

Board of Education Regular Meeting

Wednesday, February 8, 2017 7:30 PM

East Butler School  
212 South Madison Street  
Brainard, NE 68626-0036

Jan Bostelman: Present

Mark Janak: Present

Megan Kozisek: Present

Kim TePoel: Present

Marlene Wade: Present

Dan Zysset: Present

1. Call Meeting To Order

2. Roll Call

3. Flag Salute

4. Approve Agenda

Motion to approve the agenda as presented Passed with a motion by Jan Bostelman and a second by Kim TePoel.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

5. Patron's Comments

6. Informational Items

6.1. Student Presentation

6.2. School Lunch Services Discussion

7. Consent Agenda

Motion to approve the consent agenda as presented Passed with a motion by Marlene Wade and a second by Dan Zysset.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

7.1. Approval of Minutes

7.2. Treasurer's Report

7.3. Approve Connie Johnson as Roger Paseka's replacement on the East Butler Foundation Board

8. Regular Agenda

8.1. Opening of Proposals for the Purchase of the Prague School Facilities

RFP to demolish old part of building and hold this bid Passed with a motion by Megan Kozisek and a second by Marlene Wade.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

8.2. Contract with Clark Enersen

8.3. Review RFP for the Locker Room Renovations

8.4. Review School Nurse Services and Future Contract

Increase to \$45 an hour for nurse services Passed with a motion by Marlene Wade and a second by Kim TePoel.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

8.5. NASB Membership Agreement

Approve NASB Membership Agreement Passed with a motion by Marlene Wade and a second by Dan Zysset.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

8.6. Bids for handicap door access to the activity entrance.

Accept \$6595 bid from Passed with a motion by Marlene Wade and a second by Mark Janak.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene

Wade: Yea, Dan Zysset: Yea

## 9. Administrative Comments

### 9.1. Board Picture

## 10. Items for next Meeting

## 11. Adjournment

Motion to adjourn at 8:59 pm Passed with a motion by Marlene Wade and a second by Jan Bostelman.

Jan Bostelman: Yea, Mark Janak: Yea, Megan Kozisek: Yea, Kim TePoel: Yea, Marlene Wade: Yea, Dan Zysset: Yea

Board of Education Regular Meeting  
January 11, 2017 6:30 PM  
East Butler School - Brainard Library

1. Call Meeting To Order at 6:30 P.M.

2. Roll Call: Present Board Members: Jan Bostelman, Mark Janak, Megan Kozisek, Kim TePoel, Marlene Wade and Dan Zysset. Also present: Mr. Sam Stecher, Superintendent, Mr. Michael Eldridge, Secondary Principal, and Mr. Shawn Biltoft, Elementary Principal.

3. Flag Salute

4. Approve Agenda

Motion Passed: Motion to approve the agenda as presented passed with a motion by Jan Bostelman and a second by Marlene Wade.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

5. Patron's Comments

6. Informational Items included: Retreat Information and Edivate Update.

7. Consent Agenda

7.a. Approval of Minutes

7.b. Treasurer's Report

Motion Passed: Motion to approve the consent agenda as presented passed with a motion by Marlene Wade and a second by Mark Janak.

Jan Bostelman	Yes
Mark Janak	Yes

Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

## 8. Regular Agenda

Oath of Office was signed by Jan Bostelman, Megan Kozisek, Kim TePoel, and Dan Zysset.

### 8.a. Nominate and Elect President

Motion Passed: Dan Zysset nominated Megan Kozisek for President. Motion that nominations cease passed with a motion by Dan Zysset and a second by Marlene Wade.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

### 8.b. Nominate and Elect Vice President

Motion Passed: Jan Bostelman nominated Marlene Wade for Vice-President. Motion that nominations cease passed with a motion by Jan Bostelman and a second by Mark Janak.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

### 8.c. Nominate and Elect Secretary

Motion Passed: Mark Janak nominated Dan Zysset for Secretary. Motion that nominations cease passed with a motion by Mark Janak and a second by Marlene Wade.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

8.d. Organization of the 2017 Board of Education

8.d.1. Establish Time and Place of Regular Meetings - 6:30 P.M. on the second Wednesday of the month with all meetings held in Brainard

8.d.2. Select Paper of Record of Regular Meetings - Banner Press and Wahoo Newspaper

8.d.3. Select Recording Secretary and Treasurer - Kim Fuehrer as Recording Secretary and Darlene Kucera as Treasurer

8.d.4. Select Bank(s) For District Deposits - First Nebraska Bank of Brainard and Bank of Prague

8.d.5. Appoint Foundation Committee Member - Jan Bostelman

8.d.6. Appoint Negotiations Committee Members (3) - Megan Kozisek, Kim TePoel, & Marlene Wade

8.d.7. Appoint Building & Transportation Committee Members (3) - Jan Bostelman, Mark Janak, & Dan Zysset

8.d.8. Appoint Curriculum and Americanism Committee Members (2) - Kim TePoel & Marlene Wade

8.d.9. Appoint Finance Committee Members (3)- Megan Kozisek, Kim TePoel, & Marlene Wade

8.d.10. Appoint Nutrition Committee Members (2) - Mark Janak & Dan Zysset

8.d.11. Appoint Policy Committee Members (2) - Megan Kozisek & Dan Zysset

8.d.12. Select CTF as District Mechanic

Motion Passed: The organization of the 2017 Board of Education & District Mechanic passed with a motion by Marlene Wade and a second by Dan Zysset.

Jan Bostelman	Yes
Mark Janak	Yes

Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

8.e. Select Clark Enersen as Architect to draft RFPs for future construction and renovation projects.

Motion Passed: Select Clark Enersen as architect to draft RFPs for future construction and renovation projects passed with a motion by Kim TePoel and a second by Jan Bostelman.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

8.f. Locker Room Renovation Plans discussed.

8.g. Bus Purchase

Motion Passed: Purchase 2018 Blue Bird 65 passenger bus from Nebraska Central Equipment for \$86,431.00 minus 2008 bus trade in passed with a motion by Dan Zysset and a second by Marlene Wade.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

8.h. 2017-2018 Calendar - Tabled until February meeting.

9. Administrative Comments

10. Items for February Meeting: Lunch Services; 2017-18 School Calendar; RFP for Locker Rooms; Prague Building Proposals; and School Resource Officer.

11. Adjournment

Motion Passed: Motion to adjourn at 7:40 p.m. passed with a motion by Jan Bostelman and a second by Mark Janak.

Jan Bostelman	Yes
Mark Janak	Yes
Megan Kozisek	Yes
Kim TePoel	Yes
Marlene Wade	Yes
Dan Zysset	Yes

Next Board Meeting will be Wednesday, February 8, 2017 at 7:30 P.M. at the East Butler School Library in Brainard.

Kim Fuehrer  
Recording Secretary

SCHOOL BOARD RETREAT  
JANUARY 22, 2017 - 10:00 A.M.  
EAST BUTLER SCHOOL - BRAINARD

Retreat called to order at 10:00 a.m. All Members present. Also attending - Architects from The Clark Enerson Partners.

1. Two parties toured Prague facilities. No proposals received yet.
2. Preschool enrollment - 2017-18 projected enrollment is 19-21.
3. What is our retention rate for preschool kids that go on to East Butler kindergarten? Historically, we have an overall 72% retention rate. We are currently trending above 80% over the last 4 years.

Construction plans: East Butler doesn't have facility needs but as far as construction, we have the means to make responsible facility enhancements. Facility enhancements that have been discussed:

Expanded Preschool - \$400,000

Demolition of old section of Prague school - \$300,000

Additional Gym - \$2,500,000

Competition Track \$650,000 - \$750,000

Practice Track - \$590,000

Cafeteria/Kitchen/Student Commons - \$2,000,000

Gym, Preschool, Locker Rooms, Fitness Room, Wrestling Room, Storage, Parking Lot - \$6,450,000

Storage

Bus Barn

Each school board member and administrator gave their opinion of what they feel our facility needs are. The overall consensus was that we need to move forward with the possibility of a preschool addition on the existing building in Brainard and investigating the remodeling of the existing wrestling room so it is divided into two levels.

The architects gave an overview of their company, services, and projects they have completed. They also presented some preliminary ideas for the locker room update.

After lunch, the group took a tour of the proposed preschool addition, kitchen area, and wrestling room.

Meeting adjourned at 1:05 p.m. Vote 6-0.

Dan Zysset  
Board Secretary

BALANCES JANUARY 1-31, 2017 FOR FEBRUARY BOARD MEETING				
		JANUARY	JANUARY	MONTH END
	BEG. BALANCE	RECEIPTS	EXPENDITURE	BALANCE
<b>HOT LUNCH</b>	\$19,007.27	\$16,941.18	\$11,772.33	\$24,176.12
<b>ACTIVITIES</b>				
Academic Decathlon	\$995.00		\$27.50	\$967.50
Ag Projects	\$1,206.35			\$1,206.35
Annual	\$15,605.38	\$45.00		\$15,650.38
Athletic	\$12,523.51	\$2,479.06	\$3,751.92	\$11,250.65
Box Tops for Educ	\$3,299.49	\$1,177.80		\$4,477.29
Cheerleaders	\$1,221.80			\$1,221.80
Class 2017	\$784.57			\$784.57
Class 2018	\$1,949.40			\$1,949.40
Class 2019	\$1,860.07			\$1,860.07
Close Up	\$11,139.54	\$5,262.00	\$255.50	\$16,146.04
College Access Grant	\$1,159.47			\$1,159.47
Concessions	(\$466.06)	\$1,405.00	\$327.46	\$611.48
Dance Team	\$279.51			\$279.51
Drama	\$613.88			\$613.88
Drug Free Program	\$395.49			\$395.49
FBLA	\$607.74			\$607.74
FCCLA	\$1,715.38	\$198.00		\$1,913.38
FFA	\$15,491.80	\$223.50	\$3,815.32	\$11,899.98
FFA GREENHOUSE	\$6,590.26		\$110.65	\$6,479.61
Laptop Initiative	\$13,427.39	\$174.50	\$249.00	\$13,352.89
Letterclub	\$1,910.13			\$1,910.13
Miscellaneous	\$0.00			\$0.00
Music	\$575.54			\$575.54
Nat'l Honor Society	\$612.16	\$185.50		\$797.66
Speech	\$84.02		\$66.26	\$17.76
Student Council	\$712.42		\$150.00	\$562.42
Tiger Stripes	\$268.85		\$15.00	\$253.85
WR Spirit Leaders	\$176.11	\$17.00		\$193.11
<b>TOTALS</b>	<b>\$94,739.20</b>	<b>\$11,167.36</b>	<b>\$8,768.61</b>	<b>\$97,137.95</b>
<b>ACTIVITY FUND CERTIFICATE OF DEPOSIT</b>				
<b>DATE PURCHASED/NUMBER</b>	<b>NAME/AMOUNT</b>	<b>RATE</b>	<b>BALANCE</b>	<b>MATURITY</b>
9-3-91 #1013527	FFA Gilt Chain	0.15%	\$1,638.61	3/3/17
	\$800.00			

