject to Department of Commerce Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR), please provide the Export Control Classification Number (ECCN) or the US Munitions List (USML)
Category: _____

____ 10 I/we certify that the above information is correct and complete.

IF YOU ARE UNABLE TO CERTIFY YES TO QUESTIONS #1 – 8 and 10 OF THE FOREGOING, PROVIDE DETAILS/EXPLANATION IN AN ATTACHED STATEMENT. INCOMPLETE CERTIFICATION FORMS SHALL BE GROUNDS FOR DISQUALIFICATION OF OFFER.

Signature below commits vendor to the attached offer and certifies (1) that the offer has taken into account all solicitation amendments where applicable, (2) that the above statements and information are accurate and that vendor understands and has complied with the requirements set forth herein.

Vendor/Company Name: _____

Vendor's Signature: _____ Bid Number: _____ Date: _____
(Person Authorized to enter into contracts; signature must be in ink) (if applicable)

Print Name and Title of Company official signing offer

SECTION 1: INTRODUCTION

The URI Board of Trustees/University of Rhode Island is soliciting proposals for REPLACEMENT OF THE UNIVERSITY RADIO TRANSMISSION TOWER from qualified OFFERORS to provide ENGINEERING AND RELATED DESIGN SERVICES in accordance with the terms of this Request for Proposal (“RFP”) and the General Terms and Conditions of Purchase indicated in the attached URI Bidder Certification Form.

The initial contract period will begin approximately March 1, 2023, for one year.

This is a Request for Proposals, not a Request for Quotes. Responses will be evaluated on the basis of the relative merits of the proposal, in addition to cost; there will be no public opening and reading of responses received by the University of Rhode Island Purchasing Department pursuant to this solicitation, other than to name those offerors who have submitted proposals.

Instructions and Notifications to Offerors

1. Potential offerors are advised to review all sections of this RFP carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.
2. Alternative approaches and/or methodologies to accomplish the desired or intended results of this RFP are solicited. However, proposals which depart from or materially alter the terms, requirements, or scope of work defined by this RFP may be rejected as being non-responsive.
3. All costs associated with developing or submitting a proposal in response to this RFP or for providing oral or written clarification of its content shall be borne by the vendor. The University assumes no responsibility for these costs even if the RFP is cancelled or continued.
4. Proposals are considered to be irrevocable for a period of not less than 180 days following the opening date, and may not be withdrawn, except with the express written permission of the University of Rhode Island Purchasing Director.
5. All pricing submitted will be considered to be firm and fixed unless otherwise indicated in the proposal.
6. It is intended that an award pursuant to this RFP will be made to a prime vendor, or prime vendors in the various categories, who will assume responsibility for all aspects of the work. Subcontracts are permitted, provided that their use is clearly indicated in the vendor's proposal, and the subcontractor(s) to be used is identified in the proposal.
7. The purchase of goods and/or services under an award made pursuant to this RFP will be contingent on the availability of appropriated funds.

8. Vendors are advised that all materials submitted to the University of Rhode Island Purchasing Department for consideration in response to this RFP may be considered to be public records, as defined in R. I. Gen. Laws § 38-2-1, *et seq.*, and may be released for inspection upon request, once an award has been made.

Any information submitted in response to this RFP that a vendor believes are trade secrets or commercial or financial information which is of a privileged or confidential nature should be clearly marked as such. The vendor should provide a brief explanation as to why each portion of information that is marked should be withheld from public disclosure. Vendors are advised that the University of Rhode Island Purchasing Department may release records marked confidential by a vendor upon a public records request if the University determines the marked information does not fall within the category of trade secrets or commercial or financial information which is of a privileged or confidential nature. Vendors are also advised that responses marked confidential in their entirety may be deemed non-responsive. **Inclusion of a “confidentiality header/footer” on entire pages of submissions (or all pages) is NOT considered an acceptable way to flag confidential information (flags must be very specific and a specific justification explaining how the information meets the APRA exception must be provided with it) and will not be recognized by URI.**

9. Interested parties are instructed to peruse the Division of Purchases website on a regular basis, as additional information relating to this solicitation may be released in the form of an addendum to this RFP.
10. By submission of proposals in response to this RFP vendors agree to comply with R. I. General Laws § 28-5.1-10 which mandates that contractors/subcontractors doing business with the State of Rhode Island exercise the same commitment to equal opportunity as prevails under Federal contracts controlled by Federal Executive Orders 11246, 11625 and 11375.

Vendors are required to ensure that they, and any subcontractors awarded a subcontract under this RFP, undertake or continue programs to ensure that minority group members, women, and persons with disabilities are afforded equal employment opportunities without discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.

Vendors and subcontractors who do more than \$10,000 in government business in one year are prohibited from engaging in employment discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability, and are required to submit an “Affirmative Action Policy Statement.”

Vendors with 50 or more employees and \$50,000 or more in government contracts must prepare a written “Affirmative Action Plan” prior to issuance of a purchase order.

- a. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation.

- b. Vendors further agree, where applicable, to complete the “Contract Compliance Report” (<http://odeo.ri.gov/documents/odeo-eeo-contract-compliance-report.pdf>), as well as the “Certificate of Compliance” (<http://odeo.ri.gov/documents/odeo-eeo-certificate-of-compliance.pdf>) and submit both documents, along with their Affirmative Action Plan or an Affirmative Action Policy Statement, prior to issuance of a purchase order. For public works projects vendors and all subcontractors must submit a “Monthly Utilization Report” (<http://odeo.ri.gov/documents/monthly-employment-utilization-report-form.xlsx>) to the ODEO/State Equal Opportunity Office, which identifies the workforce actually utilized on the project.

For further information, contact the Rhode Island Equal Employment Opportunity Office, at 222-3090 or via e-mail at Krystal.Waters@doa.ri.gov.

11. In accordance with R. I. Gen. Laws § 7-1.2-1401 no foreign corporation has the right to transact business in Rhode Island until it has procured a certificate of authority so to do from the Secretary of State. This is a requirement only of the successful vendor(s). For further information, contact the Secretary of State at (401-222-3040).
12. In accordance with R. I. Gen. Laws §§ 37-14.1-1 and 37-2.2-1 it is the policy of the State to support the fullest possible participation of firms owned and controlled by minorities (MBEs) and women (WBEs) and to support the fullest possible participation of small disadvantaged businesses owned and controlled by persons with disabilities (Disability Business Enterprises a/k/a “DisBE”)(collectively, MBEs, WBEs, and DisBEs are referred to herein as ISBEs) in the performance of State procurements and projects. As part of the evaluation process, vendors will be scored and receive points based upon their proposed ISBE utilization rate in accordance with 150-RICR-90-10-1, “Regulations Governing Participation by Small Business Enterprises in State Purchases of Goods and Services and Public Works Projects”. As a condition of contract award vendors shall agree to meet or exceed their proposed ISBE utilization rate and that the rate shall apply to the total contract price, inclusive of all modifications and amendments. Vendors shall submit their ISBE participation rate on the enclosed form entitled “MBE, WBE and/or DisBE Plan Form”, which shall be submitted in a separate, sealed envelope as part of the proposal. ISBE participation credit will only be granted for ISBEs that are duly certified as MBEs or WBEs by the State of Rhode Island, Department of Administration, Office of Diversity, Equity and Opportunity or firms certified as DisBEs by the Governor’s Commission on Disabilities. The current directory of firms certified as MBEs or WBEs may be accessed at <http://odeo.ri.gov/offices/mbeco/mbe-wbe.php>. Information regarding DisBEs may be accessed at www.gcd.ri.gov.

For further information, visit the Office of Diversity, Equity & Opportunity’s website, at <http://odeo.ri.gov/> and see R.I. Gen. Laws Ch. 37-14.1, R.I. Gen. Laws Ch. 37-2.2, and 150-RICR-90-10-1. The Office of Diversity, Equity & Opportunity may be contacted at, (401) 574-8670 or via email Kate.Brody@doa.ri.gov

13. Not Applicable

14. Not Applicable

15. Architectural and Engineering Services:

- a. Persons or firms practicing Architectural and/or Engineering Services in the State of Rhode Island must possess a proper registration and Certificate of Authorization in accordance with Rhode Island General Laws.
- b. A copy of the current RI Certificate of Authorization for the firm and current Rhode Island registrations(s) for the individual(s) who would perform the work must be included behind the front page of each copy of the proposal.
- c. The Board of Design Professionals can be contacted as follows:
Division of Design Professionals
1511 Pontiac Avenue
Cranston RI 02857
Phone: (401) 462-9530
Fax: (401) 462-9532
<http://www.bdp.state.ri.us/>
- d. The respondent's Proposal will be disqualified and removed from consideration if the proposal fails to include the required current Rhode Island Certificate of Authorization for the firm and current Rhode Island registration(s).

16. Not Applicable

17. Not Applicable

18. Not Applicable

19. Not Applicable

Restrictions on Communications – No Bidder-initiated contact, other than normal business activities not associated with this procurement, will be allowed after the issuance of this RFP between Bidders and University employees or their agents regarding this solicitation, except with express permission of the University Purchasing Department. Any such other contact may be considered improper and may disqualify a Bidder from further consideration. The appropriate channel to direct any communications, concerns or questions regarding the RFP is through the email address provided herein.

If a Bidder fails to notify the University of Rhode Island Purchasing Department contact person of an error in this RFP which was known or reasonably should have been known to the Bidder, the Bidder shall submit a response at the Bidder's own risk. If awarded the contract, the Bidder shall not be entitled to additional compensation or performance time by reason of the error or its later correction.

SECTION 2: BACKGROUND

1. MISSION OF THE UNIVERSITY OF RHODE ISLAND

The University of Rhode Island (URI) is the State's public learner-centered research university. We are a community joined in a common quest for knowledge. The University is committed to enriching the lives of its students through its land, sea, and urban grant traditions. URI is the only public institution in Rhode Island offering undergraduate, graduate, and professional students the distinctive educational opportunities of a major research university. Our undergraduate, graduate, and professional education, research, and outreach serve Rhode Island and beyond. Students, faculty, staff, and alumni are united in one common purpose: to learn and lead together. Embracing Rhode Island's heritage of independent thought, we value: **Creativity and Scholarship, Diversity, Fairness, and Respect, Engaged Learning and Civic Involvement, and Intellectual and Ethical Leadership.**

2. PROJECT BACKGROUND

The University of Rhode Island currently has a radio tower used for the transmission of URI's college radio station WRIU located north of Flagg Road on the Kingston Campus. The radio station operation is an auxiliary program that is funded through the Student Senate and current broadcasts out of the Memorial Union on Lower College Road. The current 400' tall, tubular steel radio transmission tower was damaged during a high windstorm in the fall of 2021 and is currently in the process of being demolished. WRIU is currently using a temporary transmitter at the Memorial Union. WRIU also has access to a new equipment shelter and 60 kW diesel generator that will be incorporated into the project to replace the existing transmitter building at the base of the radio tower.

