

School Building Authority of West Virginia  
**SBA ARCHITECTURAL / ENGINEERING SUPPLEMENTAL  
REQUIREMENTS  
SBA FORM 300**

SBA Supplementary Conditions to AIA Document B101-2017  
Standard Form of Agreement Between Owner & Architect

The following Supplementary Conditions modify the Standard Form of Agreement Between Owner and Architect, AIA Document B101-2017 Edition. Where a portion of the Agreement is modified or deleted by these Supplementary Conditions, the unaltered portions shall remain in effect.

**Article 1 – Initial Information**

§1.1.6 Remove Section 1.1.6. in its entirety.

§1.2 Delete the second and third sentences in Section 1.2 and substitute the following:

Both parties, however, recognize that the Initial Information may materially change, and in that event, the Owner and the Architect may appropriately adjust the Architect's services, and the Architect's compensation. The Owner may adjust the Owner's budget for the Cost of the Work; however, the Owner's anticipated design and construction milestones, as described in the Grant Contract between the County Board of Education and the SBA, shall not change, unless approved by the SBA.

§1.3 Remove the last sentence from Section 1.3.

§1.3.1 Make the following changes to Section 1.3.1:

Remove the phrase "in AIA Document E203TM-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202TM-2013, Project Building Information Modeling Protocol Form" and replace it with "in this Agreement"

**Article 2 – Architect's Responsibilities**

§2.1 Add the following sentences to the end of Section 2.1.

Notwithstanding the foregoing, Architect is not authorized to hire other design professionals unless doing so was expressly included in the scope of this agreement, or this agreement is appropriately modified by Change Order to include the hiring of other expressly identified design professionals. The Architect shall also satisfy the requirements for lawful practice in the State of West Virginia.

§2.3 Add the following sentence to the end of Section 2.3:

The firm may utilize a Construction Administrator for project oversight and to attend all construction progress meetings, however, the Project Architect and Engineer responsible for the design shall be present at the project site to attend a minimum of one project meeting per month to sufficiently informed of all progress and issues in order to expeditiously render decisions on the project to avoid unnecessary delays.

§2.5 Make the following changes to Section 2.5:

Delete the section its entirety and replace it with the following: "The Architect shall maintain the insurance specified in this agreement either below or in other documentation included herewith"

§2.5.7 Make the following change to Section 2.5.7:

Remove §2.5.7 in its entirety and replace it with the following: “The Owner must be listed as an additional insured on all insurance mandated by this Agreement, excluding professional liability insurance.”

Add the following Sections to Article 2:

§2.6 The format and minimum standard of quality used by the Architect in preparing specifications for the project shall be in AIA MASTERSPEC or equal, and the Architect shall use the CSI Masterformat numbering system, unless a different standard is approved in writing by the Owner.

§2.7 The Architect shall review laws, codes, and regulations applicable to the Architect’s services and shall comply in the design of the Project with applicable provisions of the West Virginia State Building Code, the West Virginia Fire Code, and the Americans with Disabilities Act (ADA). The Architect shall also review and apply applicable provisions of the West Virginia Board of Education Policy 6200 – Handbook on Planning School Facilities, the SBA Policy & Procedures Handbook, and the SBA Quality & Performance Standards. The most stringent application of these codes and standards shall apply. In the design of the Project, the Architect shall comply with the requirements imposed by governmental authorities having jurisdiction.

§2.8 The Architect shall make available a File Transfer Protocol (FTP) site for the project to include all Contract Documents and associated communication documents. In addition, the Architect shall submit to the Owner and the SBA a monthly a log of all formal communication with the Contractor including, but not limited to, Requests for Information, Shop Drawings, Data Samples, or Proposed Changed Orders.

### **Article 3 – Scope of Architect’s Basic Services**

§3.1.1 Add the phrase “consult with the Owner,” after the word “services” in the first sentence.

§3.1.2 Make the following change to Section 3.1.2:

In the third sentence, after “shall” add “thoroughly review the services and information for completeness and sufficiency and”.