BILLS FEBRUARY 8, 2017				
Certified Staff	\$220,822.11	Gross Salary		
Classified Staff	\$56,218.77	Gross Salary		
First Nebraska Bank	\$20,614.63	FICA (District share)		
Nebraska School Retirement	\$26,796.75	Retirement (Dist share)		
Blue Cross Blue Shield	\$39,931.81	Insurance		
Blue Cross Blue Shield	\$4,915.24	Insurance (ACA)		
SUB TOTAL OF PAYROLL	\$369,299.31			
ARE Pest Control	\$105.00	Service		
Banner Press	\$39.20	Dwight Library		
Barb Kadlec	\$253.80	Mileage		
Boystown	\$2,336.99	Dec education		
Butler County Chamber	\$200.00	Membership		
Butler Co Clinic	\$150.00	Bus physical (SB)		
Butler Public Power	\$718.14	Electricity		
Canon Financial Service	\$849.00	Copiers payment		
Canon Solutions America	\$2,045.24	Contract		
Center for Rural Affairs	\$1,196.50	Farm to School		
Central Ne Rehab	\$2,865.45	Sped service		
Chem Tech	\$60.27	Service		

Constructive Playthings	\$228.51	Preschool	
Crossbow Educ Corp	\$38.90	Sped supply	
Culligan of Columbus	\$78.00	Contract	
Dale's Food Pride	\$104.57	Preschool	
Darlene Kucera	\$64.54	Mileage/meal	
David City Public Schoo	\$791.44	Our share insurance (SH)	
Didier Grocery	\$53.63	FCS	
Digi-key	\$70.09	Switch	
Dwyer Instruments	\$774.17	Thermostat	
EB Activities(Conc)	\$9.00	Academic pep rally	
ESU 7	\$16,915.53	Sped service	
ESU # 7	\$96.25	Network support	
Firespring	\$1,283.89	Foundation newsletter production	
First Nat'l Bank Omaha	\$392.60	Starfall/meals	
First Ne Bank	\$36.00	Deposit box rent	
First Ne Bank Insurance	\$35.00	Endorsement	
Four Corners Hlth Dept	\$62.22	School hlth checks	
Frontier Coop	\$15,282.17	Fuel/propane/additive	
Jenn Nantkes	\$435.79	Vision service	
KSB School Law	\$20.00	Attorney fee	
Kelly Lingenfelter	\$142.45	Cater Bd retreat	

Kuhlman & Kratochvil		\$435.00	Processing	
Lincoln Journal Star		\$28.62	Prague proposals	
Madison Nat'l Life Ins		\$674.85	Disability insurance	
Matheson Tri Gas Inc		\$79.05	Welding supply	
Musiel Propane Service		\$932.79	Prague propane	
N A S B		\$235.00	Legislative Conf register/meal	
N R C S A		\$570.00	Spring conference	
Nebraska Lions Foundation		\$150.00	Health checks	
Oliva Audio Visual		\$387.00	Repair	
PerryGutheryHaaseGessfo		\$2,405.00	Attorney	
Planbook		\$388.80	Subscription	
Sack Lumber		\$28.00	Ag	
Sandy Bongers		\$84.80	Mileage	
School Specialty		\$467.15	Office/Tchr/Nurse	
Select Plumbing		\$375.00	Camera sewer	
Select Plumbing		\$830.00	Prague boiler	
Seward Independent		\$97.70	Ads	
Techmasters		\$3,224.00	Oven/replace ice machine	
TRANE US Inc		\$1,315.37	MPR service call	
Val Tvrdy		\$30.11	Nurse supply	

Verizon		\$18.68	Cell	
Village of Dwight		\$156.00	Utilities	
Wage Works		\$120.00	Fee	
Wahoo Newspaper		\$150.94	Printing	
Waste Connections		\$642.56	Garbage	
Windstream Ne Inc		\$1,794.04	2081/2092/2445/internet	
Wright Way		\$200.00	Cable restroom	
York Elem School		\$180.00	Early childhood workshop	
SUB TOTAL OF BILLS		\$63,734.80		
GRAND TOTAL P/R & BILLS		\$433,034.11		xx

GENERAL FUND COMPARISON AND UPDATE				
	15 RECEIPTS	16 RECEIPTS	15 EXPENDITURES	16 EXPENDITURES
SEPT .08	\$932,822.86	\$1,064,102.77	\$439,762.27	\$480,291.69
OCT .17	\$341,746.44	\$370,575.84	\$474,535.51	\$478,948.70
NOV .25	\$91,117.33	\$83,201.62	\$447,160.16	\$495,580.14
DEC .33	\$106,846.12	\$88,068.56	\$598,142.86	\$449,070.08
JAN .42	\$1,069,972.38	\$952,272.11	\$438,621.24	\$488,179.42
FEB .50	\$509,384.05		\$428,145.57	
MAR .58	\$211,458.01		\$432,439.34	
APR .67	\$228,573.03		\$556,650.16	
MAY .75	\$1,445,716.88		\$412,072.65	
JUNE .83	\$525,765.70		\$445,437.02	
JULY .92	\$68,477.27		\$425,737.21	
AUG 1.00	\$146,572.07		\$445,287.37	
TOTAL	\$5,678,452.14	\$2,558,220.90	\$5,543,991.36	\$2,392,070.03
2015-16 Beginning Cash Balance \$1,982,494.97				
2016-17 Beginning Cash Balance \$2,030,181.44				
2015 denotes the 2015-16 school year				
2016 denotes the 2016-17 school year				

**EAST BUTLER PUBLIC SCHOOLS INVESTMENTS  
AS OF FEBRUARY 1, 2017 For Bd Mtg February 8, 2017**

**GENERAL FUND**

<u>NUMBER</u>	<u>TERM</u>	<u>MATURITY</u>	<u>AMOUNT</u>	<u>RATE</u>	
1026029	12 month	4/5/17	\$510.30	0.25%	McAuliffePrize
3212	24 month	10/1/18	\$382,799.85	0.85%	(At Prague)
1024535	9 month	8/15/17	\$165,841.12	0.20%	
1024295	12 month FLEX	7/13/17	<del>\$465,122.28</del>	0.25%	
			\$1,014,273.55		
41-513	Checking		<del>\$2,226,562.69</del>	0.05%	
<b>TOTAL</b>			\$3,240,836.24		

**DEPRECIATION RESERVE/VEHICLE REPLACEMENT FUND**

602837			\$171,543.99	0.16%	
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**QUALIFIED CAPITAL IMPROVEMENT PURPOSE UNDERTAKING FUND (QC-PUF)**

1507069			\$350,656.15	0.05%	
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**BUILDING FUND**

1041-718	Checking		\$1,129,407.53	0.05%	
1024870	12 mo FLEX	6/10/17	\$221,600.95	0.25%	

**EMPLOYEE BENEFIT FUND**

1505565	Checking		\$3,488.16	0.05%	
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**STUDENT FEE FUND**

1502837	Checking		\$21,794.16		
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**PLEGGED SECURITIES**

FIRST NEBRASKA BANK	1/31/21	\$400,000.00	Cusip 912828B58
FIRST NEBRASKA BANK	5/30/17	\$500,000.00	Cusip 3136G0JD4
FIRST NEBRASKA BANK	3/8/19	\$150,000.00	Cusip 313378QK0
FIRST NEBRASKA BANK	2/27/17	\$100,000.00	Cusip 3133787M7
FIRST NEBRASKA BANK	5/30/19	\$500,000.00	Cusip 3137EADG1
FIRST NEBRASKA BANK	1/30/2017	\$500,000.00	Cusip 3135G0GY3
FIRST NEBRASKA BANK	11/30/2019	\$200,000.00	Cusip 912828UB4
BANK OF PRAGUE	12/15/2023	\$57,000.00	Cusip 12354RAZ0
BANK OF PRAGUE	1/15/2023	\$85,000.00	Cusip 123529EQ8
FIRST NEBRASKA BANK	12/31/2020	\$150,000.00	Cusip 912828A83
FIRST NEBRASKA BANK	6/30/2020	\$200,000.00	Cusip 912828VJ6
FIRST NEBRASKA BANK	3/8/19	\$500,000.00	Cusip 3133782M2
FIRST NEBRASKA BANK	9/14/18	\$500,000.00	Cusip 313375K48
FIRST NEBRASKA BANK	9/14/18	\$250,000.00	Cusip 313375K48
FIRST NEBRASKA BANK	9/14/18	\$500,000.00	Cusip 313375K48
FIRST NEBRASKA BANK	11/30/17	\$200,000.00	Cusip 3134G3VB3
FIRST NEBRASKA BANK	4/30/20	\$200,000.00	Cusip 912828VA5
<b>TOTAL PLEGGED</b>		\$4,992,000.00	

PAID IN JANUARY 2017					
<b>PRE-APPROVED BILLS (GENERAL FUND)</b>					
Stars Within Reach			Deposit for Vocano	Check # 23847	2016-17/18
Productions, Inc			Musical		
4820 44th Street			Performance		
Suite 1A					
Woodside, NY 11377		\$500.00			
Stop Inn			Pizzas/pop for		
1510 N. 4th Street			Tiger Time		
David City, Ne 68632		\$114.56	Teams	Check # 23848	2016-17/19
Walmart Community/GEMB			Candy for	Check # 23849	2016-17/20
PO Box 530934			Academic Pep		
Atlanta, GA 30353-0934		\$51.76	Rally		
Wizard's Castle Publishing			Professional Day	Check # 23850	2016-17/21
2420 Park Ave			workshop on		
Lincoln, Ne 68502		\$1,000.00	Oct 24-2016		
TOTAL		\$1,666.32			
<b>PRE-APPROVED BILLS (DEPRECIATION FUND)</b>					
NONE					
TOTAL		\$0.00			