SECTION 3: SCOPE OF WORK AND REQUIREMENTS

General Scope of Work

Provide design and construction administration services to facilitate the design of the replacement WRIU radio tower and transmitter equipment building located on the Kingston Campus. It is expected that this project will require coordination with the FCC, FAA, EPA, RIDEM, and possibly RIDOH. Temporary transmission and broadcast measures are currently being taken for continued operation of WRIU during this project.

Section A: Final Design

1 Schematic Design (SD) Phase

- a. Site Survey (including wetlands flagging)
- b. Utility Survey
- c. Topographical Survey (1 foot contours)
- d. Assessment of property ownership, and assessment of coordination with state properties committee.
- e. Evaluation of existing tower (currently scheduled for demolition under current contract), foundations and transmitter building in preparation for demolition.
- f. Site analysis of existing radio tower site for reuse in construction of new replacement radio tower, including but not limited to:
 - i. Geotechnical exploration: affirmation of existing soil conditions for existing slab

- foundations or new slab foundations. This effort is to be funded under the allowance.
 - ii. Environmental & Wetlands analysis: this work is to include wetlands survey and assessment, stormwater assessment, and hazardous materials assessment as it pertains to existing soils. This effort will be funded under the environmental allowance.
 - iii. Existing building/slab analysis: consultant will assess existing building for reuse or demolition and existing slab for reuse or demolition and reconstruction of new slab for transmitter enclosure.
 - g. Coordination and compliance with implementing the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA) and the Endangered Species Act (ESA).
 - h. Coordination and compliance with Federal Aviation Association (FAA).
 - i. Preliminary coordination with RIDEM, FCC, FAA, EPA, RIDOH, SBCC, and SFMO
 - j. Review existing equipment to be salvaged and donated equipment to be incorporated into the new work, including but not limited to transmitter building equipment and slab, and radio tower base (for new radio tower base).
 - k. Prepare SD level construction estimate
 - l. Prepare demolition specifications for the existing transmitter building.
 - m. It is anticipated that the design agent will provide a performance specification for a pre-engineered radio tower.
 - n. Work with owner to prepares inspection report and prepare specifications for donated transmitter and enclosure.
 - o. Inspection and preliminary report for reuse and permitting requirements for donated generator.
 - p. Design for all electrical, grounding and data wiring for tower, lighting, broadcasting/transmitting, and temporary generator power requirements.
- 2 Design Development (DD) Phase**
- a. Advance SD plans to DD phase within budget constraints
 - b. Complete RIDEM, FCC, FAA, State Fire Marshal, and State Building Code Commission permitting approvals
- 3 Construction Document (CD) Phase**
- a. Advance DD plans and contract documents to CD phase
 - b. Prepare CD Estimate

Section B: Bidding and Construction Administration (CA)

- 1 Bidding and Procurement Phase**
- a. Prepare and coordinate construction documents for public bidding through URI Purchasing
 - b. Attend pre-bid meeting and assist in all required bid addenda publication
 - c. Attend pre-award meeting to review scope and interview prospective contractors for award
 - d. Assist in the preparation of final AIA contract documents for construction
- 2 Contract Administration (CA) Support**
- a. Responding to project emails, phone calls, and misc. correspondence
 - b. Biweekly site meetings, and attendance to special site meetings as required
 - c. Change order management including review and assessment of potential change orders
 - d. Complete management of responses to requests for information (RFI's), preparation of architect (or engineers) supplemental instructions (ASI's), management and processing of all shop drawings

- e. Project completion certification
- f. Coordination and preparation of as-built and record drawings with contractor for University's use

Section C: At-cost and reimbursable expenses

The intent of this section is to standardize the cost of at-cost and reimbursable expenses so that the selection of the prime consultant is more accurately weighted on their experience and qualifications aligned with the scope of work. These allowances will be filled out in the attached bid form and the University will work with the selected firm to manage these costs after issuance of a purchase order, and within our overall allowance budget.

- 1 Survey:** Consultant shall engage a qualified survey company that will prepare all field data, control points, plans, and metes & bound descriptions of all work identified in this RFQ. For the purposes of this proposal the University is setting an allowance of \$25,000 for this work. After issuance of a purchase order the consultant shall solicit proposals from qualified survey firms to complete this work within the allocated allowance.
- 2 Environmental Site analysis:** Consultant shall engage a qualified company to provide a wetlands survey as well as a stormwater analysis and report of the site. For the purposes of this proposal the University is setting an allowance of \$34,000 for this work. After issuance of a purchase order the consultant shall solicit proposals from qualified environmental firms to complete this work within the allocated allowance.
- 3 Geotechnical Services:** Consultant shall engage a qualified geotechnical company that will prepare all soil borings, probes, and soil analysis required for the construction of the radio tower foundation, guy wire anchor foundations and all other work identified in this RFQ. For the purposes of this proposal the University is setting an allowance of \$34,000 for this work. After issuance of a purchase order the consultant shall solicit proposals from qualified geotechnical engineering/soil boring firms to complete this work within the allocated allowance.
- 4 Structural Analysis:** Consultant shall engage a qualified structural engineering company that will prepare inspection and analysis for the construction of the radio tower foundation, guy wire anchor foundations, slab evaluation and all other work identified in this RFQ. For the purposes of this proposal the University is setting an allowance of \$17,000 for these fees. After issuance of a purchase order the consultant shall solicit proposals from qualified structural engineering firms to complete this work within the allocated allowance.
- 5 Haz Mat Services:** Consultant shall engage a qualified cost Hazardous Material Services company that will perform a toxicity analysis of disturbed soil and to facilitate the removal of contaminated soils, and all other work identified in this RFQ. For the purposes of this proposal the University is setting an allowance of \$34,000 for this work. After issuance of a purchase order the consultant shall solicit proposals from qualified Hazardous Material firms to complete this work within the allocated allowance.
- 6 General At-Cost project expenses:** Consultant shall carry an allowance of \$10,000 for general project at-cost expenses that may include (but not be limited to) printing & reproduction, travel, software, and special fees and services required to facilitate the project

Design and Construction Schedule

	Start	End
Bid Award	March 1, 2023	
SD Phase	April 3, 2023	May 30, 2023
DD Phase	May 31, 2023	June 30, 2023
CD Phase	July 3, 2023	August 14, 2023
Construction Bidding	August 15, 2023	October 13, 2023
Contract Admin Phase	October 16, 2023	February 29, 2024

NOTE: Consultant must identify all necessary subconsultants as part of their complete proposal and attain to MBE certification. Subconsultants and direct expenses on this project include, but not limited to surveyors, biologists, landscape architects, geologic test pits, etc.

Budget

The budget for the Radio Tower and Transmitter Building Replacement project has been set at one million dollars (\$1,000,000) including design and construction costs.

Specific Activities / Tasks

Selected consultants must submit proposals with sufficient detail to differentiate specific tasks that are required to develop the plans & contract documents necessary to complete the scope of work listed above. Such tasks include but are not limited to:

- Site Survey in coordination with RI state properties committee
- Wetland flagging & RIDEM Permitting
- Limited soil explorations
- Utility coordination
- State and Federal agency coordination and permitting
- Cost Estimating/Value Engineering
- Plan and contract document preparation
- Bidding Support
- Contract Administration Support

Allowances

Selected consultants must submit proposals which include the following project allowances as part of their cost proposal:

- Survey: \$25,000 Allowance
- Environmental Site Analysis: \$35,000 Allowance
- Geotechnical Analysis: \$35,000 Allowance
- Structural Engineering: \$17,000 Allowance
- HazMat Services \$34,000 Allowance
- General at-cost project expenses: \$10,000 Allowance

SECTION 4: PROPOSAL

A. Technical Proposal

Narrative and format: The proposal should address specifically each of the following elements:

1. **Staff Qualifications** – Provide staff resumes/CV and describe qualifications and experience of key staff who will be involved in this project.
2. **Capability, Capacity, and Qualifications of the Offeror** - Please provide a detailed description of the Vendor's experience. A list of relevant client references must be provided, to include client names, addresses, phone numbers, dates of service and type(s) of service(s) provided.
3. **Work Plan** – The work plan description shall include a detailed proposed project schedule (by task and subtask), a list of tasks, activities, and/or milestones that will be employed to administer the project, the assignment of staff members and concentration of effort for each, and the attributable deliverables for each and will identify and describe what type of tutor training methodology will be utilized in the program.
4. **Approach/Methodology** - This section shall describe the offeror's understanding of the University's requirements, including the result(s) intended and desired, the approach and/or methodology to be employed and a work plan for accomplishing the results proposed. The description of the approach shall discuss and justify the approach proposed to be taken for each task, and the technical issues that will or maybe confronted at each stage on the project.

B. Cost Proposal

Provide a cost proposal to include the following: a detailed Budget and Budget Narrative that correlates to the hourly and at-cost expenses for this project, per the attached bid form. Please include hourly billing rates for all members of the design team to be used when invoicing optional additional services. *Note: The Cost Proposal must be submitted in a sealed envelope separate from the Technical Proposal.*

C. ISBE Proposal

See Appendix A for information and the MBE, WBE, and/or Disability Business Enterprise Participation Plan form(s). Bidders are required to complete, sign and submit these forms with their overall proposal in a sealed envelope. Please complete separate forms for each MBE, WBE and/or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation.

SECTION 5: EVALUATION AND SELECTION

Proposals will be reviewed by a Technical Review Committee ("TRC") comprised of staff from URI/State Agencies. The TRC first shall consider technical proposals.

Technical proposals must receive a minimum of 60 (85.7%) out of a maximum of 70 points to advance to the cost evaluation phase. Any technical proposals scoring less than 60 points shall not have the accompanying cost or ISBE participation proposals opened and evaluated. The proposal will be dropped from further consideration.

Technical proposals scoring 60 points or higher will have the cost proposals evaluated

and assigned up to a maximum of 30 points in cost category bringing the total potential evaluation score to 100 points. After total possible evaluation points are determined ISBE proposals shall be evaluated and assigned up to 6 bonus points for ISBE participation.

The University of Rhode Island reserves the right to select the vendor(s) or firm(s) (“vendor”) that it deems to be most qualified to provide the goods and/or services as specified herein; and, conversely, reserves the right to cancel the solicitation in its entirety in its sole discretion.