§3.1.3 Delete Section 3.1.3 in its entirety and substitute the following:

§3.1.3. The Owner shall provide the Architect the Project Development Schedule as established and agreed to in the Grant Contract between the County Board of Education and the SBA. The schedule includes design phase submission requirements, anticipated bidding dates, and reflects required approval timelines for the SBA and other authorities having jurisdiction over the Project. If the project is delayed at any phase at the county level as a result of timelines not being met, the SBA may require the Owner to pay the delay costs to the SBA. If delay costs are assigned to an Owner as a result of the Architect’s failure to meet the design and bidding schedule, the Owner shall pay the required delay costs and subtract the delay cost amount from the next payment(s) to the Architect.

§3.1.6 Delete Section 3.1.6 in its entirety and substitute the following:

§3.1.6. The Architect shall furnish and submit substantially completed construction documents to all governmental agencies having jurisdiction over the project on behalf of the Owner and at the Owner’s cost, shall assist the Owner in securing their approval, and shall incorporate changes in the Construction Documents as may be required by such authorities.

§ 3.1. Add the following Section to the end of Section 3.1:

§ 3.1.7. Architects shall submit Design Development Documents and Construction Documents to the West Virginia Department of Education Office of School Facilities & Transportation (WVDE OSF&T) for review. Architects shall review, respond, and, when deemed necessary by the Owner, reconcile WVDE OSF&T comments to the Owner's and the SBA's satisfaction prior to proceeding to the next phase of project development.

§3.2.2 Make the following change to Section 3.2.2:

In the second sentence, after the word "Architect" add "shall review such information to ascertain that it is consistent with the requirements of the Project and".

§3.2.7 Make the following change to Section 3.2.7:

Delete ", and request the Owner's approval." And replace with "and to the SBA for approval. The Architect agrees to address any review comments before proceeding to the next phase of design."

§3.3.3 Make the following change to Section 3.3.3:

Delete ", and request the Owner's approval." And replace with "and to the SBA for approval. The Architect agrees to address any review comments before proceeding to the next phase of design."

§ 3.4.2 Delete Section 3.4.2 in its entirety and substitute the following:

§3.4.2 Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that the Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time.

§ 3.4.3 Add the following sentence to the end of Section 3.4.3:

No project bid dates or mandatory pre-bid conference dates shall be set before Construction Documents have been approved by the SBA. All bid dates and pre-bid conference dates shall be coordinated with the SBA Office.

§ 3.4.5 Delete Section 3.4.5 in its entirety and substitute the following:

The Architect shall submit the Construction Documents and the estimate of the Cost of Work to the Owner and the SBA for approval, take any action required under Section 6.5, and agrees to address any review comments before proceeding to the Bidding Phase.

§3.5.2.2.4 Remove Section 3.5.2.2.4 in its entirety and replace it with the following:

if expressly authorized by Owner, and permitted by applicable procedure and law, organizing and conducting the opening of bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

Add the following to Section 3.5.2.2

.5 The Architect shall submit to the Owner and the SBA within 72 hours of the close of bids a complete Post-Bid Budget for the Project that shows all project costs including, but not limited to: base bid, accepted alternate bids, allowances, soft costs, and contingencies. If a budget deficit occurs, provide the exact amount of overages along with a description of the options the Owner has to solidify the budget.

§3.5.3 Negotiated Proposals. Remove Section 3.5.3 in its entirety.

§ 3.6.1.1 Delete the last sentence in its entirety and substitute the following:

The School Building Authority of West Virginia's Supplementary Conditions to the General Conditions of the Contract for Construction and Supplementary Instructions to Bidders shall be adopted as part of the Contract Documents and shall be enforceable under this Agreement.

Add the following Section to 3.6.1:

§3.6.1.4 The Architect shall be responsible for conducting bi-weekly progress meetings and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§3.6.2.1 Delete the second sentence in its entirety and substitute the following:

The Architect shall carefully review the quality and quantity of the Work at appropriate intervals necessary for Architect to remain aware and knowledgeable of issues or problems that have developed, or could reasonably be foreseen, during construction as part of the Architect's design and contract administration services, shall issue written reports of such reviews to the Owner, SBA, and the Contractor, and further shall conduct any additional reviews at any other time as reasonably requested by the Owner or SBA. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 3.6.2.2 Delete the first sentence of 3.6.2.2 in its entirety and substitute the following:

The Architect shall have the authority and obligation to reject Work that does not conform to the Contract Documents. In instances where the Contractor has not adhered to the terms of the Contract Documents, the Architect shall, within two business days upon discovery, submit a standard "Notice of Non-Compliance" to the Contractor copying the Owner and the SBA. In instances where the Contractor's Work does not meet the standards of the Contract Documents, the Architect shall, within two business days upon discovery, submit a standard "Notice of Non-Conformance" to the Contractor copying the Owner and the SBA. If the instances that caused the "Notice of Non-Compliance" or "Notice of Non-Conformance" have not been corrected within the time stipulated, the Architect shall issue a "Notice of Breach of Contract" to the Contractor copying the Contractor's Bonding Company, the Owner, and the SBA. Upon correction of the non-compliant or non-conforming work, the Architect shall, in a timely manner, submit to a standard report of resolution of the non-compliant or non-conforming work to the Owner and the SBA copying the Contractor.

§3.6.2.4 Delete Section 3.6.2.4 in its entirety and substitute the following:

§3.6.2.4 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. The Architect shall also make initial decisions on matters relating to consistency with intent of contract documents, including aesthetic effect, however, the Owner, after consultation with the SBA, reserves the right to make final decisions on issues of consistency with intent and aesthetic effect.

§3.6.4.2 Make the following changes to Section 3.6.4.2:

Delete the first sentence in its entirety and substitute the following:

The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples. The Architect's review of Contractor's submittals must determine the following: (1) if such submittals are in compliance with applicable laws, statutes, ordinances, codes, orders, rules, regulations; and (2) if the Work affected by and represented by such submittals is in compliance with the requirements of the Contract Documents. The Architect shall promptly notify the Owner and Contractor of any submittals that do not comply with applicable laws, statutes, ordinances, codes, orders, rules, regulations, or requirements of the Contract Documents. Architect is responsible for determining what aspects of the Work will be the subject of shop drawings or submittals. Architect shall not knowingly permit such aspects of the Work to proceed in the

absence of approved shop drawings and submittals. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.

In the second sentence, delete the words "or performance".

§3.6.4.5 Make the following change to Section 3.6.4.5:

Add ", including a submittal log," after "The Architect shall maintain a record of submittals".

§3.6.5.2 Make the following changes to Section 3.6.5.2:

Section 3.6.5.2 shall now be Section 3.6.5.3. Section 3.6.5.2 shall read as follows:

§3.6.5.2 If the Architect and the Owner determine that the implementation of the requested change would result in a change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner and the SBA who may authorize further investigation of such change.

§ 3.6.5.3 Add the following to the end of Section 3.6.5.3:

Additionally, the Architect shall review and provide written documentation of the sum of all change order requests and proposals with respect to the following criteria:

- .1 confirm proposed change is a material change to the Contract;
- .2 confirm appropriate credits are included for Work not completed;
- .3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- .4 confirm that the appropriate back-up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

§ 3.6.6.1 Add the clause to the end of Section 3.6.6.1:

.5 At approximately 85% of construction or sixty days prior to the projected date of Substantial Completion, the Architect shall assist the Owner in administering a Project Closeout Coordination Meeting involving the Owner, Prime Contractor(s), and SBA Representative. This meeting may be held in coordination with the required bi-weekly construction progress meetings. The purpose of this meeting is to facilitate the coordination of all required closeout procedures as listed in SBA Form 500 – Project Closeout Procedures for the final completion of the Contract. It is recommended that deadlines be established for the submission of specific required documents by the responsible parties. Final payment will not be authorized by the SBA until all closeout conditions are met.

#### **Article 4 – Additional Services**

§4.2.1 Make the following changes to Section 4.2.1:

.6 Before the semicolon insert ", provided such alternate bids or proposals are not being used for budget control"

.9 Delete this provision in its entirety and replace it with "assist with the Owner and the SBA's evaluation of the qualifications of entities providing bids or proposals."

§4.2.2 Remove Section 4.2.2 in its entirety.

## **Article 5 – Owner’s Responsibilities**

§5.2 Make the following change to Section 5.2:

In the first sentence, after “The Owner” add “, with Architect’s assistance,”

Add the following to Section 5.3:

§5.3.1 The Owner and the SBA have the right to reject any portion of the Architect’s Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect’s provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis or because in the Owner’s opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work.