REVENUE REPORT THROUGH 2-1-17			
% of year completed this month 42%			
	Amount	Received	
Category	Budgeted	To Date	
1110 Property Taxes	\$4,868,201.00	\$2,313,613.38	
1115 Carline	\$4,000.00	\$492.78	
1120 Public Power District-Sales Tax	\$7,000.00	\$1,536.41	
1125 Motor Vehicle Taxes	\$205,000.00	\$84,314.90	
1270 Pre-School Tuition	\$10,000.00	\$2,910.00	
1410 Interest	\$0.00	\$998.73	
1610 Local License Fees	\$5,000.00	\$1,760.00	
1910 Other Local Receipts	\$2,500.00	\$0.00	
1991 Receipts from Other Districts	\$0.00	\$0.00	
2110 County Fines/Licenses	\$10,000.00	\$11,444.47	
2210 ESU Receipts	\$10,000.00	\$51,304.90	
3110 State Aid	-\$122.00	\$0.00	
3120 SPED Programs/School Age	\$250,000.00	\$76,203.00	
3125 SPED Transportation/School Age	\$0.00	\$0.00	
3130 Homestead Exemption	\$0.00	\$0.00	
3135 St of Ne High Ability Learner	\$2,000.00	\$0.00	
3165 SPED - Below Age Five	\$0.00		
3180 Pro Rate Motor Vehicle	\$11,000.00	\$1,890.84	
3200 State Apportionment	\$57,000.00	\$0.00	
3300 In-Lieu-of-School Land Tax	\$0.00		
3500 State Categorical Grants	\$0.00		
3512 Dist. Ed. Incentive	\$0.00	\$0.00	
4200 Title I	\$30,000.00	\$0.00	
4300 TITLE VI (REAP)	\$20,000.00	\$0.00	
4310 Title II-A	\$0.00	\$0.00	
4320 Title V Grants	\$0.00	\$0.00	
4400 Special Education (Birth to Age 5)	\$0.00	\$0.00	
4402 Pre-School Transportation	\$0.00	\$0.00	
4404 SPED IDEA	\$123,000.00	\$0.00	
4406 IDEA	\$0.00	\$0.00	
4410 SPED IDEA	\$0.00	\$0.00	
4411 CEIS	\$0.00		
4412 IDEA NONPUBLIC	\$0.00		
4450 Medicaid in Schools	\$0.00		
4455 Medicaid Administrative Outreach	\$0.00	\$4,040.80	
5400 Sale of Property	\$0.00		
5690 Other Non Revenue Receipts	\$0.00	\$7,710.69	
TOTAL	\$5,614,579.00	\$2,558,220.90	45.56%





BUDGET CATEGORY SUMMARY					
JANUARY, 2017					
% OF YEAR COMPLETED THIS MONTH 42%					
CATEGORY	BUDGETED	JANUARY EXPENDITURES	YEAR TO DATE	BALANCE	
Instruction	\$2,886,503.00	\$240,040.48	\$1,251,275.74	\$1,635,227.26	
SPED (School Age)	\$768,803.00	\$77,710.21	\$379,957.47	\$388,845.53	
Distance Learning	\$3,000.00	\$0.00	\$0.00	\$3,000.00	
Guidance Services	\$105,449.00	\$7,641.46	\$39,867.38	\$65,581.62	
Safety/Security	\$125,284.00	\$0.00	\$0.00	\$125,284.00	
Other Pupil Support	\$30,217.00	\$936.56	\$5,137.60	\$25,079.40	
Library	\$94,295.00	\$6,884.27	\$39,007.34	\$55,287.66	
Board of Education	\$55,940.00	\$9,186.63	\$38,294.75	\$17,645.25	
Exec Admin Service	\$175,659.00	\$14,324.77	\$72,492.08	\$103,166.92	
Office of Principal	\$252,172.00	\$20,382.23	\$103,489.89	\$148,682.11	
Business Support	\$258,089.00	\$21,422.92	\$115,032.02	\$143,056.98	
Operation of Plant	\$389,926.00	\$34,411.75	\$139,276.53	\$250,649.47	
Maintenance of Plant	\$68,953.00	\$5,753.80	\$37,242.61	\$31,710.39	
Pupil Transportation	\$176,278.00	\$20,859.07	\$91,150.62	\$85,127.38	
SPED Transportation	\$1,000.00	\$173.88	\$1,431.54	(\$431.54)	
TITLE I Part A(4200)	\$94,961.00	\$4,364.66	\$21,827.73	\$73,133.27	
Title I Accountability(4210)	\$0.00	\$0.00	\$0.00	\$0.00	
High Ability (4301)	\$0.00	\$0.00	\$0.00	\$0.00	
PreSchool Handicap 4404	\$0.00	\$0.00	\$0.00	\$0.00	
IDEA (4406)	\$0.00	\$0.00	\$0.00	\$0.00	
SPED IDEA (4410)	\$0.00	\$0.00	\$0.00	\$0.00	
Medicaid Admin Outreach	\$0.00	\$0.00	\$0.00	\$0.00	
Transfers	\$130,000.00	\$0.00	\$32,500.00	\$97,500.00	
<b>TOTALS</b>	<b>\$5,616,529.00</b>	<b>\$464,092.69</b>	<b>\$2,367,983.30</b>	<b>\$3,248,545.70</b>	
				42.16%	
				Budget Expended	

**MOTION TO SELECT ARCHITECTURE FIRM FOR RENOVATIONS AND ADDITIONS TO THE EAST BUTLER PUBLIC SCHOOLS K-12 FACILITY**

East Butler Public School District  
Meeting of Board of Education, February 8, 2017

Motion made by \_\_\_\_\_, seconded by \_\_\_\_\_ that the Board of Education of this School District should, and does, hereby select The Clark Enersen Partners as the Project Architect for the construction of renovations and additions to the East Butler Public Schools K-12 facility building in Brainard, Nebraska (the Projects) for the services and fees set forth in the contract incorporated herein by this reference; and does further ratify and approve the efforts of the Administration and school district legal counsel to complete contract negotiations with The Clark Enersen Partners and authorize and direct the President of the Board of Education or other Board of Education member to execute and deliver such contract according to its terms.

The foregoing Motion having been read in its entirety, after discussion and on roll call vote, the following members voted in favor of passage and adoption thereof

\_\_\_\_\_.

The following members voted against the same: \_\_\_\_\_

\_\_\_\_\_.

The following members were absent or not voting: \_\_\_\_\_.

The above Motion having been consented to by a majority of the members of the School Board of this School District, was declared as passed and adopted by the President at a duly held and lawfully convened meeting in full compliance with the Nebraska Open Meetings Law.

DATED this \_\_\_\_ day of February, 2017.

EAST BUTLER PUBLIC SCHOOL  
DISTRICT

BY: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary



February 6, 2017

Mr. Sam Stecher  
Superintendent  
East Butler Public Schools  
212 South Madison Street  
Brainard, Nebraska 68626

RE: East Butler Public Schools Improvements

Dear Mr. Stecher,

On behalf of The Clark Enersen Partners, we are pleased to submit a Design Services Fee Proposal to assist East Butler Public Schools with facility design and master planning efforts.

Our understanding of the project scope and goals are based upon our January 22, 2017 meeting with the board.

Phase 1: Locker Room Renovation: The design and documentation of locker room renovations located on the west side of the existing school facility. Our design services will include architecture, interior architecture, structural / mechanical / electrical engineering. We assume that the general layout with individual showers and toilet facilities centered in the space as discussed is the direction that the board will want to proceed.

Phase 2: Study the following components:

- Investigate pre-school expansion to south of the existing building – one room to accommodate 20 students and play area
- Investigate splitting wrestling room – can a second level or mezzanine be incorporated into the existing space?
- Investigate expansion of fitness room / move into wrestling / relocate
- Investigate expansion of commons / kitchen
- Our design services will include architecture, interior architecture, structural / mechanical / electrical engineering as well as civil engineering / landscape architecture.

No bond effort is assumed, funding will be through the general fund or other potential funding sources.

We would be available to start the design process following the February 8 board meeting. We assume that the design process will require approximately 8 weeks to have construction documents ready for bidding in April 2017. The desire is to have construction take place of the 2017 school year summer break and be available for the start of school in August.

Architecture + Landscape Architecture + Engineering + Interiors

1010 Lincoln Mall, Suite 200  
Lincoln, NE 68508-2883 402 477.9291 Fax 402 477.6542

[www.clarkenersen.com](http://www.clarkenersen.com)  
Lincoln, NE | Kansas City, MO | Fairway, KS

For Design services associated with these scopes, we propose the following:

Phase 1: Locker Room Renovation, we propose a **Fixed Fee of \$15,000**. This fee is based upon 7.5% of an assumed construction cost of approximately \$200,000.

Phase 2 Study, we propose a **Fixed Fee of \$1,250**.

We assume that all documents will be provided in electronic format and that all printing required will be billed as a reimbursable expense. Our office can assist with bidding of construction documents electronically through our office plan room to reduce printing costs.

We are hopeful that this fee proposal is consistent with the scope of work that you deem appropriate for this project. If you have any questions regarding the proposal please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'TIM RIPP', is written over the typed name.

Tim Ripp, AIA, LEED AP

Senior Principal

**Appendix "B"**

**STATE OF NEBRASKA  
STATE FIRE MARSHAL**

**State Fire Marshal – School District - Project Architect  
Protocol Agreement for School District Capital Construction Projects**

<b>School District:</b>	<b>East Butler Public Schools</b>
<b>Project:</b>	<b>Renovations and Additions and Industrial Technology &amp; Agriculture Education Building</b>
<b>Design Firm:</b>	<b>To be determined</b>
<b>Deputy Fire Marshal Assigned to Project:</b>	<b>To be determined</b>
<b>Date of Initiation of Project Financing:</b>	<b>Completed</b>
<b>Anticipated Date of Substantial Completion:</b>	<b>August 2017</b>

The following is a Protocol Agreement to assist the School District and the Design Firm in meeting the SFM Agency Life Safety Code requirements for new construction and additions and renovations to existing facilities. The protocol is based upon a six point process involving the SFM Agency as follows:

**I. SFM Agency Protocol:**

**A. Notice of Proposed Project and Assignment of Deputy State Fire Marshal:**

1. The School District and Design Firm shall provide written notification to the SFM Agency of proposed Project, subject to planning and financing by the School District.
2. The SFM Agency shall within ten (10) working days assign a Deputy SFM to the Project; Deputy SFM have assigned inspection area by County and will be assigned to the Project based on the location of the project. Deputy SFM or Delegated Authority have sole jurisdiction over all Life Safety Code inspections and correction orders. Due to workload and circumstances, if another Deputy State Fire Marshal is temporarily assigned to the Project the School District and the Design Firm will be notified.