Proposals shall be reviewed and scored based upon the following criteria:

Criteria	Possible Points
Staff Qualifications	10 Points
Capability, Capacity, and Qualifications of the Offeror	10 Points
Work Plan	25 Points
Approach Proposed	25 Points
Points Total Possible Technical	70 Points
Cost proposal*	30 Points
Total Possible Evaluation Points	100 Points
ISBE Participation**	6 Bonus Points
Points Total Possible	106 Points

*** Cost Proposal Evaluation:**

The vendor with the lowest cost proposal shall receive one hundred percent (100%) of the available points for cost. All other vendors shall be awarded cost points based upon the following formula:

$$(\text{lowest cost proposal} / \text{vendor's cost proposal}) \times \text{available points}$$

For example: If the vendor with the lowest cost proposal (Vendor A) bids \$65,000 and Vendor B bids \$100,000 for monthly costs and service fees and the total points available are thirty (30), Vendor B's cost points are calculated as follows:

$$\$65,000 / \$100,000 \times 30 = 19.5$$

****ISBE Participation Evaluation:**

A. Calculation of ISBE Participation Rate

1. ISBE Participation Rate for Non-ISBE Vendors. The ISBE participation rate for non- ISBE vendors shall be expressed as a percentage and shall be calculated by dividing the amount of non-ISBE vendor's total contract price that will be subcontracted to ISBEs by the non-ISBE vendor's total contract price. For example if the non-ISBE's total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs, the non-ISBE's ISBE participation rate would be 12%.
2. ISBE Participation Rate for ISBE Vendors. The ISBE participation rate for ISBE vendors shall be expressed as a percentage and shall be calculated by dividing the amount of the ISBE vendor's total contract price that will be subcontracted to ISBEs and the amount that will be self-performed by the ISBE vendor by the ISBE vendor's total contract price. For example if the ISBE vendor's total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs and will perform a total of \$8,000.00 of the work itself , the ISBE vendor's ISBE participation rate would be 20%.

B. Points for ISBE Participation Rate:

The vendor with the highest ISBE participation rate shall receive the maximum ISBE participation points. All other vendors shall receive ISBE participation points by applying the following formula:

$$\begin{aligned} & (\text{Vendor's ISBE participation rate} \div \text{Highest ISBE participation rate} \\ & \quad \times \text{Maximum ISBE participation points}) \end{aligned}$$

For example, assuming the weight given by the RFP to ISBE participation is 6 points, if Vendor A has the highest ISBE participation rate at 20% and Vendor B's ISBE participation rate is 12%, Vendor A will receive the maximum 6 points and Vendor B will receive $(12\% \div 20\%) \times 6$ which equals 3.6 points.

General Evaluation:


Points shall be assigned based on the vendor's clear demonstration of the ability to provide the requested goods and/or services. Vendors may be required to submit additional written information or be asked to make an oral presentation before the Technical Review Committee to clarify statements made in the proposal.


SECTION 6: QUESTIONS


Questions concerning this solicitation may be e-mailed to the University of Rhode Island Purchasing Department at URIPurchasing@uri.edu no later than the time and date indicated on page 1 of this solicitation. Please reference the reference **RFP # 101227** on all correspondence. Questions should be submitted in a Microsoft Word attachment in a narrative format with no tables. Answers to questions received, if any, shall be posted on the Division of Purchases' website as an addendum to this solicitation. It is the responsibility of all interested parties to monitor the Division of Purchases website for any procurement related postings such as addenda. If technical assistance is required, call the Help Desk at (401) 574-8100.

SECTION 7: PROPOSAL CONTENTS

A. Proposals shall include the following:

1. One completed and signed **URI Bidder Certification Cover Form** (include in the Technical Proposal Original copy only). *Do not include in the Technical Proposal copies or Cost proposals.*
2.  **Technical Proposal** - describing the qualifications and background of the applicant and experience with and for similar projects, and all information described earlier in this solicitation. The technical proposal is limited to six (6) pages (this excludes any appendices and as appropriate, resumes of key staff that will provide services covered by this request).
 - a. One (1) Electronic copy on a CD-R, marked “Technical Proposal - Original”.
 - b. One (1) printed paper copy, marked “Technical Proposal -Original” and signed.
 - c. One (1) printed paper copies

 **Cost Proposal** - A *separate*, signed and sealed cost proposal reflecting the detailed Budget and Budget Narrative that correlates to the hourly and at-cost expenses for this project, per the attached bid form. Please include hourly billing rates for all members of the design team to be used when invoicing optional additional services.

- a. One (1) Electronic copy on a CD-R, marked “Cost Proposal -Original”.
 - b. One (1) printed paper copy, marked “Cost Proposal -Original” and signed.
 - c. One (1) printed paper copies
3.  **ISBE Proposal** – A *separate*, signed and sealed Appendix A MBE, WBE, and/or Disability Business Enterprise Participation Plan. Please complete separate forms for each MBE/WBE or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation. **Do not include any copies in the Technical proposals.**

B. Formatting of proposal response contents should consist of the following:

1. Formatting of CD-Rs – Separate CD-Rs are required for the technical proposal and cost proposal. All CD-Rs submitted must be labeled with:
 - a. Vendor’s name
 - b. RFP #

- c. RFP Title
- d. Proposal type (e.g., technical proposal or cost proposal)
- e. If file sizes require more than one CD-R, multiple CD-Rs are acceptable. Each CD-R must include the above labeling and additional labeling of how many CD-Rs should be accounted for (e.g., 3 CD-Rs are submitted for a technical proposal and each CD-R should have additional label of '1 of 3' on first CD-R, '2 of 3' on second CD-R, '3 of 3' on third CD-R).

Vendors are responsible for testing their CD-Rs before submission as the URI Purchasing Department's inability to open or read a CD-R may be grounds for rejection of a Vendor's proposal. All files should be readable and readily accessible on the CD-Rs submitted with no instructions to download files from any external resource(s). If a file is partial, corrupt or unreadable, the URI Purchasing Department may consider it "non-responsive". USB Drives or any other electronic media shall not be accepted. Please note that CD-Rs submitted, shall not be returned.

2. Formatting of written documents and printed copies:

- a. For clarity, the technical proposal shall be typed. These documents shall be single-spaced with 1" margins on white 8.5"x 11" paper using a font of 12 point Calibri or 12 point Times New Roman.
- b. All pages on the technical proposal are to be sequentially numbered in the footer, starting with number 1 on the first page of the narrative (this does not include the cover page or table of contents) through to the end, including all forms and attachments. The Vendor's name should appear on every page, including attachments. Each attachment should be referenced appropriately within the proposal section and the attachment title should reference the proposal section it is applicable to.
- c. The cost proposal shall be typed using the formatting provided on the provided template.
- d. Printed copies are to be only bound with removable binder clips.

SECTION 8: PROPOSAL SUBMISSION

Interested vendors must submit proposals to provide the goods and/or services covered by this RFP on or before the date and time listed on the cover page of this solicitation. Responses received after this date and time, as registered by the official time clock in the reception area of the University of Rhode Island Purchasing Department, shall not be accepted.

Responses should be mailed or hand-delivered in a sealed envelope marked "RFP # 101227 to

MAIL TO:

UNIVERSITY OF RHODE ISLAND
PO BOX 1773
PURCHASING DEPARTMENT

Rev: 10/5/22

COURIER:

UNIVERSITY OF RHODE ISLAND
PURCHASING DEPARTMENT
10 TOOTELL RD.

NOTE: Proposals received after the above-referenced due date and time will not be considered. Proposals misdirected to other University locations or which are otherwise not presented in the URI Purchasing Department by the scheduled due date and time will be determined to be late and will not be considered. Proposals faxed, or emailed, to the URI Purchasing Department will not be considered. The “official” time clock is located in the reception area of the URI Purchasing Department. **(Please be advised that FedEx/UPS do not always arrive by 10:30 am, you would be smart to send your submission to arrive at least one day early)**

SECTION 9: CONCLUDING STATEMENTS

Notwithstanding the above, the University of Rhode Island reserves the right to award on the basis of cost alone, to accept or reject any or all proposals, and to award it in its best interest.

Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further.

The University may, at its sole option, elect to require presentation(s) by offerors clearly in consideration for award

If a Vendor is selected for an award, no work is to commence until a purchase order is issued by the University of Rhode Island Purchasing Department.

APPENDIX A. PROPOSER ISBE RESPONSIBILITIES AND MBE, WBE, AND/OR DISABILITY BUSINESS ENTERPRISE PARTICIPATION FORM

A. Proposer's ISBE Responsibilities (from 150-RICR-90-10-1.7.E)

1. Proposal of ISBE Participation Rate. Unless otherwise indicated in the RFP, a Proposer must submit its proposed ISBE Participation Rate in a sealed envelope or via sealed electronic submission at the time it submits its proposed total contract price. The Proposer shall be responsible for completing and submitting all standard forms adopted pursuant to 105-RICR-90-10-1.9 and submitting all substantiating documentation as reasonably requested by either the Using Agency's MBE/WBE Coordinator, Division, ODEO, or Governor's Commission on Disabilities including but not limited to the names and contact information of all proposed subcontractors and the dollar amounts that correspond with each proposed subcontract.
2. Failure to Submit ISBE Participation Rate. Any Proposer that fails to submit a proposed ISBE Participation Rate or any requested substantiating documentation in a timely manner shall receive zero (0) ISBE participation points.
3. Execution of Proposed ISBE Participation Rate. Proposers shall be evaluated and scored based on the amounts and rates submitted in their proposals. If awarded the contract, Proposers shall be required to achieve their proposed ISBE Participation Rates. During the life of the contract, the Proposer shall be responsible for submitting all substantiating documentation as reasonably requested by the Using Agency's MBE/WBE Coordinator, Division, ODEO, or Governor's Commission on Disabilities including but not limited to copies of purchase orders, subcontracts, and cancelled checks.
4. Change Orders. If during the life of the contract, a change order is issued by the Division, the Proposer shall notify the ODEO of the change as soon as reasonably possible. Proposers are required to achieve their proposed ISBE Participation Rates on any change order amounts.
5. Notice of Change to Proposed ISBE Participation Rate. If during the life of the contract, the Proposer becomes aware that it will be unable to achieve its proposed ISBE Participation Rate, it must notify the Division and ODEO as soon as reasonably possible. The Division, in consultation with ODEO and Governor's Commission on Disabilities, and the Proposer may agree to a modified ISBE Participation Rate provided that the change in circumstances was beyond the control of the Proposer or the direct result of an unanticipated reduction in the overall total project cost.