.1 If at any time the Architect’s Work is rejected by the Owner or the SBA, the Architect must proceed when requested by the Owner or the SBA, to revise the design Work or documents prepared for that phase to the satisfaction of the Owner and the SBA.

.2 Neither the Owner nor the SBA may reject the Architect’s Work for aesthetic reasons after the Schematic Design Phase is approved.

.3 These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner and the SBA under previous phases, in which case such revision services will be paid as a Change in Services.

.4 Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner and the SBA of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes.

.5 No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§5.5 Make the following changes to Section 5.5:

In the first sentence, delete “shall” and substitute “may” and add the following sentence at the end of Section 5.5:

The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

§5.8 Make the following change to Section 5.8:

In the third sentence, delete “shall” and substitute “may”.

§5.9 Make the following change to Section 5.9:

At the beginning of this sentence, insert “Unless otherwise provided in this Agreement,”

§5.11 Add the following sentence to the beginning of Section 5.11:

The Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect.

§ 5.15 Remove Section 5.15 in its entirety.

## **Article 6 – Cost of Work**

§ 6.1 Make the following changes in Section 6.1

Delete the second and third sentences of Section 6.1 in their entirety and replace with the following:

“In the event that Owner plans to utilize its own resources (labor, machinery, or materials) for part of the project, Owner and Architect must discuss the impact of that choice on the design and Cost of the Work prior to executing this Agreement. If Owner and Architect agree that such amounts will be included in the Cost of the Work, then that cost will be determined in advance and incorporated into this Agreement. Construction costs do not include costs associated for a Construction Manager, Clerk-of-the-Works, Construction Analyst, licenses, permits, and change orders caused by the Architect’s errors and omissions or change orders which do not require the services of the Architect. Fees associated with construction change orders will be reviewed by the SBA and the Owner and additional professional service fees will be paid based on services required to effectuate the construction change.

§6.3 Delete Section 6.3 in its entirety and substitute the following:

§6.3 In preparing estimates for the cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation, and in consultation with the Owner, to determine what materials, equipment, component systems and types of construction to be included in the Construction Documents, to make reasonable adjustments in the scope of the Project. Add-alternate bids may be included in the Contract Documents to adjust the estimate of Cost of the Work to meet the Owner’s adjusted budget. If an increase in the Contract Sum occurring after execution of the Contract for Construction caused the Project budget to be exceeded, the Project budget shall be increased accordingly.

§ 6.5 Remove the phrase “shall cooperate with the Architect in making such adjustments” and replace with “may cooperate with Architect in making such adjustments, at its sole discretion.”

§6.6.2 After the word “renegotiating” insert “(renegotiation being limited to instances where Owner is legally authorized to renegotiate)”

§6.7 Delete Section 6.7 in its entirety and substitute the following:

§6.7 If the Owner chooses to proceed under Section 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner’s budget for the Cost of the Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect’s responsibility under Section 6.6.

## **Article 7 – Copyrights and Licenses**

§7.3 Make the following changes to Section 7.3:

In the first sentence, insert “irrevocable, royalty-free, right and” after the word “nonexclusive” and delete the words “solely and exclusively”.

Delete the last sentence of Section 7.3 and substitute the following:

Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including the following:

- a. Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas;
- b. Any future renovation, addition, or alteration to the Project; and
- c. Any future maintenance or operations issue as it pertains to the Project.

The Architect or Architect’s Consultants shall not be responsible for any modifications to the Work made by Owner or Owner’s representatives using the Architect’s Instruments of Service.

§7.3.1 Delete the second sentence of Section 7.3.1.

## **Article 8 – Claims and Disputes**

§8.1.1 Delete Section 8.1.1 in its entirety and substitute the following:

§8.1.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run pursuant to applicable provisions of the West Virginia Code.