**B. Pre-Bond Issuance or Financing:**

1. Deputy SFM inspects existing building(s) prior to bond issue election or other financing process for review of Life Safety Code (LSC) compliance.
2. Deputy SFM writes Pre-Bond Correction Orders identifying deficiencies in existing building(s) and sends to the School District and Design Firm.
3. Correction orders written by the Deputy SFM are included on the first construction documents and/or are discussed at pre-bond financing or other financing conference.
4. The School District and Design Firm shall prepare a Plan of Correction for the correction orders written by the Deputy at the Pre-bond inspection. The Plan of Correction must show dates of completion for each deficiency found at the Pre-bond inspection. **Note:**

**SFM to develop and provide a common list of frequently found LSC issues. The completion time frame will vary based on the circumstances and each facility will be evaluated separately on an individual basis.**

C. Post-Bond Issuance or Financing:

1. Building plans are submitted to SFM Agency Plans Division for review of Life Safety Code (LSC) compliance.
2. SFM Agency Plans Division issues Code Review approval or denial of the plans and specifications for the Project including review of Pre-Bond Correction Orders and confirmation of compliance with such Correction Orders within the plans and specifications.
2. Construction starts with staged Deputy SFM inspections.
3. Construction completed. Final inspection by Deputy SFM for Certificate of Occupancy.

**II. School District-Architect/Engineers Protocol:**

A. Pre-Bond Issue or Financing Deputy SFM Inspection of Existing Facility and Additions and Renovations Thereto and Proposed Building Site:

1. Timing: Notification to SFM Agency of proposed capital construction project and request for Pre-Financing Life Safety Codes Inspection (LSCI) of existing facility (if applicable), and life-safety codes review of proposed additions and renovations to existing facility, including all building systems (HVAC, windows and doors) - 120 days before proposed date for determination of method of financing the project, and, if applicable date for the bond issue election.

2. Pre-LSCI Information: The School District and Architect shall provide the following information to the SFM Agency prior to the LSCI:

- a. Site Plan - The SFM Agency should be provided the following:
  - (1) Site plan of building site showing location or proposed location of building footprint;
  - (2) Floor plan of existing building;
  - (3) Video or pictures of existing facility, particularly ingress and egress, stairwells, and commons, gymnasiums and auditoriums; and,
  - (4) Preliminary floor plans and building systems designations for additions and/or renovations.

3. SFM - LSCI: The Deputy SFM shall meet with the School District and Project Architect at the building site to conduct a Life Safety Code inspection and review the requirements of the Life Safety Code as it applies to the building that is the subject of the Project, and to the additions and renovations to be made, including an analysis of the building

systems proposed for the project. Subsequent to the meeting the following actions will be taken:

a. Deputy SFM shall issue any needed Correction Order for existing building without additions and renovations issued to School District and Architect of record:

(1) School District to be responsible for correction of maintenance or operations issues noted in the Correction Order not requiring changes in building structure or systems, PROVIDED that the Architect to be responsible to include required changes in building structure or systems in planning, design and budget for the Project, and shall prepare a Plan of Correction for the School District to provide to the SFM Agency to include a time-line and prioritization of identified corrective actions needed.

b. SFM Agency Plans Division review of the preliminary floor plans and building systems designations for the additions to and renovations of the existing facilities prepared to date.

c. Architect to prepare minutes of the meeting including SFM comments and recommendations and preliminary Correction Orders regarding renovations and additions to be delivered to SFM Agency for review and editing.

d. The Deputy SFM shall issue the Pre-Bond Correction Orders regarding the existing building and comments in planned additions and renovations and the effect of same on the Pre-Bond Correction Orders.

e. Upon review and approval of the Pre-Bond Correction Orders issued by the SFM Agency, the Pre-Bond Correction Orders shall be circulated for the signatures of the School District, Architect.

f. Architect advises School District on establishment of the project budget based upon renovations and additions AND codes compliance requirements for existing facility.<sup>1</sup>

B. Review and preparation of pre-bond schematic design and programming based upon Pre-Bond Correction Orders, and preparation of cost estimate and project budget including all SFM Agency mandated improvements to existing and proposed additions and renovations.

C. Pre-Construction SFM Agency Inspection of Facility or Proposed Building Site:

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<sup>1</sup> NOTE NO. 1: The fire code sections differ for new educational facilities and existing educational facilities, e.g. new = Chapter 14, and existing = Chapter 15 – architects need to know these code sections and advise School Districts on compliance with same.

NOTE No. 2: SFM inspection is limited to what the Deputy SFM can see on the date of such inspection. School Districts and Architects must provide access to all portions of the facility to assure that the SFM has seen all of the areas of the existing facility so that the inspection is complete and sign-off is effective.

NOTE NO. 3: **By doing a pre-bond issue inspection the School District accepts the risk of “opening the door”, and even if the bond issue does not pass, the noted fire code improvement must be made upon identification.** The Plan of Correction including the time-line and prioritization to be prepared by the Architect and submitted to the SFM may be negotiated to allow sufficient time for the School District to finance any identified corrective actions with available financial resources should a bond issue not pass to address such costs.

NOTE NO. 4: Compliance with the fire codes and life safety codes to areas of an existing building being renovated must be done in conjunction with any renovations or new construction.

1. Final Site Plan - The SFM Agency should be provided the following:
  - a. Final site plan of building site showing location or proposed location of building footprint;
  - b. Floor plan of existing and proposed addition to such building, with specific attention to ingress and egress, stairwells, and commons, gymnasiums and auditoriums.
  - c. Review of the plans and specifications for the project in consideration of the Pre-Bond Correction Orders for the existing facility and additions and renovations with SFM Agency, Architect and School District;
  - d. SFM Agency Plans Division preparation and delivery to the School District and Architect of the SFM Agency Code Review approval of the plans and specifications for the Project including review of Pre-Bond Correction Orders and confirmation of compliance with such Correction Orders within the plans and specifications.<sup>2</sup>

5. Architect advises School District on establishment of the project budget based upon renovations and additions AND codes compliance requirements for existing facility and proposed additions and renovations.

6. The Architect shall provide all “Plan Review” documents to the School District. Architect shall take the following actions during the construction process:

- a. Deviations from the plans and specifications for both Life Safety Code compliance in existing facilities and the plans and specifications for the renovations and additions project MUST be reviewed PRIOR to the work being done.
- b. Communication with SFM Agency throughout the project with staged inspections by the Deputy SFM at times determined by the Architect in consultation with the SFM Deputy, and SFM Agency Plans Division approval in writing of any change orders or deviations from approved plans and specifications.

7. Final inspections by Deputy SFM to include review by SFM Agency of all prior approvals and consideration of same when evaluating the project for the purposes of issuance of an occupancy permit upon completion of the project.

<b>State Fire Marshal</b>	<b>East Butler Public School District</b>	<b>To Be Determined</b>
<b>By:</b> _____	<b>By:</b> _____	<b>By:</b> _____
<b>Chief Deputy Fire Marshal</b>	<b>President, Board of Education</b>	<b>[Insert Name]</b>

<sup>2</sup> NOTE No. 6: Again, SFM inspection is limited to what the Deputy SFM can see on the date of such inspection. Owners and Architects must provide access to all portions of the facility to assure that the SFM has seen all of the areas of the existing facility so that the inspection is complete and sign-off is effective.

**APPENDIX C - AIA Document B103 - 2007**

**16 DIVISION REPORT**

**EAST BUTLER PUBLIC SCHOOLS – RENOVATION OF EXISTING SCHOOL BUILDING PROJECT**

Group	Phase	Description	Takeoff Quantity	Labor Cost/Unit	Labor Amount	Material Cost/Unit	Material Amount	Sub Cost/ Unit	Sub Amount	Equip Cost/Unit	Equip Amount	Total Cost/Unit	Total Amount
<b>1000.000</b>		<b>GENERAL CONDITIONS</b>											
	1000.050	Supervision											
	1000.100	General Conditions											
	1010.270	CM Equipment											
	1500.000	Site Maintenance/Access											
	1510.000	Aid to Construction											
		<b>GENERAL CONDITIONS</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>2000.000</b>		<b>SITWORK</b>											
	2100.000	Site Clearing											
	2120.000	Structure Clearing											
	2140.000	Dewatering											
	2200.000	Earthwork											
	2270.000	Erosion Control											
	2275.000	Sediment Traps											
	2281.000	Soil Treatment											
	2444.000	Fencing & Gates											
	2513.000	Asphalt Paving											
	2515.000	Concrete Paving											
	2515.002	Pavement Marking & Traffic Signs											
	2700.000	Drainage Systems											
	2800.000	Site Accessories											
	2810.000	Underground Sprinklers											
	2900.000	Seeding & Sod											
		<b>SITWORK</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>3000.000</b>		<b>CONCRETE</b>											
	3100.000	Concrete Formwork											
	3200.000	Reinforcing Steel											
	3300.000	Concrete											
	3410.000	Structural Precast											
	3450.000	Architectural Precast											
		<b>CONCRETE</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0





**EAST BUTLER PUBLIC SCHOOLS – RENOVATION OF EXISTING SCHOOL BUILDING PROJECT**

	11450.000	Residential Equipment											
	11490.000	Gymnasium Equipment											
	11610.000	Laboratory Fume Hoods											
		<b>EQUIPMENT</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>12000.000</b>		<b>FURNISHINGS</b>											
	12500.000	Window Treatment											
	12760.000	Gymnasium Bleachers											
		<b>FURNISHINGS</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>14000.000</b>		<b>CONVEYING SYSTEMS</b>											
	14200.000	Elevator											
		<b>CONVEYING SYSTEMS</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>15000.000</b>		<b>MECHANICAL</b>											
	15000.100	Complete Mechanical											
	15300.000	Fire Protection											
	15400.000	Plumbing											
	15495.000	Site Utilities											
	15500.000	HVAC Systems											
	15950.000	Controls											
	15990.000	Test, Adjust and Balance											
		<b>MECHANICAL</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
<b>16000.000</b>		<b>ELECTRICAL</b>											
	16010.000	Electrial Complete											
	16720.000	Fire Alarm/Detection Sys											
	16740.000	Data Cabling											
	17000.000	Security Electronics											
		<b>ELECTRICAL</b>		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0

**THE CLARK ENERSEN PARTNERS**

**HOURLY BILLING RATES**

Effective 9/1/2016

**Senior Principal - Arch/Eng**

Scheer	\$ 250
Schirmer	\$ 250
Berg	\$ 240
Chadwick	\$ 240
Diederich	\$ 240
Rempe	\$ 240
Ripp, T.	\$ 240