B. MBE, WBE, AND/OR Disability Business Enterprise Participation Plan Form:

Attached is the MBE, WBE, and/or Disability Business Enterprise Participation Plan form. Bidders are required to complete, sign and submit with their overall proposal in a sealed envelope. Please complete separate forms for each MBE, WBE and/or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation.



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS DEPARTMENT
OF ADMINISTRATION
ONE CAPITOL HILL PROVIDENCE, RHODE ISLAND 02908**

MBE, WBE, and/or DISABILITY BUSINESS ENTERPRISE PARTICIPATION PLAN

Bidder's Name:

Bidder's Address:

Point of Contact:

Telephone:

Email:

Solicitation No.:

Project Name:

This form is intended to capture commitments between the prime contractor/vendor and MBE/WBE and/or Disability Business Enterprise subcontractors and suppliers, including a description of the work to be performed and the percentage of the work as submitted to the prime contractor/vendor. Please note that all MBE/WBE subcontractors/suppliers must be certified by the Office of Diversity, Equity and Opportunity MBE Compliance Office and all Disability Business Enterprises must be certified by the Governor's Commission on Disabilities at time of bid, and that MBE/WBE and Disability Business Enterprise subcontractors must self-perform 100% of the work or subcontract to another RI certified MBE in order to receive participation credit. Vendors may count 60% of expenditures for materials and supplies obtained from an MBE certified as a regular dealer/supplier, and 100% of such expenditures obtained from an MBE certified as a manufacturer. This form must be completed in its entirety and submitted at time of bid. **Please complete separate forms for each MBE/WBE or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation.**

Name of Subcontractor/Supplier:

Type of RI Certification: ☐ MBE ☐ WBE ☐ Disability Business Enterprise

Address:

Point of Contact:

Telephone:

Email:

Detailed Description of Work To Be Performed by Subcontractor or Materials to be Supplied by Supplier:

Total Contract Value (\$):

Subcontract Value (\$):

ISBE Participation Rate (%):

Anticipated Date of Performance:

I certify under penalty of perjury that the forgoing statements are true and correct.

Prime Contractor/Vendor Signature

Title

Date

Subcontractor/Supplier Signature

Title

Date

WRIU New Radio Tower Design – Bid Form				
Section A: Final Design				
	Schematic Design	\$0		
	Design Development	\$0		
	Construction Documents	\$0		
	Subtotal Section B:		\$0	
Section B: Bidding and Construction Administration				
	Bidding Support	\$0		
	Construction Administration	\$0		
	Subtotal Section C:		<u>\$0</u>	
Total Fee for Design (Sections A, B, C)				\$0
Section C: At-cost and reimbursable expenses				
	Survey	\$25,000		
	Environmental Site Analysis	\$34,000		
	Geotechnical Services	\$34,000		
	Structural Engineering Services	\$17,000		
	Haz Mat Services	\$34,000		
	At-cost Expenses	\$10,000		
	Subtotal Section D:		\$154,000	
Grand Total (Sections A, B, and C)				<u>\$0</u>



AIA[®] Document B104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

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

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

**The University of Rhode Island Board of Trustees, acting by and through the
University of Rhode Island Purchasing Department**

**10 Tootell Road
Kingston, Rhode Island 02881
401.874.2171 (telephone); 401.874.2306 (facsimile)
<http://web.uri.edu/purchasing/>**

on behalf of the User Agency:
(Name, legal status, address, telephone and facsimile numbers, and website)

The University of Rhode Island
45 Upper College Road
Kingston, Rhode Island 02881
401.874.1000 (telephone)

and the Design Agent:
(Name, legal status, address, telephone and facsimile numbers, and website)

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

The Owner and Design Agent 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.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

(State below details of the Project's site and program, Owner's contractors and consultants, Design Agent's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

§ 1.2 The Owner and Design Agent may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Design Agent shall appropriately adjust the schedule, the Design Agent's services and the Design Agent's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 DESIGN AGENT'S RESPONSIBILITIES

§ 2.1 The Design Agent shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by Design Agents practicing in the same or similar locality under the same or similar circumstances. The Design Agent shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. No part of the professional services shall be performed by subconsultants or subcontractors without the Owner's prior written consent.

§ 2.2 The Design Agent shall maintain the following types and limits of insurance until termination of this Agreement, unless different amounts have been specified in the Solicitation:

.1 General Liability

Commercial General Liability (including broad-form contractual liability and completed operations) with policy limits not less than \$1,000,000 for each occurrence and aggregate for bodily injury and property damage.

.2 Automobile Liability

Commercial Automobile Liability covering vehicles owned, hired, and nonowned vehicles used by the Design Agent with policy limits of not less than \$1,000,000 combined single limit and aggregate bodily injury, death or any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

.3 Workers' Compensation at statutory limits.

.4 Professional Liability

Professional Liability covering bodily injury and property damage due to the Design Agent's negligent acts, errors, and omissions in the performance of professional services with policy limits of not less than \$2,000,000 per claim and in the aggregate, maintained during the term of this Agreement and for a period of 5 years after the Final Completion of any and all of the Design Agent's Basic and Additional Services under this Agreement. Any retroactive date or prior acts exclusions to which such coverage is subject shall predate the date on which services hereunder are commenced and the date of this Agreement.

§ 2.2.5 The Design Agent may achieve the required limits and coverage for Commercial General Liability and Commercial Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under this Article 2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.2.6 **Additional Insured Obligations.** The Design Agent shall cause the primary and excess or umbrella policies for Commercial General Liability and Commercial Automobile Liability to include the Owner and the User Agency as an additional insured for claims caused in whole or in part by the Design Agent's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's and the User Agency's insurance policies and shall apply to both ongoing and completed operations.

§ 2.2.7 The Design Agent shall provide the Owner and the User Agency, on an annual basis for the duration of this Agreement and from time to time upon request, with a copy of a policy endorsement and certificates of insurance that name the State of Rhode Island and the User Agency as "certificate holders" and as "additional insureds" and that otherwise evidences compliance with the requirements of this Section 2.5. The certificate of insurance must state that 30 working days' advance notice of cancellation, nonrenewal, or material change (together with a copy of the materially changed policy or endorsement) in coverage will be sent to: The University of Rhode Island Purchasing Department, 10 Tootell Road, Kingston, Rhode Island 02881, fax (401) 874-2306, and must reference the Project and this Agreement. Material changes that are not acceptable to the Owner may result in termination by the Owner pursuant to Section 9.4. All policies, endorsements, and certificates of insurance must include the following language: Coverage is primary and noncontributory. Subrogation is waived for the additional insured.

ARTICLE 3 SCOPE OF DESIGN AGENT'S BASIC SERVICES

§ 3.1 The Design Agent's Basic Services consist of those described in the Solicitation and this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. The Design Agent shall consult with the Owner and the User Agency and facilitate and attend Project meetings. Services not set forth in this Article 3 or the Solicitation are Supplemental or Additional Services.

§ 3.1.1 The Design Agent shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Design Agent shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's written approvals. The Design Agent shall provide prompt written notice to the Owner if the Design Agent becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 The Owner and the User Agency have provided the Project Schedule to the Design Agent. As soon as practicable after the date of this Agreement, the Design Agent shall submit for the approval of the Owner and the User Agency a schedule for the performance of the Design Agent's services. Once approved by the Owner and the User Agency, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Design Agent or Owner. With the prior written approval of the Owner and the User Agency, the Design Agent shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Design Agent shall timely assist the Owner and the User Agency in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Design Agent shall review the program and other information furnished by the Owner, and shall review and be familiar with laws, codes, and regulations applicable to the Design Agent's services.

§ 3.2.2 The Design Agent shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Design Agent shall reach an understanding with the Owner regarding the Project requirements.

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

§ 3.2.4 Based on the Project requirements, the Design Agent shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Design Agent shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. As necessary or appropriate, the Design Agent and its consultants shall participate in value engineering review meetings with the Owner.

§ 3.2.5 The Design Agent shall submit the Design Documents to the Owner and request the Owner's written approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Design Agent shall prepare for the Owner's written approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Design Agent 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 Design Agent shall review in accordance with Section 3.4.4.

§ 3.3.2 The Design Agent shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Design Agent shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Design Agent, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, if and to the extent requested by the Owner, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Design Agent shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by the Owner.

§ 3.4.1.2 The Design Agent shall advise and consult with the Owner during the Construction Phase Services. The Design Agent shall supervise all Project meetings and record and distribute all meeting minutes. The Design Agent shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Design Agent shall review the schedule of values submitted by the Contractor to assure that the Contract Sum is allocated properly to the various portions of the Work. The schedule of values shall be in such form and supported by such data to substantiate its accuracy as the Design Agent and the Owner may require, this schedule, if and when approved by the Design Agent and the Owner in writing, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Design Agent 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 Design Agent be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Design Agent shall be responsible for the Design Agent's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Design Agent's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Design Agent issues, with the written approval of the Owner, the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Design Agent and its consultants shall each visit the site as required by Section 4.2.2 and otherwise at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in accordance with the Contract Documents and in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Design Agent shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Design Agent shall keep the Owner and the User Agency informed about the progress and quality of the portion of the Work completed, and promptly report in writing to the Owner and the User Agency (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Design Agent has the authority and the responsibility to reject Work that does not conform to the Contract Documents and has the authority and responsibility to require inspection or testing of the Work.

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

§ 3.4.2.4 When making such interpretations, the Design Agent shall endeavor to secure faithful performance by both the Owner and the Contractor, shall not show partiality to either, and shall not be liable for results of interpretations rendered reasonably in the Design Agent's professional judgment and in good faith.

§ 3.4.2.5 Deleted.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Design Agent shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Design Agent's certification for payment shall constitute a representation to the Owner, based on the Design Agent's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Design Agent's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

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

§ 3.4.4 Submittals

§ 3.4.4.1 The Design Agent shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Design Agent shall provide prompt written notice to the Owner and the User Agency, however, if the Design Agent becomes aware of any error, omission, or inconsistency in such submittals or information. The Design Agent's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences, or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Design Agent shall specify the appropriate performance and design criteria that such services must satisfy. The Design Agent shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Design Agent. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Design Agent shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

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

§ 3.4.5 Changes in the Work

The Design Agent may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Design Agent shall: (i) review with the Owner and the User Agency all other changes in the Work proposed by the Contractor; and (ii) advise the Owner and the User Agency regarding their scope, cost, and adjustment in time. Subject to Section 4.2.3, the Design Agent shall prepare Change Orders and Construction Change Directives for the Owner's written approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Design Agent shall conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and, with the Owner's prior written approval, issue a final Certificate for Payment based upon a final inspection indicating that the Work complies with the requirements of the Contract Documents.