§8.1.3 Make the following change to Section 8.1.3:

At the beginning of the first sentence, insert “Unless otherwise agreed by the Parties,”

Add the following Section to Article 8.1:

§8.1.4 The Owner may suffer financial loss if the Architect’s services are not completed within the schedule approved by the Owner in accordance with Section 3.1.3. If so provided, the Architect shall be liable for and shall pay the Owner, as liquidated damages and not as a penalty, any sum(s) stated in this Agreement. Allowances may be made for delays beyond the control of the Architect. All delays and adjustments to the Architect’s schedule must be properly documented and approved by the SBA in accordance with Section 3.1.3.

§8.2 Make the following changes to Section 8.2:

§8.2.1 In both instances where it appears, delete “binding dispute resolution” and substitute “litigation in the Circuit Court in the County in which the Project is located.”

Delete Sections 8.2.2 through 8.2.4 in their entirety

§8.3 Delete Section 8.3 in its entirety and substitute the following:

§8.3 Settlement of Claims

§8.3.1 Any claim, dispute or other matter in question arising out of this Agreement which cannot be settled between the parties shall, in the case of the Architect, be submitted to the Circuit Court in the County in which the Project resides. The parties may agree to nonbinding mediation prior to litigation.

## **Article 9 – Termination or Suspension**

§9.1 Make the following changes to Section 9.1:

In the first sentence, after “If the Owner fails to make payments to the Architect” add “of undisputed amounts”. In the third sentence, after “In the event of a suspension of services,” add “in accordance herewith”. In the fourth sentence, after “Before resuming services, the Architect shall be paid all sums due prior to suspension and” add “shall negotiate with the Owner for”.

§9.2 Make the following changes to Section 9.2:

In the first sentence, after “If the Owner suspends the Project” add “for more than 90 consecutive days”.

Delete the last two sentences in Section 9.2 and substitute the following:

When the Project is resumed, the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption

of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules for completion.

§9.6 Make the following changes to Section 9.6:

Delete "costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements".

§9.7 Delete Section 9.7 in its entirety.

Add the following Section to Article 9:

§9.10 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire in accordance with applicable practice laws contained in Chapter 30, Article 12 of the West Virginia Code, or elsewhere. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

## **Article 10 – Miscellaneous Provisions**

§ 10.1 Make the following changes to Section 10.1:

Remove the last sentence referencing arbitration in its entirety.

§10.2 Make the following changes to Section 10.2:

At the end of the sentence, delete the period and add ", as modified by the School Building Authority of West Virginia Supplementary Conditions to the AIA Document A201-2017, General Conditions of the Contract for Construction."

§10.3 Add the following sentence to the end of Section 10.3:

The Architect shall execute all consents reasonably required to facilitate such assignment.

§10.6 Add the following sentence to the end of Section 10.6:

The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

§10.8.1 Remove the phrases "7 days' notice to the other party," and "arbitrator's order" from Section 10.8.1.

## **Article 11 – Compensation**

§11.3 Insert the following language as a basis for compensation:

Fee adjustments for Owner-requested Change Orders, or Change Orders intended to improve overall quality of the facility will be considered. Compensation will be based on the amount of design, coordination and/or construction administration required to effectuate the change. Fee adjustments must be approved by the SBA. A/E fees for Change Orders not requiring design changes should be negotiated as an additional service and reimbursed on an hourly basis.

A/E fee modifications for Change Orders for new construction that requires construction document amendments due to design deficiencies will be reviewed on an individual basis by the Owner and the SBA and fee adjustments considered if construction has not taken place in the affected area. The Owner will pay for the required labor and material cost to effectuate the change. The A/E fee will only be adjusted based on A/E services required to effectuate the change in the scope of work.

A/E fee modifications for Change Orders on new construction that requires construction document amendments due to items of work inadvertently omitted from construction documents where the construction has taken place in the affected area and demolition is required will be reviewed on an individual basis by the Owner and the SBA. If the problem should have been resolved by the A/E firm within the building design, the Owner will pay for the required change order and the A/E firm will be charged for the change including any demolition and replacement costs plus Contractor overhead and profit. The Owner will deduct any added value construction received as a result of the change from the amount the A/E firm is charged.

A/E fee modifications for Change Orders on renovation and addition projects will be addressed on an individual project basis. If construction changes are required due to Owner-requested changes, incorrect as-built information or if it is determined by the Owner and the SBA that a condition has occurred that could not have been foreseen by the A/E firm, the A/E firm will be compensated for the design modification based on the additional services required to effectuate the change in work.