**Senior Principal - Laboratories**

Lattig, G.	\$ 330
Stepp	\$ 240
Wise	\$ 240

**Principal/Project Manager**

Gergen	\$ 180
Kissel	\$ 180
Klein	\$ 180
Newport	\$ 180
Olson	\$ 180
Stolte	\$ 180
Walter	\$ 180

**Project Manager - Architecture**

Keele	\$ 135
Thomas	\$ 135

**Senior Interior Designer**

Munster	\$ 160
Rock	\$ 160

**Interior Design Staff**

Hinrichs	\$ 80
McGee	\$ 80
Al-Waely	\$ 80

**Landscape Architect**

Casper	\$ 135
Nalow	\$ 135
Ray	\$ 105
Silvey	\$ 105
Simpson	\$ 105

**Landscape Intern**

Hauck	\$ 80
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**Manager**

Merkel	\$ 135
Pierce	\$ 135
Stover	\$ 135

**Architectural Team Leader**

Biernbaum	\$ 130
Haden	\$ 130
McKinney	\$ 130
Watkins	\$ 130
Wooldridge	\$ 130

**Architectural Staff - Registered**

Glawatz	\$ 110
Gunn	\$ 110
Hier	\$ 110
Post	\$ 110
Rogers	\$ 110
Wonder	\$ 110

**Senior Architectural Staff**

Anderson	\$ 105
Ebner	\$ 105
Janiak	\$ 105
Kelso	\$ 105
Lane	\$ 105
Michl	\$ 105
Nickelson	\$ 105

**Architectural Staff**

Fieselman	\$ 70
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**Architectural Student Intern**

Baitey	\$ 45
Barrett	\$ 45
Hale	\$ 45
Moore	\$ 45
Pokojski	\$ 45
Sayler	\$ 45

**Graphic Design/Admin Assistant**

Carpenter	\$ 85
O'Neill	\$ 85
Koolen	\$ 85
Sutter	\$ 60

**Marketing**

Everitt	\$ 170
McVey	\$ 120

**Administrative Assistant**

Bullington	\$ 65
Stansberry	\$ 65
Torri	\$ 65

**Construction Admin Specialist**

Lattig, M.	\$ 75
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**Senior Design Engineer (PE)**

Beecher	\$ 165
Davison	\$ 165
Mitchell	\$ 165
Niemann	\$ 165
Onnen	\$ 165

**Design Engineer (PE)**

Blush	\$ 130
Mahoney	\$ 130
McKie	\$ 130
Palan	\$ 130
Wilson	\$ 130

**Engineering Designer**

Capek	\$ 120
Kent	\$ 120
Krysl	\$ 120
Nelson	\$ 120
Preister	\$ 120
Wittstruck	\$ 120

**Design Engineer**

Adams	\$ 105
Carnahan	\$ 105
Metcalf	\$ 105
Uhing	\$ 105

**Engineering Staff**

Bowman	\$ 75
Campbell	\$ 75
Donovan	\$ 75
DuSchene	\$ 75
Fickbohm	\$ 75
Rose	\$ 75
Shald	\$ 75
Sharp	\$ 75
Swift	\$ 75
Winter	\$ 75

**Senior Construction Administrator**

Clay	\$ 130
Hanna	\$ 130
Hartung	\$ 130
Pavey	\$ 130
Stull	\$ 130

**Construction Administrator**

Ripp, M.	\$ 85
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**Construction Admin Student Intern**

Langford	\$ 45
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**AIA**<sup>®</sup>

# Document B103™ – 2007

## **Standard Form of Agreement Between Owner and Architect** for a Large or Complex Project

**AGREEMENT** made as of the 8<sup>th</sup> **day of February in the year 2017.**  
(In words, indicate day, month and year.)

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

Butler County School District 12-0502, a/k/a East Butler Public School District  
212 South Madison St.  
P.O. Box 36  
Brainard, NE 68626-0036  
Ph. (402) 545-2081  
Fax. (402) 545-2023

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

The Clark Enersen Partners  
1010 Lincoln Mall # 200  
Lincoln, NE 68508  
Ph. (402) 477-9291

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

East Butler Public Schools –212 South Madison St., Brainard, Nebraska, to include two (2) phases:

Phase 1: Locker Room Renovation: The design and documentation of locker room renovations located on the west side of the existing school facility including architecture, interior architecture, structural, mechanical, electrical engineering.. The locker room project will have a general layout with individual showers and toilet facilities centered in the space..

Phase 2: Study the following components:

- Investigate pre-school expansion to south of the existing building - one room to accommodate 20 students and play area
- Investigate splitting wrestling room - can a second level or mezzanine be incorporated into the existing space?
- Investigate expansion of fitness room I move into wrestling I relocate
- Investigate expansion of commons I kitchen
- Our design services will include architecture, interior architecture. structural I mechanical, electrical engineering as well as civil engineering I landscape architecture. (hereinafter the "Project" or "Projects").

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

Init.

## TABLE OF ARTICLES

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

### ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

The Owner's program for the Project as developed in conjunction with the Architect is to be determined during the pre-construction phase scope of work for each of the three phases of the Work of this Agreement; upon establishment of the Scope of the Work by the Board of Education of the Owner, this Agreement shall be amended to incorporate such Scope of the Work for the Locker Room Renovation Project and Industrial Technology and Agriculture Education building projects into the terms of this Agreement as Appendix "A".

§ 1.1.2 The Project's physical characteristics:

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

The physical characteristics for each of the phases of the Work of the Project is set forth in the Scope of the Work established by the Board of Education of the Owner for each Project attached hereto as Appendix A. The Agreement may, at Owner's option, be amended by addendum to incorporate the Scope of the Work for the Locker Room Renovation Project and Industrial Technology and Agriculture Education building projects into the terms of this Agreement as an amended Appendix "A".

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

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

Init.

Phase Description	Phase Budget
Locker Room Renovation Project	\$200,000.
East Butler High School – Industrial Technology and Agriculture Education building	To be determined (TBD) and added by addendum if Project is approved.

**§ 1.1.3.1 PROJECT FINANCING.** Project Financing shall be through the Owner’s building fund, and other sources of revenue yet to be determined.

**§ 1.1.4 ANTICIPATED PROJECT CONSTRUCTION SCHEDULE.** The Owner’s anticipated design and construction schedule:  
(*Paragraphs deleted*)

Phase Description	Design Completion and Bidding of Work	Start Construction	Substantial Completion
Locker Room Renovation Project	April 1, 2017	May 15, 2017	August 1, 2017
East Butler High School – Industrial Technology and Agriculture Education building	NA	NA	August 1, 2017

**§ 1.1.5 PROJECT CONSTRUCTION DELIVERY METHOD.** The Owner intends the following procurement or delivery method for the Project:  
(*Identify method such as competitive bid, negotiated contract or construction management.*)

- .1 Design-Bid-Build under Neb. Rev. Stat. § 73-101, and § 73-106.

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

The Project will be subject to accelerated and/or fast-track scheduling and a single bid package with phase construction to accomplish project substantial Completion by the date established for each Project. The design phase and construction phase milestone dates for the Project shall be established based upon the Substantial Completion Date with design, sequencing, and bidding of the work through a single bid package, and ongoing construction administration by the Architect

**§ 1.1.7 TERM OF AGREEMENT.** The term of this Agreement shall be for a period beginning on the effective date stated on page 1, and continuing through the occurrence of one of the following events, whichever occurs first in time:

- .1 The completion of all services provided by the Architect for each Project under the terms of this Agreement, with the term of this Agreement to extend to twelve (12) months after the issuance to the Owner by the Architect of the Certificate of Substantial Completion for the identified Project issued last in time. Any additional services to be provided by the Architect shall be determined by a separate contract or addendum to this Agreement. This Agreement shall not extend for a period of more than four (4) years, and shall not create a continuing contract for architectural services for future building projects or bond elections beyond the terms of this paragraph.
- .2 The termination of this Agreement according to its terms.

**§ 1.1.8** The Owner identifies the following representatives in accordance with Section 5.4:  
(List name, address and other information.)

Mr. Sam Stecher  
Superintendent of Schools  
East Butler Public Schools  
212 South Madison St.  
P.O. Box 250

Init.

Brainard, NE 68626-0036  
Ph. (402) 545-2081

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

Board of Education, East Butler Public Schools

§ 1.1.10 The Owner will retain the following consultants and contractors with assistance from the Architect to procure such services:  
(List name, legal status, address and other information.)

.1  
(Paragraphs deleted)  
Geotechnical Engineer: TO BE DETERMINED

(Paragraphs deleted)

.2 Other, if any: (List any other consultants or contractors retained by the Owner, such as a Project or Program Manager, construction contractor, or construction manager as constructor.)

Topographic Surveyor – TO BE DETERMINED

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address and other information.)

[TO BE DETERMINED]

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2, PROVIDED THAT ALL SUCH CONSULTANTS SHALL BE LICENSED ARCHITECTS AND ENGINEERS IN THE STATE OF NEBRASKA:

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

§ 1.1.12.1 Consultants retained under Basic Services:  
(Paragraph deleted)

.1 Structural Engineer– TO BE DETERMINED.

(Paragraphs deleted)

.2 Mechanical Engineer: – TO BE DETERMINED.

.3 Electrical Engineer: – TO BE DETERMINED.

.4 Civil Engineer: – TO BE DETERMINED.

.5 Construction Administration Support: – TO BE DETERMINED.

.6 Food Service Consultant: – TO BE DETERMINED.

§ 1.1.12.2 Consultants retained under Additional Services:

NONE

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

NONE

Init.

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

### § 1.3 DEFINITIONS

1.3.1 **THE PROJECT:** For purposes of this Agreement, "the Project" shall mean the individual project at the above named facility owned and operated by the Owner as described herein and set forth on the Schematic Design documents prepared by the Architect.

§ 1.3.2 **THE WORK:** For purposes of this Agreement, "the Work" shall mean the Contract, Subcontracts or Multiple Prime Contracts for the construction of the Project.

§ 1.3.3 **COST OF THE WORK:** For purposes of this Agreement, "Cost of the Work" shall mean the total cost of all Contracts, Subcontracts or Multiple Prime Contracts for the construction of the Project and site improvements described in the Contract Documents and the Owner's Representative's Compensation for Basic Services and Owner's Representative's Expenses to be Reimbursed. "Cost of the Work" shall not include the Architect's fees for services or other professional fees and expenses, the cost of any insurance and surety contracts purchased or controlled by the Owner, or any other contracts or agreements that are not part of or described by the Construction Documents.