§ 3.4.6.1 Upon request of the Owner, and prior to the expiration of one year from the date of Final Completion, the Design Agent shall, without additional compensation, conduct a minimum of two (2) meetings with the Owner and the User Agency to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 The services specifically set forth in the Solicitation shall be deemed to be Basic Services for all purposes under this Agreement and shall not require additional compensation. If there are services listed below in this Section 4.1, the Design Agent shall provide them as Supplemental Services as the Design Agent's responsibility, and the Owner shall compensate the Design Agent as provided in Section 11.2.

(Identify below the Supplemental Services, if any, that the Design Agent is required to provide.)

§ 4.2 The Design Agent may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Design Agent shall notify the Owner. The Design Agent shall not provide the Additional Services until the Design Agent receives the Owner's written authorization. Except for services required due to the fault of the Design Agent, any Additional Services provided in accordance with this Section 4.2 shall entitle the Design Agent to compensation pursuant to Section 11.3.

§ 4.2.1 The Design Agent shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Design Agent has included in Basic Services:

- .1 2 reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor'
- .2 weekly visits to the site by the Design Agent during construction, and as necessary to resolve construction exigencies, and biweekly visits to the site by the Project engineers during any installation of their portion of the Work;
- .3 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 2 inspections for any portion of the Work to determine Final Completion;
- .5 2 inspections within 12 months, as directed by the Owner or the User Agency following Final Completion to determine punch list and warranty compliance.

§ 4.2.3 The Design Agent shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work approved in writing by the Owner. The Design Agent shall prepare revisions to the Design Agent's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Design Agent, extension of the Design Agent'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.

§ 5.2 If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Design Agent. The Owner and the Design Agent shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations, and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Design Agent requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Design Agent. Upon the Design Agent's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants.

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

§ 5.6 Deleted.

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

§ 5.8 Deleted.

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

§ 5.10 Deleted.

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Design Agent, represent the Design Agent's judgment as a design professional. It is recognized, however, that neither the Design Agent 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 Design Agent 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 Design Agent.

§ 6.3 The Design Agent, if an architect, shall provide detailed cost estimates of the Cost of the Work at the intervals specified in the Project Schedule. In preparing estimates of the Cost of Work, the Design Agent shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Design Agent's estimate of the Cost of the Work shall be based on current area, volume, or similar conceptual estimating techniques. The Design Agent, if an engineer, shall provide an opinion of probable construction value. An engineer must provide detailed cost estimates if such estimates are identified as a Supplemental Service in Section 4.1.

§ 6.4 If, through no fault of the Design Agent, construction procurement activities have not commenced within 90 working days after the Design Agent submits the Construction Documents to the Owner 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 Design Agent's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Design Agent 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 Design Agent in making such adjustments.

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

§ 6.8 The Owner may also engage the services of an estimator to assist in the evaluation of the Owner's budget and the Cost of the Work. The Design Agent and the Owner will exchange and reconcile the detailed information of their estimators to refine and confirm the Owner's budget and the Cost of the Work.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Design Agent 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.

§ 7.2 The Design Agent and the Design Agent'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 Design Agent and the Design Agent's consultants.

§ 7.3 Upon execution of this Agreement, the Design Agent grants to the Owner a nonexclusive perpetual license to use the Design Agent's Instruments of Service, including electronic or digital documents, solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, , and shall have and retain all rights to use and reproduce them for the production and maintenance of the Work described therein, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Design Agent shall obtain similar nonexclusive licenses from the Design Agent's consultants consistent with this Agreement. These Instruments of Service shall be conveyed to the Owner in their original operative, editable, electronic form in order to allow the Owner's integration of the data into the Owner's or User Agency's facilities management database. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, solely and exclusively for use in performing services or construction for the Project. If the Design Agent 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 Upon full payment of all sums due the Design Agent under this Agreement, all of the original Drawings, Specifications, and electronic data prepared by the Design Agent for the Project shall, without further action by the Design Agent, become the property of the Owner. In the event the Owner or others use the Instruments of Service without retaining, directly or indirectly, the authors of the Instruments of Service, the Owner releases the Design Agent and Design Agent's consultant(s) from all claims and causes of action arising from such uses. Design Agent The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Design Agent shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law. The Design Agent waives all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Design Agent waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by the Owner. The Design Agent shall require of its consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Design Agent waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to the termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.1.4 To the fullest extent permitted by law, the Design Agent shall indemnify and hold harmless the Owner, the User Agency, and the State of Rhode Island in accordance with Rhode Island Procurement Regulation 220-RICR-30-00-13.21.

§ 8.1.4.1 Without limiting the generality of the foregoing, the defense and indemnity set forth in this Section 8.1.4 includes, without limitation, all judgments, liabilities, damages, losses, claims, demands, and actions on account of bodily injury, death, or property loss to a person or entity indemnified hereunder or any other persons or entities, whether based upon statutory (including, without limitation, workers compensation), contractual, tort, or other liability of any person or entity so indemnified.

§ 8.1.4.2 The remedies set forth herein shall not deprive any person indemnified hereunder of any other indemnity action, right, or remedy otherwise available to any such person or entity at common law or otherwise.

§ 8.1.4.3 The Design Agent will include the indemnity set forth in this Section 8.1.4 without modification, in each Subcontract with any Subconsultant or Subcontractor.

§ 8.1.4.4 Notwithstanding any other language in the Contract Documents to the contrary, the indemnity hereunder shall survive Final Completion of the Work and final payment under this Agreement and shall survive any termination of this Agreement.

§ 8.1.5 The Owner shall have the right to deduct from any payments due to the Design Agent the amount of any unpaid obligations owed to the State of Rhode Island by the Design Agent, including without limitation, any and all unpaid taxes, the amount of any claim against the Design Agent arising out of this Agreement, or any amount on account of any other reason permitted by applicable law.

§ 8.2 Initial Decision and Mediation.

§ 8.2.1 Claims shall be referred to the Initial Decision Maker for initial decision. The URI Purchasing Department as the Purchasing Agent appointed pursuant to the Procurement Regulations of the Board of Governors for Higher

Education, will serve as the Initial Decision Maker in accordance with the provisions of the State Purchases Act, State of Rhode Island Procurement Regulations, and this Section 8.2.1. An initial decision shall be required as a condition precedent to binding dispute resolution pursuant to Section 8.3.1 of any Claim arising prior to the date final payment is due.

§ 8.2.2 For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, and prior to the implementation of the binding dispute resolution procedures set forth in Section 8.3.1, the Design Agent shall have the option to pursue mediation, exercisable by written notice to the Owner within 30 calendar days of an Initial Decision. In the event of the exercise of such option by the Design Agent, the Owner and the Design Agent shall attempt to select a mediator, and in the event that the Owner and the Design Agent cannot agree on a mediator, either party may apply in writing to the Presiding Justice of the Providence County Superior Court, with a copy to the other, with a request for the court to appoint a mediator, and the costs of the mediator shall be borne equally by both parties.

§ 8.2.3
(Paragraphs deleted)
Deleted.

§ 8.3 Binding Dispute Resolution

§ 8.3.1 For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, or mediation at the option of the Design Agent pursuant to Section 8.2.2, the method of binding dispute resolution shall be determined in accordance with the provisions of the "Public Works Arbitration Act," R.I. Gen. Laws §§ 37-16-1 et seq. and the Procurement Regulations of the Board of Governors for Higher Education.

§ 8.3.1.1 Deleted.

§ 8.3.2 Deleted.

§ 8.3.3 Deleted.

§ 8.3.4 Deleted.

§ 8.3.4.1 Deleted.

§ 8.3.4.2 Deleted.

§ 8.3.4.3 Deleted.

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Design Agent in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design Agent's option, cause for suspension of performance of services under this Agreement. If the Design Agent elects to suspend services, the Design Agent shall give 7 working days' written notice to the Owner before suspending services. In the event of a suspension of services, the Design Agent shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Design Agent all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design Agent's services. The Design Agent's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 The Owner may suspend the Project as provided in this Agreement, the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the Procurement Regulations General Conditions of Purchase of the Board of Governors for higher Education, or other applicable law. If the Owner suspends the Project, the Design Agent shall be compensated for services performed prior to notice of such suspension. If and when the Project is resumed, the Design Agent'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 working days for reasons other than the fault of the Design Agent, the Design Agent may terminate this Agreement by giving not less than 7 working days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than 7 working days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon written notice to the Design Agent for the Owner's convenience and without cause. The Owner may also terminate this Agreement: (i) in the event of the unavailability of appropriated funds; (ii) in the absence of a determination of continued need; or (iii) as otherwise provided in the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the Procurement Regulations General Conditions of Purchase of the Board of Governors for Higher Education, or other applicable law.

§ 9.6 In the event of termination not the fault of the Design Agent, the Design Agent shall be compensated for services performed prior to termination and Reimbursable Expenses incurred.

§ 9.7
(Paragraphs deleted)
Deleted.

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement is subject to, and governed by, the laws of the State of Rhode Island, including all procurement statutes and regulations (available at www.ridop.ri.gov), and applicable federal and local law, all of which are incorporated into this Agreement by this reference. In the event of any conflict between this Agreement and the Procurement Regulations of the Board of Governors for Higher Education or any other provision of Rhode Island law, the Procurement Regulations of the Board of Governors for Higher Education, and Rhode Island law will control. The Design Agent hereby consents to and confers exclusive personal jurisdiction upon the courts of the state of Rhode Island and of the federal government sitting within this state. In the event of any conflicts or discrepancies among the Contract Documents, the provisions of the Contract Documents will be interpreted in the order of priority set forth in in Rhode Island Procurement Regulation 220-RICR-30-00-13.4(B).

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by the Owner.

§ 10.3 The Owner and Design Agent, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement; provided, however, that the Design Agent may not assign its rights nor delegate its responsibilities under this Agreement without the Owner's prior written consent.

§ 10.4 If the Owner requests the Design Agent to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Design Agent for review a reasonable time prior to the requested dates of execution.

§ 10.5 The User Agency is a disclosed third-party beneficiary of this Agreement and shall have all of the rights and benefits to which such a party is entitled hereunder. Nothing contained in this Agreement shall create any other contractual relationship with, or a cause of action in favor of, a third party against the Owner, User Agency, or Design Agent.