Contingency allowances shall be established at two percent (2%) for new construction projects and six percent (6%) for each renovation project. Fifty percent (50%) of those contingencies shall be established for Owner-requested changes. The remaining fifty percent (50%) shall be established for errors and omissions of the design team. Should the errors and omissions exceed the fifty percent (50%) allocated in the contingency allowance, this information will be noted by the Owner within the official communication record and will appear on the Architect/Engineer evaluation at the conclusion of the project.

§11.4 Make the following changes to Section 11.4:

After the word “shall”, insert “not exceed a multiple of 1.15 times the amount billed to the Architect for such Additional Services” and delete the rest of that sentence.

§11.6.1 Delete the last sentence of Section 11.6.1 in its entirety.

§11.7 Delete Section 11.7 in its entirety and substitute the following:

§11.7 The Architect’s rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect’s rates may be negotiated with the Owner.

§11.8.1 Delete Sections 11.8.1.4 and 11.8.1.5 in their entirety and substitute the following:

§11.8.1.4 The expense of reproductions, postage and handling of bidding documents shall be a Reimbursable Expense, however, the expense of reproductions, plots, standard form documents, postage, handling, and delivery of Instruments of Service for the Owner’s use and for review of governmental agencies having jurisdiction over the Project shall not be a Reimbursable Expense but shall be covered in the Architect’s Compensation under §11.1.

§11.8.2 Delete Section 11.8.2 in its entirety and substitute the following:

§11.8.2 For Reimbursable Expenses described in Section 11.8.1.1, compensation to the Architect shall be at actual cost and shall be made pursuant to the Owner’s travel regulations. For those expenses

described in Sections 11.8.1.2 through 11.8.1.11, the compensation shall be computed as a multiple of 1.15 times the expenses incurred by the Architect, the Architect's employees and consultants.

§11.9 Architect's Insurance

§11.9 Delete Section 11.9 in its entirety.

§11.10.1 Delete Section 11.10.1 in its entirety.

§11.10.2 Delete Section 11.10.2 in its entirety and substitute the following:

§11.10.2 Payments are due and payable thirty (30) days from the date of receipt of the Architect's invoice by the Owner.

§11.10.2.2 Delete Section 11.10.2.2 in its entirety.

## **Article 12 – Special Terms and Conditions**

Add the following Sections to Article 12:

§12.1 If the Owner and Architect determine the services of a Construction Manager (CMa) or Construction Analyst are necessary to a project, CMa and/or Construction Analyst review comments relative to the clarity of the design intent shall be incorporated into the documents by the A/E unless the A/E determines that the clarifications conflict with applicable codes or standards. The A/E will notify the owner and SBA of comments that are not incorporated into the documents. However, should clarification comments that are not incorporated into the document result in construction change orders, the SBA will not provide funding for change orders required to incorporate work into project relating to the review comments.

§12.2 Quality Control of Bidding and Construction Documents is of paramount importance to prevent unnecessary construction delays and change orders. Based on the project closeout evaluation process, Architectural and/or Engineering firms who demonstrate a pattern of errors and omissions exceeding fifty percent (50%) of the allocated contingency amount, will be required to meet with the Executive Director of the School Building Authority to review the quality control program the firm has established.

§12.3 Specialty consultants used by the A/E Firm for the development of project drawings and/or specifications shall not bid on any portion of the construction project. Consultants found to be submitting bids on such projects will be disqualified.

## **Article 13 – Scope of the Agreement**

Add the following Section to 13.2:

§13.2.4 School Building Authority of West Virginia Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect; Other documents included by the Owner in the solicitation requesting expressions of interest, and the contract award to Architect.

END OF SUPPLEMENTARY CONDITIONS TO AIA DOCUMENT B101-2017

The Owner and Architect hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF, the Owner and Architect have entered into this Agreement as of the date and year as written below.

Owner:

Architect:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

This Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect, has been approved as to form on this fourteenth day of September, 2020, by the School Building Authority of West Virginia. Any modification of this document is void unless expressly approved in writing by the School Building Authority of West Virginia.