§ 1.3.4 **ESTIMATES OF COST OF THE WORK:** The estimates of the Cost of the Work to be provided by the Owner's Representative under this Agreement shall be reviewed by the Architect when presented to the Owner; the Architect to require the Owner's Representative on behalf of the Owner to provide such estimates of the Cost of the Work in a format based upon the standard construction industry sixteen (16) divisions of the Work following the 16 Division Spreadsheet Report form, Appendix "B", setting forth the estimated cost organized by the materials and systems, trade categories, allowances, contingency, and other items that comprise each division of the work.

§ 1.3.5 **ARCHITECT'S COMPENSATION FOR BASIC SERVICES:** For purposes of this Agreement, "Architect's Compensation for Basic Services" shall mean the compensation for services rendered owed to the Architect that is to be reimbursed pursuant to the provisions of Article 11.

§ 1.3.6 **EXPENSES TO BE REIMBURSED:** For purposes of this Agreement, "Expenses to be Reimbursed" shall mean those expenses incurred by the Architect that are to be reimbursed pursuant to the provisions of Article 11.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Nebraska. Pursuant to the Nebraska Engineers and Architects Regulation Act, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable Cost of the Work must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Nebraska. Architect agrees to notify Owner should Architect's license or registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations. The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall design and provide construction administration services for the Project to meet the Owner's educational program requirements provided by the improvements set forth in the Excel 16 Division Spreadsheet Report form, Appendix "C".

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall be a registered professional architect licensed to practice in the state of Nebraska.

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

§ 2.5 **INSURANCE** The Architect shall maintain the following insurance for the duration of this Agreement. Except for professional liability insurance, all insurance required of the Architect under this Agreement shall be written on an occurrence basis. Aggregate limits are per Project. All insurance policies for the Project, except workers' compensation insurance, shall name School District as additional insured. All insurance policies for the Project shall provide a blanket waiver of subrogation in favor of the School District.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage. Owner is to be included under such policy as additional insured to the extent of liability assumed by Architect, with coverage to be primary and not contributory with any such coverage maintained by Owner. The policy shall contain a severability of interests' provision in favor of the additional insureds. Contractual insurance coverage shall include subcontracts. Deductibles for commercial general liability insurance shall not exceed \$ 10,000.

§ 2.5.2 Automobile Liability covering owned, rented, and non-owned vehicles operated by the Architect with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit and aggregate for bodily injury and property damage.

§ 2.5.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Commercial General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. Umbrella and excess liability policies shall include similar additional insured provisions as included in underlying policies.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than One Million Dollars (\$1,000,000). Workers' compensation and employer's liability insurance shall cover all of Architect's and Consultant's direct and leased employees engaged in services under the Agreement.

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate. The professional liability insurance shall remain in full force and effect for a period of three (3) years after the termination of this Agreement or the completion of the Architect's services hereunder, whichever occurs latest in time. If Owner chooses to acquire a policy of professional liability insurance for the Project, then Owner and Architect must agree on the limits of coverage, parties covered, deductible required and length of the policy period after substantial completion of the services. Deductibles for professional liability insurance shall not exceed \$ 100,000.

§ 2.5.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. All deductibles and premiums associated with the above coverages (except a project specific policy of professional liability insurance) shall be the responsibility of Architect. The certificates will show the Owner as an additional insured on the Commercial General Liability and Automobile Liability. The Architect shall ensure that all Consultants engaged by the Architect carry and maintain sufficient insurance that is appropriate to the project in the reasonable discretion of the Architect. The Architect and Consultants shall submit proof of such insurance to the Owner before submittal of the first invoice. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal, or material modification of the policies.

### **ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES.**

§ 3.0 **PRE-CONSTRUCTION SERVICES.** The Architect's Pre-Construction Services consist of those described in this Section 3.0.

§ 3.0.1 **PRE-CONSTRUCTION ISSUE PROGRAMMING SERVICES.**

**§ 3.0.1.1 PRE-FINANCING DETERMINATION SERVICES.** The Architect's Pre-Financing Determination Services consist of those described in this Section 3.0.1.

**§ 3.0.1.1 SITE UTILIZATION STUDIES.** The Architect shall prepare a site analysis, which may include land utilization, structure placement, facilities development, circulation systems, parking facilities and utility systems. The Architect may also include in the analysis the data provided by the Owner, including an analysis of surface and subsurface conditions, the soils report, vegetation, slope of land, ecological requirements, deeds, zoning and other legal restrictions, landscape features and materials.

**§ 3.0.1.2 CODES COMPLIANCE REVIEW.** The Architect shall arrange for and schedule a meeting with all applicable governmental authorities, including but not limited to the building codes inspector(s) and Nebraska State Fire Marshall and any deputy Fire Marshall with jurisdiction over the Project to conduct a review of all applicable building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures pursuant to the Codes Compliance Protocol attached hereto as Appendix "B".

**§ 3.0.1.2.1** Pursuant to the Codes Compliance Protocol, Appendix "B", the Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements, including all building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures imposed by governmental authorities or entities providing utility service to the Project. The Architect shall be responsible to design and prepare plans and specifications for regulations and mandates of such authorities/entities and shall prepare estimates of the Cost of the Work to include such code compliance, design standards, and requirements for the specified Project.

**§ 3.0.1.3 PRE-SCOPE DEFINITION CONCEPTUAL COST ESTIMATING.** Upon establishment of the Preliminary Program Statement, the Architect shall (1) provide in-house conceptual cost estimating (In-House Estimate) based upon the 16 divisions of the Work recognized in the construction industry for both the School Additions and Renovations Project that is accurate and based upon empirical data; (2) upon the Owner's request, and as an Additional Service, retain at Architect's cost an independent conceptual cost estimator (Independent Estimate) with established and verified experience with the construction market for labor and materials in the Brainard, Nebraska area, in the State of Nebraska and regionally to provide a separate cost estimate based upon the 16 divisions of the Work for both the East Butler High School K-12 Building Renovations Project and the Industrial Technology and Agriculture Education Building Project that is accurate and based upon empirical data; (3) conduct an analysis of the In-House Estimate and Independent Estimate to reconcile all differences and arrive at a consensus of the cost of each division of the Work set forth on the Excel 16 Division Spreadsheet Report, Appendix "C"; and, (4) provide to the Owner a reconciled pre-scope definition conceptual cost estimate for both the School Additions and Renovations Project.

**§ 3.0.1.4 MEETINGS AND PRESENTATIONS.** The Architect shall attend meetings with staff to receive input for the development of early programming for the building, school board meetings, public hearings, and citizen information meetings as directed by the Owner.

**§ 3.0.1.5 CONCEPTUAL DESIGN.** Upon selection of the scope of the Project by the Board of Education of the School District, the Architect shall provide input to the School District/Owner with regard to design options and solutions, advice on constructability and materials, cost efficiencies, and scheduling of the Work for each building that is part of the Project; and, shall provide pre-financing determination information preparation and presentation of the Program Statement and Schematic Design for the selected option, to include site plans, basic floor plans, and materials and building systems selections to assist the School District in providing the public with a clear vision and understanding of the scope, location on the proposed site with an ingress and egress analysis, appearance, structural components and quality, life-cycle and cost.

**§ 3.0.1.6 SCOPE REFINEMENT.** To assist the School District in refining and presenting to the public the Project Scope, the Architect shall:

§ 3.0.1.6.1 Review along with the Program Statement and Schematic Design with the Administration, including a formal presentation, participation in discussion of each, and adjustment of schematic design.

§ 3.0.1.6.2 Meet with community groups and present the Program Statement and Schematic Design as modified and receive input and analysis from the Citizens Committee.

§ 3.0.1.6.3 Assist the Administration in presenting recommendations to the Board of Education and participate in discussion with the Board of Education and the preparation of the Final Scope Document. The Final Scope Document contains a description of the selected standard of construction for the Project, including building materials, structural components, mechanical and electrical systems, building finish, and fixtures, furniture and equipment (FF&E).

§ 3.0.1.6.4 **FINAL SCOPE DEFINITION CONCEPTUAL COST ESTIMATING.** Upon the definition of the scope of the Project (either the School Additions and Renovations Project) and establishment of the Program Statement and Schematic Design therefor, the Architect shall (1) update the In-House cost estimate based upon the 16 divisions of the Work for the selected Project that is accurate and based upon empirical data; (2) cause the Architect's independent conceptual cost estimator to prepare an updated Independent Estimate to provide a separate cost estimate based upon the 16 divisions of the Work for the selected Project that is accurate and based upon empirical data; (3) conduct an analysis of the In-House Estimate and Independent Estimate to reconcile all differences and arrive at a consensus of the cost of each division of the Work set forth on the Excel 16 Division Spreadsheet Report, Appendix "B"; and, (4) present to the Owner the reconciled conceptual cost estimate for the selected Project set forth on the Excel 16 Division Spreadsheet Report, Appendix "A" to assist the Owner in sizing the bond issue resolution request for funding to the taxpayers of the school district that will provide sufficient funding to construct the new building selected to the standard of construction materials and systems presented to the voters. Upon submission of the reconciled cost estimate, the Architect and Independent Cost Estimator shall meet with the Owner to discuss and, as needed, negotiate the content thereof by division of the Work to provide the Architect the basis for the Preliminary Independent Conceptual Cost Estimate.

§ 3.0.1.8.4.1 **INDEPENDENT CONCEPTUAL COST ESTIMATE:** If the Owner's requests as an Additional Service, and Independent Cost Estimate per paragraph 3.0.1.3, the Architect shall include with the Independent Conceptual Cost Estimate proposal a written statement of its basis which shall include:

§ 3.0.1.8.4.1.1 A list of allowances for each separate component of the Work listed for each of the sixteen (16) divisions of the Work set forth by the Architect on the Excel 16 Division Spreadsheet Report, Appendix "B" and a statement of their basis.

§ 3.0.1.8.4.1.2 A Construction Contingency for additional cost of no more than FIVE PERCENT (5.0%) and an Owner's Construction Contingency for additional cost of no more than FIVE PERCENT (5.0%).

§ 3.0.1.8.4.1.3 A list of the clarifications and assumptions made by the ARCHITECT in the preparation of the Independent Conceptual Cost Estimate proposal to supplement the information contained in the Final Scope Document.