§ 10.6 The Design Agent shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Design Agent shall have the right to include photographic or artistic representations of the design of the Project among the Design Agent's promotional and professional materials. However, the Design Agent's materials

Init.

shall not include as the Owner's confidential or proprietary information. The Owner shall provide professional credit for the Design Agent in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

§ 10.9 The Owner is the University of Rhode Island, acting by and through its Purchasing Department, and therefore, pursuant to the provisions of R.I. Gen. Laws § 34-28-31, liens against the Project are not enforceable.

ARTICLE 11 COMPENSATION

§ 11.1 For the Design Agent's Basic Services described under Article 3, the Owner shall compensate the Design Agent as set forth in the Cost Proposal Exhibit.

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

§ 11.3
(Paragraphs deleted)
Deleted.

§ 11.4 Deleted.

§ 11.5 Deleted.
(Table deleted)

§ 11.6 Deleted.

§ 11.6.1 Deleted.

§ 11.7 The hourly billing rates for services of the Design Agent and the Design Agent's consultants, if any, are set forth
(Paragraphs deleted)
in the Cost Proposal Exhibit below.
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 transportation and authorized out-of-town travel and subsistence, except for travel to and from the Design Agent's offices or the Consultant's offices, to meet with the Owner, the User Agency, or to visit the Project site; travel reimbursable expenses are subject to the limitations established from time to time for state employees by the Rhode Island Department of Administration Office of Accounts and Control;
- .2 **Deleted;**
- .3 permitting and other fees required by authorities having jurisdiction over the Project;
- .4 printing, reproductions, plots, and standard form documents, provided to the Owner and/or Contractor(s) for review, bidding, and construction administration;
- .5 postage, handling, and delivery;
- .6 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;

- .7 renderings, physical models, mock-ups, professional photography, and presentation materials in excess of those required by the Solicitation, if any and requested in writing by the Owner;
- .8 **Deleted;**
- .9 all taxes levied on professional services and on reimbursable expenses;
- .10 site office expenses; and
- .11 other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the exact expenses incurred by the Design Agent and the Design Agent's consultants.

§ 11.9 Payments to the Design Agent

§ 11.9.1 Initial Payment

No initial payment shall be made upon execution of this Agreement.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable

(Paragraphs deleted)

not later than the 30th working day following written approval by the Owner of the Design Agent's invoice. No interest shall be due or payable on account of any payment due or unpaid except in accordance with the provisions of "Prompt Payment by Department of Administration," R.I. Gen. Laws §§ 42-11.1-1 et seq.

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

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner upon reasonable notice.

(Paragraphs deleted)

§ 11.9.3 Within 10 working days of receipt of any progress payment from the Owner, the Design Agent must pay its Subconsultants and Subcontractors the full amount included for each such Subconsultant and Subcontractor reflected in the Design Agent's invoice for payment.

§ 11.9.4 Retainage in the amount of five (5%) percent of any amount otherwise due the Design Agent hereunder, excluding reimbursable expenses, shall be retained until the close-out of the Project.

§ 11.9.5 The Owner may, at its sole option, issue joint checks to the Design Agent and to any Subconsultant or Subcontractor or material or equipment suppliers to whom the Design Agent failed to make payment for Work properly performed or material and equipment suitably delivered.

ARTICLE 12 Deleted.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 The Purchase Order issued by the Owner
- .2 Solicitation # _____ issued by the Owner, including without limitation, the Invitation to Bid, the Instructions to Bidders, the Specifications and Drawings, any Addenda, and the Bid Checklist (with applicable forms)

.3 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and
(Paragraphs deleted)
Design Agent, as modified by the Owner.

.4 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified
in Section 4.1.)

Cost Proposal Exhibit

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

The Design Agent's Response to the Solicitation, including without limitation, the Bidder Certification
Cover Form, the Technical Proposal, and the Cost Proposal.

The person signing for the Design Agent represents that he or she has been duly authorized to execute this Agreement
on behalf of the Design Agent.

This Agreement entered into as of the day and year first written above; provided, however, that this Agreement shall
not become a valid, binding, and enforceable contract unless and until the Owner shall have issued a Purchase Order.

**The University of Rhode Island Board of Trustees,
acting by and through the University of Rhode Island
Purchasing Department**

OWNER (Signature)

(Printed name and title)

DESIGN AGENT (Signature)

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

Additions and Deletions Report for AIA[®] Document B104[™] – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:40:03 ET on 11/15/2022.

PAGE 1

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

**The University of Rhode Island Board of Trustees, acting by and through the University of Rhode Island
Purchasing Department**

10 Tootell Road
Kingston, Rhode Island 02881
401.874.2171 (telephone); 401.874.2306 (facsimile)
<http://web.uri.edu/purchasing/>

on behalf of the User Agency:
(Name, legal status, address, telephone and facsimile numbers, and website)

The University of Rhode Island
45 Upper College Road
Kingston, Rhode Island 02881
401.874.1000 (telephone)

and the ~~Architect~~ Design Agent:
(Name, legal status, ~~address and other information~~) address, telephone and facsimile numbers, and website

...

The Owner and ~~Architect~~ Design Agent agree as follows.

PAGE 2

2 **ARCHITECT'S DESIGN AGENT'S RESPONSIBILITIES**

3 **SCOPE OF ARCHITECT'S DESIGN AGENT'S BASIC SERVICES**

...

(State below details of the Project's site and program, Owner's contractors and consultants, ~~Architect's Design Agent's~~ consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

...

§ 1.2 The Owner and ~~Architect~~ Design Agent 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~~ Design Agent shall appropriately adjust the schedule, the ~~Architect's~~ Design Agent's services and the ~~Architect's~~ Design Agent's

compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. ~~The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model ~~and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form,~~ shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES

ARTICLE 2 DESIGN AGENT'S RESPONSIBILITIES

§ 2.1 ~~The Architect~~ Design Agent shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by ~~architects~~ Design Agents practicing in the same or similar locality under the same or similar circumstances. ~~The Architect~~ Design Agent shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. No part of the professional services shall be performed by subconsultants or subcontractors without the Owner's prior written consent.

§ 2.2 ~~The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:~~

~~(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)~~ Design Agent shall maintain the following types and limits of insurance until termination of this Agreement, unless different amounts have been specified in the Solicitation:

PAGE 3

Commercial General Liability (including broad-form contractual liability and completed operations) with policy limits not less than \$1,000,000 for each occurrence and aggregate for bodily injury and property damage.

...

Commercial Automobile Liability covering vehicles owned, hired, and nonowned vehicles used by the Design Agent with policy limits of not less than \$1,000,000 combined single limit and aggregate bodily injury, death or any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

.3 Workers' Compensation at statutory limits.

...

Professional Liability covering bodily injury and property damage due to the Design Agent's negligent acts, errors, and omissions in the performance of professional services with policy limits of not less than \$2,000,000 per claim and in the aggregate, maintained during the term of this Agreement and for a period of 5 years after the Final Completion of any and all of the Design Agent's Basic and Additional Services under this Agreement. Any retroactive date or prior acts exclusions to which such coverage is subject shall predate the date on which services hereunder are commenced and the date of this Agreement.

ARTICLE 3 — SCOPE OF ARCHITECT'S BASIC SERVICES

§ 2.2.5 The Design Agent may achieve the required limits and coverage for Commercial General Liability and Commercial Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under this Article 2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.2.6 Additional Insured Obligations. The Design Agent shall cause the primary and excess or umbrella policies for Commercial General Liability and Commercial Automobile Liability to include the Owner and the User Agency as an additional insured for claims caused in whole or in part by the Design Agent's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's and the User Agency's insurance policies and shall apply to both ongoing and completed operations.

§ 2.2.7 The Design Agent shall provide the Owner and the User Agency, on an annual basis for the duration of this Agreement and from time to time upon request, with a copy of a policy endorsement and certificates of insurance that name the State of Rhode Island and the User Agency as "certificate holders" and as "additional insureds" and that otherwise evidences compliance with the requirements of this Section 2.5. The certificate of insurance must state that 30 working days' advance notice of cancellation, nonrenewal, or material change (together with a copy of the materially changed policy or endorsement) in coverage will be sent to: The University of Rhode Island Purchasing Department, 10 Tootell Road, Kingston, Rhode Island 02881, fax (401) 874-2306, and must reference the Project and this Agreement. Material changes that are not acceptable to the Owner may result in termination by the Owner pursuant to Section 9.4. All policies, endorsements, and certificates of insurance must include the following language: Coverage is primary and noncontributory. Subrogation is waived for the additional insured.

ARTICLE 3 SCOPE OF DESIGN AGENT'S BASIC SERVICES

§ 3.1 The ~~Architect's~~ Design Agent's Basic Services consist of those described in the Solicitation and this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. The Design Agent shall consult with the Owner and the User Agency and facilitate and attend Project meetings. Services not set forth in this Article 3 or the Solicitation are Supplemental or Additional Services.

§ 3.1.1 The ~~Architect~~ Design Agent shall coordinate its services with those services provided by the Owner and the Owner's consultants. The ~~Architect~~ Design Agent shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's written approvals. The ~~Architect~~ Design Agent shall provide prompt written notice to the Owner if the ~~Architect~~ Design Agent becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 The Owner and the User Agency have provided the Project Schedule to the Design Agent. As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval Design Agent shall submit for the approval of the Owner and the User Agency a schedule for the performance of the ~~Architect's~~ Design Agent's services. Once approved by the ~~Owner, Owner and the User Agency~~, 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~~ Design Agent or Owner. With the prior written approval of the Owner and the User Agency, the Design Agent shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The ~~Architect shall assist the Owner~~ Design Agent shall timely assist the Owner and the User Agency in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

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§ 3.2.1 The ~~Architect~~ Design Agent shall review the program and other information furnished by the Owner, and shall review and be familiar with laws, codes, and regulations applicable to the ~~Architect's~~ Design Agent's services.

§ 3.2.2 The ~~Architect~~ Design Agent shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The ~~Architect~~ Design Agent shall reach an understanding with the Owner regarding the Project requirements.

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

§ 3.2.4 Based on the Project requirements, the ~~Architect-Design Agent~~ shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the ~~Architect-Design Agent~~ shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. As necessary or appropriate, the Design Agent and its consultants shall participate in value engineering review meetings with the Owner.

§ 3.2.5 The ~~Architect-Design Agent~~ shall submit the Design Documents to the ~~Owner~~, Owner and request the Owner's written approval.

...

§ 3.3.1 Based on the Owner's approval of the Design Documents, the ~~Architect-Design Agent~~ shall prepare for the Owner's written approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and ~~Architect-Design Agent~~ 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-Design Agent~~ shall review in accordance with Section 3.4.4.