**3.0.1.9 REVIEW OF PROPOSED ICC ESTIMATE:** The Architect shall meet with the Board of Education and CM@R (if any) to review the Independent Conceptual Cost Estimate proposal and the written statement of its basis. In the event that the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the ARCHITECT who shall make appropriate adjustments to the Independent Conceptual Cost Estimate proposal, its basis or both. The Owner will take action to approve or modify and approve the Independent Conceptual Cost Estimate proposal after the receipt of the Independent Conceptual Cost Estimate proposal by the Owner. The Independent Conceptual Cost Estimate proposal shall not be effective without written acceptance by the Owner. If the Owner rejects the Independent Conceptual Cost Estimate proposal, the Owner, CM@R (if any) and Architect shall again review the Independent Conceptual Cost Estimate and the written statement of its basis, and seek to negotiate an Independent Conceptual Cost Estimate the Owner will accept. As part of such negotiations, the Architect shall make appropriate recommendations to the Owner and Project Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents to bring the Project within the Construction Budget that shall not delete necessary components of the Project or materially reduce the educational program requirements of the Owner. If agreement on an Independent

Conceptual Cost Estimate is not reached within seven (7) days of the date of the Owner's written rejection of the Independent Conceptual Cost Estimate proposed by the Architect, this Agreement shall be terminated pursuant to the provisions hereof.

**§ 3.0.1.10 PRESENTATION TO PUBLIC** The Architect shall participate in meetings to present facts and information regarding the Project to the public prior to the election on the bond issue question.

**§ 3.1 DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES ISSUE SERVICES** The Architect's Design and Construction Administration Services consist of those described in Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in Articles 3.1 through 3.7 and Article 4.1 are Additional Services. Such services shall include the following responsibilities applicable to all phases of the Work:

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

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

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

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

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

**§ 3.1.6** The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect shall be responsible to:

**§ 3.1.6.1** Design and prepare plans and specifications for the Project that meet the design and construction requirements of all applicable local, state and federal codes, statutes and regulations and mandates of governmental authorities, including but not limited to **all** building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures for the East Butler High School building, in force as of the date of and during the term of his Agreement.

**§ 3.1.6.2** Coordinate estimates for the Cost of the Work with the Construction Manager at Risk to include such codes compliance design standards and requirements.

**§ 3.1.6.3** **At the time of the delivery of the completed Construction Documents for the Project to the Owner the Architect shall submit to the Owner written approval of the plans and specifications for the Project from all applicable governmental authorities, including but not limited to the building codes inspector(s) and Nebraska State Fire Marshall and any deputy Fire Marshall with jurisdiction over the Project which confirms that such plans and specifications meet all applicable building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures for the East Butler High School building.** The Architect will bring to the Owner's attention any authority/entity failing to provide written or stamped approval along with a brief summary of the Architect's efforts to gain approval. If the Architect performs the requirements of this paragraph, and

subsequently the plans and specifications for the Project, or any portion thereof, are subsequently determined by any governmental authority to not meet the design requirements of applicable local, state and federal codes, statutes and regulations or mandates of governmental authorities, the Architect shall be responsible to redesign that portion of the Project as an additional fee to bring the Work into compliance with such code, statute or regulation; PROVIDED, however, that if the Architect fails to perform the requirements of this paragraph, the Architect shall be responsible to redesign that portion of the Project at no additional fee.

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

*(Paragraph deleted)*

## § 3.2 SCHEMATIC DESIGN PHASE SERVICES

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

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

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

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

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

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

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

§ 3.2.6 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than TEN PERCENT (10%).

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner and the Owner's Construction Manager, if any, and request the written approval from the Owner of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase in accordance with Sections 6.1 through 6.6.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.3, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Owner's Construction Manager, if any, for review and written approval. If revisions to Design Development Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase, the Architect shall incorporate the required revisions in the Construction Document Phase in accordance with Sections 6.1 through 6.6.

§ 3.3.3 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than TEN PERCENT (10%).

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner, in coordination with the Construction Manager, in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; and, (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Owner's Construction Manager, if any, for review and written approval. If revisions to Construction Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase, the Architect shall incorporate the required revisions in accordance with Sections 6.1 through 6.6.

§ 3.4.5 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than FIVE PERCENT (5%).

§ 3.4.6 The Architect on the Owner's behalf shall assist the Owner in filing the documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall assure that the design of the Project will comply with applicable laws, statutes, ordinances, codes, rules and regulations in force as of the date of the Agreement.

§ 3.4.7 Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed.

§ 3.4.7 Owner shall review Article 11 (Insurance and Bonds) of AIA Document A201-2007, as amended, and Article 11 of specification section 007300, Supplementary Conditions of the Project Manual, with Owner's insurance carrier. Owner shall provide to the Architect written notification of either Owner's approval of or request to modify AIA A201 Article 11 and/or Supplementary Conditions specification section 007300.

### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

#### § 3.5.1 GENERAL

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

#### § 3.5.2 COMPETITIVE BIDDING

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

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

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of addenda.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

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

§ 3.6.1.4 The Architect shall in conjunction with the Construction Manager respond to all of any Contractor's requests for information unless such information is available to the Contractor from careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

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

§ 3.6.1.6 The Architect shall render initial decision on claims, disputes or other matters in question between the Owner and the Construction Manager as provided in the Contract Document. However, the Owner's decisions in consultation with the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intentions expressed in the Contract Documents.

### § 3.6.2 EVALUATIONS OF THE WORK

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

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

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

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

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

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONSTRUCTION MANAGER

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the

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Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

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

#### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

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

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

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect shall acknowledge the receipt of each Construction Manager-generated Request for Information (hereafter, "RFI") within three (3) working days after receiving it. The Architect shall issue a written answer to the Construction Manager and the Owner, if desired, for each RFI (along with necessary descriptive drawings, specifications, or other documents) with the promptness necessary to avoid unnecessary delay or cost, within ten (10) working days after the RFI is received by the Architect. If the RFI processing will exceed the agreed upon review period, the Architect will notify the Construction Manager and Owner.

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

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to

the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct site visits for observable or reasonably discoverable defects and deficiencies in the work to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon the Construction Manager's compliance with the requirements of the Contract Documents.

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

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

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

§ 3.6.6.5 The Architect, during the tenth (10th) month after the Date(s) of Substantial Completion, shall visit the Project to review the work and shall prepare a report to be issued to the Owner (and, at the Owner's direction, to the Construction Manager) indicating outstanding work to be corrected and warranty issues to be addressed by the Construction Manager. To the extent that services of the Architect are required for the Construction Manager's correction of the work or the Construction Manager's satisfaction of warranty requirements, such services, upon written approval of the Owner, shall be considered a Change in Services for which the Architect will be compensated.

§ 3.6.6.6 **UPDATED AS-BUILT DRAWINGS.** Promptly after the Owner receives the Notice of Substantial Completion from the Architect, the Architect shall furnish the Owner, at no expense to the Owner, reproducible As-built Drawings in a form approved by the Owner, and shall include all revisions made in the course of construction. The Architect shall also provide the Owner an electronic file of the As-built Drawings in a computer program acceptable to the Owner. Revisions or changes shall be properly annotated on the reproducible plans and cross-referenced. Each sheet of the plans shall be prominently noted, "As-built Drawings." The Architect may require the Construction Manager to maintain and update throughout the construction period a set of construction plans and specifications noting as-built conditions. The Architect shall rely on the accuracy of these documents in the preparation of as-built documents for submittal to the Owner.

§ 3.6.6.7 **OPERATING AND MAINTENANCE MANUALS AND TRAINING OF OWNER STAFF.** The Architect shall on behalf of the Owner coordinate with the Owner's Representative to review the work of the contractors and suppliers with regard to the preparation of operating and maintenance manuals, extensive assistance in utilization of any equipment or system (such as initial start-up, testing, adjusting and balancing); and training personnel for operation and maintenance. Upon written request by the Owner, Architect shall participate in Commissioning and Training of Owner's staff on an hourly basis.

§ 3.7 **DEFECTIVE WORK.** Upon Notice of Completion, the Architect shall:

§ 3.7.1 **DEFECTIVE WORK PERIOD.** Provide assistance, as requested by the Owner, to obtain from the construction contractor any refinement or adjustment to any equipment or system during the warranty period. Defective Work period shall mean one (1) year from the date of Notice of Completion. During the defective work period, the construction contractor shall be responsible for damages resulting from defects in materials or workmanship of the

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Project. Assist the Owner in a TEN (10) month review of the completed work of the Project to determine if any operational deficiencies, material defects, or construction deficiencies exist that require correction.

**§ 3.7.2 REVIEW MEETING.** Prior to the expiration of one (1) year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and construction contractor to review the facility operations and performance.

**§ 3.7.3 DEFECTS IN WORK.** Make visits to the Project in response to Owner observations and reporting of apparent defects and deficiencies in the completed construction. Advise the Owner in writing of deficient or defective work and consult with the Owner to provide satisfactory methods for their correction. Additional site visits during the Warranty Period by the Architect shall be provided as an Additional Service on an hourly basis.

**§ 3.7.4 CLAIMS AND DISPUTES.** Architect shall render prompt advice on claims, disputes, and other matters which may arise between construction contractor and the Owner relating to operations of and defects in the completed work of the Project.

**ARTICLE 4 SCOPE OF SERVICES**

**§ 4.1** The Scope of Services listed below are included in Basic Services for the Project. The Architect shall provide the listed Scope of Services specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.1.

*(Designate the Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in the Agreement.)*

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Architect	
§ 4.1.2 Multiple preliminary designs	Architect	
§ 4.1.3 Measured drawings	Architect	
§ 4.1.4 Existing facilities surveys	Owner	
§ 4.1.5 Site Evaluation and Planning	Architect	
§ 4.1.6 Building information modeling	Architect	
§ 4.1.7 Civil engineering	Architect	
§ 4.1.8 Landscape design	Architect	
§ 4.1.9 Architectural Interior Design	Architect	
§ 4.1.10 Value Analysis	Architect	
§ 4.1.11 Detailed cost estimating	Owner	Construction Manager
§ 4.1.12 On-site project representation	Owner	Construction Manager
<i>(Row deleted)</i>		
§ 4.1.13 Conformed construction documents	Not Provided	
§ 4.1.14 As-Designed Record drawings	Not Provided	
§ 4.1.15 Updated as-built or As-Constructed Record drawings	Owner	Construction Manager
§ 4.1.16 Post occupancy evaluation	Not Provided	
§ 4.1.17 Facility Support Services (B210™–2007)	Not Provided	
§ 4.1.18 Tenant-related services	Not Provided	
§ 4.1.19 Coordination of Owner’s consultants	Owner	
§ 4.1.20 Telecommunications/data design	Owner	
§ 4.1.21 Security Evaluation and Planning	Owner	
§ 4.1.22 Commissioning (B211™–2007)	Not Provided	
§ 4.1.23 Extensive environmentally responsible design	Not Provided	
§ 4.1.24 LEED® Certification (B214™–2007)	Not Provided	
§ 4.1.25 Historic Preservation (B205™–2007)	Not Provided	
§ 4.1.26 Furniture, Furnishings, and Equipment Design	Not Provided	

(B253™-2007)		
§ 4.1.27 Single Bid Package by CONTRACTOR	Architect	Multiple separate bid packages as Additional Service under 4.3.1.11

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

All services designated as Architect's responsibility in Paragraph 4.1 will be included in Architect's Basic Services for said Project.