§ 3.3.2 The ~~Architect-Design Agent~~ shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The ~~Architect-Design Agent~~ shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The ~~Architect-Design Agent~~, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, if and to the extent requested by the Owner, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

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

§ 3.4.1.2 The ~~Architect-Design Agent~~ shall advise and consult with the Owner during the Construction Phase Services. ~~The Architect-~~ The Design Agent shall supervise all Project meetings and record and distribute all meeting minutes. The Design Agent shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The ~~Architect-Design Agent~~ shall review the schedule of values submitted by the Contractor to assure that the Contract Sum is allocated properly to the various portions of the Work. The schedule of values shall be in such form and supported by such data to substantiate its accuracy as the Design Agent and the Owner may require, this schedule, if and when approved by the Design Agent and the Owner in writing, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Design Agent 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-Design Agent~~ be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The ~~Architect-Design Agent~~ shall be responsible for the ~~Architect's-Design Agent's~~ negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the ~~Architect's~~ Design Agent'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 Design Agent issues~~, with the written approval of the Owner, the final Certificate for Payment.

...

§ 3.4.2.1 ~~The Architect shall visit the site~~ The Design Agent and its consultants shall each visit the site as required by Section 4.2.2 and otherwise at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in accordance with the Contract Documents and in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the ~~Architect~~ Design Agent shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the ~~Architect~~ Design Agent shall keep the Owner ~~reasonably~~ and the User Agency informed about the progress and quality of the portion of the Work completed, and promptly report ~~to the Owner in writing to the Owner and the User Agency~~ (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The ~~Architect~~ Design Agent has the authority and the responsibility to reject Work that does not conform to the Contract Documents and has the authority and responsibility to require inspection or testing of the Work.

§ 3.4.2.3 The ~~Architect~~ Design Agent 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~~ Design Agent's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such ~~interpretations and decisions~~, the ~~Architect~~ Design Agent shall endeavor to secure faithful performance by both the Owner and the Contractor, shall not show partiality to either, and shall not be liable for results of interpretations ~~or decisions rendered~~ rendered reasonably in the Design Agent's professional judgment and in good faith.

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

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§ 3.4.3.1 The ~~Architect~~ Design Agent shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The ~~Architect's~~ Design Agent's certification for payment shall constitute a representation to the Owner, based on the ~~Architect's~~ Design Agent's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the ~~Architect's~~ Design Agent's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the ~~Architect~~ Design Agent 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~~ sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

...

§ 3.4.4.1 The ~~Architect~~ Design Agent shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's

responsibility. The ~~Architect's~~ Design Agent shall provide prompt written notice to the Owner and the User Agency, however, if the Design Agent becomes aware of any error, omission, or inconsistency in such submittals or information. The Design Agent's review shall not constitute approval of safety precautions or any construction means, methods, techniques, ~~sequences~~ sequences, or procedures.

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

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

...

The ~~Architect~~ Design Agent may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. ~~Subject to Section 4.2.3, the Architect~~ The Design Agent shall: (i) review with the Owner and the User Agency all other changes in the Work proposed by the Contractor; and (ii) advise the Owner and the User Agency regarding their scope, cost, and adjustment in time. Subject to Section 4.2.3, the Design Agent shall prepare Change Orders and Construction Change Directives for the Owner's written approval and execution in accordance with the Contract Documents.

...

The ~~Architect~~ Design Agent shall conduct inspections to determine the date or dates of Substantial Completion and the date of ~~final completion~~ Final Completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; ~~and and, with the Owner's prior written approval, issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the that~~ the Work complies with the requirements of the Contract Documents.

§ 3.4.6.1 Upon request of the Owner, and prior to the expiration of one year from the date of Final Completion, the Design Agent shall, without additional compensation, conduct a minimum of two (2) meetings with the Owner and the User Agency to review the facility operations and performance.

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§ 4.1 ~~Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below. The services specifically set forth in the Solicitation shall be deemed to be Basic Services for all purposes under this Agreement and shall not require additional compensation. If there are services listed below in this Section 4.1, the Design Agent shall provide them as Supplemental Services as the Design Agent's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement.~~ Design Agent as provided in Section 11.2.

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

...

§ 4.2 The ~~Architect-Design Agent~~ may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the ~~Architect-Design Agent~~ shall notify the Owner. The ~~Architect-Design Agent~~ shall not provide the Additional Services until the ~~Architect-Design Agent~~ receives the Owner's written authorization. Except for services required due to the fault of the ~~Architect-Design Agent~~, any Additional Services provided in accordance with this Section 4.2 shall entitle the ~~Architect-Design Agent~~ to compensation pursuant to Section 11.3.

§ 4.2.1 The ~~Architect-Design Agent~~ shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The ~~Architect has included in Basic Services~~ — (—) ~~Design Agent has included in Basic Services:~~

- ~~.1 2 reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor'~~
- ~~.2 weekly visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service-Design Agent during construction, and as necessary to resolve construction exigencies, and biweekly visits to the site by the Project engineers during any installation of their portion of the Work;~~
- ~~.3 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 2 inspections for any portion of the Work to determine Final Completion;~~
- ~~.5 2 inspections within 12 months, as directed by the Owner or the User Agency following Final Completion to determine punch list and warranty compliance.~~

§ 4.2.3 The ~~Architect-Design Agent~~ shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the ~~Work~~. The ~~Architect~~ shall prepare revisions to the ~~Architect's~~ ~~the Work approved in writing by the Owner~~. The ~~Design Agent~~ shall prepare revisions to the ~~Design Agent's~~ Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

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

...

§ 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.~~Project.

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

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal ~~limitations~~-limitations, and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the ~~Architect-Design Agent~~ requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the ~~Architect-Design Agent~~. Upon the ~~Architect's-Design Agent's~~ request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. ~~The Owner shall require that its consultants and~~

contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, ~~inspections~~ 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.

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

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

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. ~~Deleted.~~

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

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

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the ~~Architect~~ Design Agent, represent the ~~Architect's~~ Design Agent's judgment as a design professional. It is recognized, however, that neither the ~~Architect~~ Design Agent nor the Owner has control over the cost of labor, ~~materials~~ materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, ~~market~~ market, or negotiating conditions. Accordingly, the ~~Architect~~ Design Agent 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~~ prepared, or agreed to by the ~~Architect~~ Design Agent.

§ 6.3 The Design Agent, if an architect, shall provide detailed cost estimates of the Cost of the Work at the intervals specified in the Project Schedule. In preparing estimates of the Cost of Work, the ~~Architect~~ Design Agent shall be permitted to include contingencies for design, ~~bidding~~ bidding, and price escalation; to determine what materials, equipment, component ~~systems~~ systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The ~~Architect's~~ Design Agent's estimate of the Cost of the Work shall be based on current area, ~~volume or similar conceptual estimating techniques~~. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service, ~~volume, or similar conceptual estimating techniques~~. The Design Agent, if an engineer, shall provide an opinion of probable construction value. An engineer must provide detailed cost estimates if such estimates are identified as a Supplemental Service in Section 4.1.

§ 6.4 If, through no fault of the ~~Architect~~ Design Agent, construction procurement activities have not commenced within 90 working days after the ~~Architect~~ Design Agent submits the Construction Documents to the Owner 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~~ Design Agent's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the ~~Architect-Design Agent~~ 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-Design Agent~~ in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest ~~bona fide responsive~~ bid or negotiated proposal, the Owner ~~shall~~ shall:

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- .4 in consultation with the ~~Architect-Design Agent~~, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

...

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

§ 6.8 The Owner may also engage the services of an estimator to assist in the evaluation of the Owner's budget and the Cost of the Work. The Design Agent and the Owner will exchange and reconcile the detailed information of their estimators to refine and confirm the Owner's budget and the Cost of the Work.

...

§ 7.1 The ~~Architect-Design Agent~~ 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.

§ 7.2 The ~~Architect-Design Agent~~ and the ~~Architect's-Design Agent'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-Design Agent~~ and the ~~Architect's-Design Agent's~~ consultants.

§ 7.3 ~~The Architect-Design Agent~~ Upon execution of this Agreement, the Design Agent grants to the Owner a nonexclusive license to use the ~~Architect's Instruments of Service~~ perpetual license to use the Design Agent's Instruments of Service, including electronic or digital documents, solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, and shall have and retain all rights to use and reproduce them for the production and maintenance of the Work described therein, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The ~~Architect-Design Agent~~ shall obtain similar nonexclusive licenses from the ~~Architect's consultants consistent with this Agreement-Design Agent's consultants consistent with this Agreement.~~ These Instruments of Service shall be conveyed to the Owner in their original operative, editable, electronic form in order to allow the Owner's integration of the data into the Owner's or User Agency's facilities management database. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or

construction for the Project. If the ~~Architect-Design Agent~~ 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~~ Upon full payment of all sums due the Design Agent under this Agreement, all of the original Drawings, Specifications, and electronic data prepared by the Design Agent for the Project shall, without further action by the Design Agent, become the property of the Owner. ~~In the event the Owner or others use the Instruments of Service without retaining, directly or indirectly, the authors of the Instruments of Service, the Owner releases the Architect and Architect's Design Agent and Design Agent'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. Design Agent~~ The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and ~~Architect-Design Agent~~ waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. ~~The Owner or the Architect, as appropriate, shall require of the contractors, Contractor, as modified by the Owner. The Design Agent shall require of its consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~

§ 8.1.3 ~~The Architect and Owner waive~~ Design Agent waives consequential damages for claims, ~~disputes-disputes,~~ or other matters in question, arising out of or relating to this Agreement. This ~~mutual~~-waiver is applicable, without limitation, to all consequential damages due to ~~either party's~~ the termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.1.4 To the fullest extent permitted by law, the Design Agent shall indemnify and hold harmless the Owner, the User Agency, and the State of Rhode Island in accordance with Rhode Island Procurement Regulation 220-RICR-30-00-13.21.

§ 8.1.4.1 Without limiting the generality of the foregoing, the defense and indemnity set forth in this Section 8.1.4 includes, without limitation, all judgments, liabilities, damages, losses, claims, demands, and actions on account of bodily injury, death, or property loss to a person or entity indemnified hereunder or any other persons or entities, whether based upon statutory (including, without limitation, workers compensation), contractual, tort, or other liability of any person or entity so indemnified.

§ 8.1.4.2 The remedies set forth herein shall not deprive any person indemnified hereunder of any other indemnity action, right, or remedy otherwise available to any such person or entity at common law or otherwise.

§ 8.1.4.3 The Design Agent will include the indemnity set forth in this Section 8.1.4 without modification, in each Subcontract with any Subconsultant or Subcontractor.

§ 8.1.4.4 Notwithstanding any other language in the Contract Documents to the contrary, the indemnity hereunder shall survive Final Completion of the Work and final payment under this Agreement and shall survive any termination of this Agreement.

§ 8.1.5 The Owner shall have the right to deduct from any payments due to the Design Agent the amount of any unpaid obligations owed to the State of Rhode Island by the Design Agent, including without limitation, any and all unpaid taxes, the amount of any claim against the Design Agent arising out of this Agreement, or any amount on account of any other reason permitted by applicable law.

§ 8.2 MediationInitial Decision and 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. Claims shall be referred to the Initial Decision Maker for initial decision. The URI Purchasing Department as the Purchasing Agent appointed pursuant to the Procurement Regulations of the Board of Governors for Higher Education, will serve as the Initial Decision Maker in accordance with the provisions of the State Purchases Act, State of Rhode Island Procurement Regulations, and this Section 8.2.1. An initial decision shall be required as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. resolution pursuant to Section 8.3.1 of any Claim arising prior to the date final payment is due.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. 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. For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, and prior to the implementation of the binding dispute resolution procedures set forth in Section 8.3.1, the Design Agent shall have the option to pursue mediation, exercisable by written notice to the Owner within 30 calendar days of an Initial Decision. In the event of the exercise of such option by the Design Agent, the Owner and the Design Agent shall attempt to select a mediator, and in the event that the Owner and the Design Agent cannot agree on a mediator, either party may apply in writing to the Presiding Justice of the Providence County Superior Court, with a copy to the other, with a request for the court to appoint a mediator, and the costs of the mediator shall be borne equally by both parties.

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

(Check the appropriate box.)

☐ — Arbitration pursuant to Section 8.3 of this Agreement

☐ — Litigation in a court of competent jurisdiction

☐ — Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction. ~~Deleted.~~

§ 8.3 ArbitrationBinding Dispute Resolution

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, or mediation at the option of the Design Agent pursuant to Section 8.2.2, the method of binding dispute resolution

shall be determined in accordance with the provisions of the "Public Works Arbitration Act," R.I. Gen. Laws §§ 37-16-1 et seq. and the Procurement Regulations of the Board of Governors for Higher Education.

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

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

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

§ 8.3.4 Consolidation or Joinder ~~Deleted.~~

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

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

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

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§ 9.1 If the Owner fails to make payments to the ~~Architect-Design Agent~~ in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the ~~Architect's-Design Agent's~~ option, cause for suspension of performance of services under this Agreement. If the ~~Architect-Design Agent~~ elects to suspend services, the ~~Architect-Design Agent~~ shall give ~~seven-7~~ working days' written notice to the Owner before suspending services. In the event of a suspension of services, the ~~Architect-Design Agent~~ shall have no liability to the Owner for delay or damage caused by the Owner because of such suspension of services. Before resuming services, the Owner shall pay the ~~Architect-Design Agent~~ all sums due prior to suspension and any expenses incurred in the interruption and resumption of the ~~Architect's-Design Agent's~~ services. The ~~Architect's-Design Agent's~~ fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 The Owner may suspend the Project as provided in this Agreement, the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the Procurement Regulations General Conditions of Purchase of the Board of Governors for higher Education, or other applicable law. If the Owner suspends the Project, the ~~Architect-Design Agent~~ shall be compensated for services performed prior to notice of such suspension. ~~When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's-~~ If and when the Project is resumed, the ~~Design Agent'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 working days for reasons other than the fault of the ~~Architect~~, the ~~Architect-Design Agent~~, the ~~Design Agent~~ may terminate this Agreement by giving not less than ~~seven-7~~ working days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than ~~seven~~ 7 working days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon ~~not less than seven days~~' written notice to the ~~Architect-Design Agent~~ for the Owner's convenience and without cause. The Owner may also terminate this Agreement: (i) in the event of the unavailability of appropriated funds; (ii) in the absence of a determination of continued need; or (iii) as otherwise provided in the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the Procurement Regulations General Conditions of Purchase of the Board of Governors for Higher Education, or other applicable law.

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

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

Deleted.
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§ 10.1 This Agreement ~~shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern~~ Section 8.3, is subject to, and governed by, the laws of the State of Rhode Island, including all procurement statutes and regulations (available at www.ridop.ri.gov), and applicable federal and local law, all of which are incorporated into this Agreement by this reference. In the event of any conflict between this Agreement and the Procurement Regulations of the Board of Governors for Higher Education or any other provision of Rhode Island law, the Procurement Regulations of the Board of Governors for Higher Education, and Rhode Island law will control. The Design Agent hereby consents to and confers exclusive personal jurisdiction upon the courts of the state of Rhode Island and of the federal government sitting within this state. In the event of any conflicts or discrepancies among the Contract Documents, the provisions of the Contract Documents will be interpreted in the order of priority set forth in in Rhode Island Procurement Regulation 220-RICR-30-00-13.4(B).

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and ~~Contractor~~ Contractor, as modified by the Owner.

§ 10.3 The Owner and ~~Architect, Design Agent, respectively,~~ bind themselves, their agents, successors, assigns and legal representatives to this Agreement. ~~Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.~~ Agreement; provided, however, that the Design Agent may not assign its rights nor delegate its responsibilities under this Agreement without the Owner's prior written consent.

§ 10.4 If the Owner requests the ~~Architect-Design Agent~~ to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the ~~Architect for review at least 14 days~~ Design Agent for review a reasonable time prior to the requested dates of execution. ~~The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.~~

§ 10.5 The User Agency is a disclosed third-party beneficiary of this Agreement and shall have all of the rights and benefits to which such a party is entitled hereunder. Nothing contained in this Agreement shall create a any other contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. the Owner, User Agency, or Design Agent.

§ 10.6 The Architect Design Agent shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect Design Agent shall have the right to include photographic or artistic representations of the design of the Project among the Architect's Design Agent's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. Design Agent's materials shall not include as the Owner's confidential or proprietary information. The Owner shall provide professional credit for the Architect Design Agent in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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§ 10.9 The Owner is the University of Rhode Island, acting by and through its Purchasing Department, and therefore, pursuant to the provisions of R.I. Gen. Laws § 34-28-31, liens against the Project are not enforceable.

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

.1 — Stipulated Sum
— (Insert amount)

.2 — Percentage Basis
— (Insert percentage value)

— () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 — Other
— (Describe the method of compensation)

Design Agent as set forth in the Cost Proposal Exhibit.

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect Design Agent as follows:

...

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Deleted.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus — percent (— %), or as follows:

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:

Deleted.

Design Phase	percent (%)
Construction Documents Phase	percent (%)
Construction Phase	percent (%)
<hr/>		
Total Basic Compensation	one hundred percent (100 %)

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

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

§ 11.7 The hourly billing rates for services of the Architect-Design Agent and the Architect's-Design Agent'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.)

in the Cost Proposal Exhibit below.

Employee or Category	Rate
-----------------------------	-------------

...

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

- ~~1~~ Transportation and authorized out-of-town travel and subsistence;
- ~~2~~ Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets; transportation and authorized out-of-town travel and subsistence, except for travel to and from the Design Agent's offices or the Consultant's offices, to meet with the Owner, the User Agency, or to visit the Project site; travel reimbursable expenses are subject to the limitations established from time to time for state employees by the Rhode Island Department of Administration Office of Accounts and Control;
- ~~2~~ **Deleted;**
- ~~3~~ Permitting-permitting and other fees required by authorities having jurisdiction over the Project;
- ~~4~~ Printing, reproductions, plots, and standard form documents; printing, reproductions, plots, and standard form documents, provided to the Owner and/or Contractor(s) for review, bidding, and construction administration;
- ~~5~~ Postage, postage, handling, and delivery;
- ~~6~~ Expense-expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- ~~7~~ Renderings-renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- ~~8~~ Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants; in excess of those required by the Solicitation, if any and requested in writing by the Owner;
- ~~8~~ **Deleted;**
- ~~9~~ All-all taxes levied on professional services and on reimbursable expenses;

- .10 ~~Site-site~~ office expenses; and
- .11 ~~Other-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 percent (—%) of the expenses incurred.~~ exact expenses incurred by the Design Agent and the Design Agent's consultants.

§ 11.9 Payments to the ~~Architect~~Design Agent

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~~An~~ No initial payment of ~~(\$ —)~~ shall be made upon execution of this Agreement and is the minimum payment under this Agreement. ~~It shall be credited to the Owner's account in the final invoice.~~

...

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

~~—%~~ not later than the 30th working day following written approval by the Owner of the Design Agent's invoice. No interest shall be due or payable on account of any payment due or unpaid except in accordance with the provisions of "Prompt Payment by Department of Administration," R.I. Gen. Laws §§ 42-11.1-1 et seq.

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

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

ARTICLE 12 — SPECIAL TERMS AND CONDITIONS

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

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

§ 11.9.3 Within 10 working days of receipt of any progress payment from the Owner, the Design Agent must pay its Subconsultants and Subcontractors the full amount included for each such Subconsultant and Subcontractor reflected in the Design Agent's invoice for payment.

§ 11.9.4 Retainage in the amount of five (5%) percent of any amount otherwise due the Design Agent hereunder, excluding reimbursable expenses, shall be retained until the close-out of the Project.

§ 11.9.5 The Owner may, at its sole option, issue joint checks to the Design Agent and to any Subconsultant or Subcontractor or material or equipment suppliers to whom the Design Agent failed to make payment for Work properly performed or material and equipment suitably delivered.

ARTICLE 12 Deleted.

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

...

.1 The Purchase Order issued by the Owner

.2 Solicitation # _____ issued by the Owner, including without limitation, the Invitation to Bid, the Instructions to Bidders, the Specifications and Drawings, any Addenda, and the Bid Checklist (with applicable forms)

.3 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203–2013 incorporated into this agreement.) Design Agent, as modified by the Owner.

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.3 — .4 Exhibits:

...

Cost Proposal Exhibit

.4 — .5 Other documents:

...

The Design Agent's Response to the Solicitation, including without limitation, the Bidder Certification Cover Form, the Technical Proposal, and the Cost Proposal.

The person signing for the Design Agent represents that he or she has been duly authorized to execute this Agreement on behalf of the Design Agent.

This Agreement entered into as of the day and year first written above; provided, however, that this Agreement shall not become a valid, binding, and enforceable contract unless and until the Owner shall have issued a Purchase Order.

**The University of Rhode Island Board of Trustees,
acting by and through the University of Rhode Island
Purchasing Department**

...

OWNER (Signature)

ARCHITECT-DESIGN AGENT (Signature)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:40:03 ET on 11/15/2022 under Order No. 3104236986 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)