§ 4.2.1 Off-site civil engineering services NOT provided in Basic Services, but can be provided by or coordinated as an additional service

- a. State of Nebraska NPEDES permit preparation and coordination
- b. Off-site utility extensions or improvements
- c. Public roadway improvements and traffic impact studies
- d. Stormwater Pollution Prevention Plan (SWPPP) design services
- e. Army Corps of Engineers 404 permitting
- f. Platting service
- g. Boundary and topographic surveying services
- h. Post Construction Stormwater Management Plan (PCSMP) design and submittal services

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
  - .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
  - .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
  - .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
  - .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients, PROVIDED that the provision of one complete copy to the CONTRACTOR shall not be an additional service;
  - .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
  - .7 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- (Paragraph deleted)*
- .8 Consultation concerning replacement of Work resulting from fire or other cause during construction;
  - .9 Assistance to the Initial Decision Maker, if other than the Architect;
  - .10 Providing services made necessary by the default or termination of contractor, by defects or deficiencies in the construction of the Project or by failure of the Owner, any contractor or others performing services or Work in connection with the Project; or
  - .11 Bid packages in excess of the one (1) provided as Basic Services under 4.1.27.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the

Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

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

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

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 Fifteen ( 15 ) visits to the site by the Architect over the duration of the Project during construction
- .3 One ( 1 ) inspection 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 One ( 1 ) inspection for any portion of the Work to determine final completion

**§ 4.3.4** If the services covered by this Agreement have not been completed within Thirty-Six ( 36 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## **ARTICLE 5 OWNER'S RESPONSIBILITIES**

**§ 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. The Owner hereby refers Architect to any applicable building code authority to obtain building code specifications.

**§ 5.2** [Omitted]

**§ 5.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Provided, however, nothing herein shall relieve Architect of any responsibility or liability for the performance of Architect's contracted services.

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

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

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

§ 5.8 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.

§ 5.9 Unless otherwise provided in this Agreement, the Owner may, in its sole discretion, furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.10 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Construction Documents but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observation, inspection or investigation. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project.

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

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

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

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include construction manager's fees (if one is retained), general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager, if any, to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work.

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work;
- .3 terminate in accordance with Article 9; or
- .4 implement any other mutually acceptable alternative.

§ 6.5 If the Owner chooses to proceed under Section 6.4.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase

*(Paragraphs deleted)*

Services, or the budget as adjusted under Section 6.4.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

§ 6.6 After incorporation of modifications under Section 6.5, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

*(Paragraph deleted)*

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 All plans, drawings, specifications, computations, sketches, data, surveys, models, photographs, renderings, and other like materials relating to the services ("Documents") shall become the non-exclusive property of the Owner at the conclusion of the project, or termination of the services of the Architect, whichever is earlier, and shall be delivered to the Owner clearly marked and identified and in good order. The Owner may use the documents as it determines for other projects of the Owner or of which the Owner is a party, including, but not limited to, the construction of one or more like projects, without the approval of, or additional compensation to, the Architect. The Architect and the Architect's consultants shall incur no liability for the Owner's use or reuse of the Documents other than in connection with the Project unless the Architect is involved in the reuse project. Prior to the reuse of construction documents for a project in which the Architect is not also involved, the Owner shall remove and obliterate from such documents all identification of the original Architect, including name, address, and professional seal and stamp. Further, the Owner hereby indemnifies and holds harmless the Architect and its consultants from any loss or damage, including attorney's fee, incurred as a result of this provision. Pursuant to this paragraph, the Owner may retain other architects, engineers and design professionals who may use the Documents for such purposes as the Owner determines. Notwithstanding any other provisions of this paragraph, the Owner shall not permit or convey the right to use the Documents to any third party.

§ 7.2 Subject to the Owner's rights of ownership of the Documents, the Architect shall hold all copyrights in the Drawings, Specifications, and other documents prepared by the Architect for this Project, and may use such documents, or any portion thereof, as the Architect deems appropriate. The Owner shall incur no liability for the Architect's and the Architect's consultants' use or reuse of the Documents other than in connection with the Project unless the Owner is involved in the reuse project. Prior to the reuse of construction documents for a project in

which the Owner is not also involved, the Architect and the Architect's consultants shall remove and obliterate from such documents all identification of the Owner, including name and address.

*(Paragraphs deleted)*

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 GENERAL**

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

**§ 8.1.1.1** Architect stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

**§ 8.1.2** The Owner hereby expressly reserves the right to claim consequential damages against the Architect for claims, disputes or other matters in question arising out of or relating to the subject matter of this Agreement, provided that the amount paid under any such claim by the Architect/Owner shall be limited to the insurance coverage's of the Architect under the Architect's Professional Liability and General Liability insurance policies in effect for the project.

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

**§ 8.1.4** The Architect and Architect's consultants shall, during the construction of the Project and after the date of substantial completion for the period of time specified under Nebraska law for the statute of limitations, or when applicable the statute of repose, for professional negligence, indemnify and hold harmless the Owner and all of its school board members, officers, administrators, agents, representatives, servants, and employees from any and all losses, damages, liabilities, judgments, or expenses, including attorney's fees, on account of damage or destruction to property and personal injuries, including death, to any or all persons, including but not limited to invitees and employees of the Owner, Architect, Architect's consultants, general contractor or subcontractors and of all other persons performing any part of the work, which may directly or indirectly arise from or be connected with any negligent act, error or omission on the part of Architect or any breach of any of the Architect's obligations under this agreement and for patent, copyright or trademark infringement attributable to Architect's services. The Architect understands and agrees that the indemnification and hold harmless obligations of this section constitute a continuing obligation on the part of the Architect and survive and are enforceable beyond the term of the contract to the fullest extent permitted by law. Owner further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, partner, principal or employee of Architect shall have personal liability under this Indemnification provision, under any provision of the Agreement or for any matter in connection with the professional services provided in connection with the Project.

### **§ 8.1.5 DIRECT NEGOTIATION**

**§ 8.1.5.1** Direct Negotiation, as defined below, will be the initial process utilized by the parties. Either the Owner or the Architect may make a request for Direct Negotiation as an initial attempt to resolve any claim, dispute, or other matter arising out of this Agreement.

**§ 8.1.5.2** Direct Negotiation Representatives of the parties shall be the Owner's Designated Representative, as defined in Section 1.1.8 and the Architect's Designated Representative, as defined in Section 1.1.11.

**§ 8.1.5.3** Direct Negotiation will take place at the project worksite or at a location as agreed to by Owner's and Architect's Designated Representatives.

§ 8.1.5.4 Each party shall document results of the Direct Negotiation, and these documents shall be exchanged between the parties.

## § 8.2 MEDIATION

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

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

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

§ 8.2.4 If the parties do not resolve a dispute through direct negotiation and/or mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (*Specify*)

(Paragraphs deleted)

## ARTICLE 9 TERMINATION OR SUSPENSION

### § 9.1 OWNER TERMINATION

§ 9.1.1 The Agreement may be terminated at-will and without cause by the Owner upon thirty (30) days written notice to the Architect.

§ 9.1.2 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination as follows:

§ 9.1.2.1 Expenses to be Reimbursed incurred by the Architect.

§ 9.1.2.2 The portion of the Architect's Compensation for Basic Services earned to the date of termination, which amount shall be computed as the amount payable for basic services for the actual hours worked through the date of termination by Architect's personnel assigned to the Project as calculated pursuant to Article 11.

§ 9.1.2.3 Cost of demobilization, including cost associated with computer systems, website shutdown provided that in no event shall demobilization costs exceed the sum of FIVE THOUSAND DOLLARS (\$5,000).

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

§ 9.1.4 This Agreement may be terminated by Owner for cause if Architect engages in conduct that would constitute a violation of state or federal criminal law related to or relevant to the Project, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

§ 9.1.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this Section.

## § 9.2 ARCHITECT SUSPENSION OR TERMINATION

§ 9.2.1 If the Owner fails to make timely payments to the Architect for undisputed sums in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days' written notice to Owner of the delinquency, or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2.2 If the Owner suspends the Project for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.2.3 If the Owner suspends the Project for more than ninety (90) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

§ 9.3 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice and opportunity to cure 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.

## § 9.4 AGREEMENT AND PAYMENT CONTINGENT UPON AVAILABILITY OF APPROPRIATED FUNDS OR FUNDS APPROVED BY THE VOTERS AND BOARD OF EDUCATION:

*(Paragraphs deleted)*

§ 9.4.1 Any other provisions of the Contract Documents to the contrary notwithstanding, it is expressly understood and agreed that the legal obligation of the Owner under this Agreement, including the obligation of the Owner to pay the contract sum or any part thereof shall be contingent upon the availability of funds for the Project and any formal action of the Board of Education of the Owner for the purpose of payment of the Contract Sum or any part thereof. In the event the funding for the Project becomes unavailable for any reason, the Owner may terminate this agreement without cause under the provisions of this Article 9.

§ 9.4.2 It is agreed that the obligations of the Architect herein are expressly contingent upon reasonable proof to the Architect that the Owner has funds specifically approved by formal action of either the legal voters or the Board of Education of the Owner for the purpose of payment of the Contract Sum or any part thereof.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Nebraska and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in Butler County, Nebraska.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, as amended for this Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the maker of said Modifications.

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

§ 10.4 The Architect shall execute all certificates when appropriate and warranted relating to the completion of the Project, or portions thereof, by the contractor or contractors.. The Architect shall execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect's acts or omissions introduced or caused or allowed to be introduced to the Project site said hazardous materials as defined in AIA Document A201-2007, as amended for this Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written notice to the Owner, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner has provided notice of confidential information in Section 10.8 of this Agreement.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and Construction Manager whose contract includes similar restrictions on the use of confidential information. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

§ 10.9 The Architect will exercise his professional effort to interpret the Americans with Disability Act (ADA) and the ADA Accessibility Guideline (ADAAG) in place of the date of this Agreement. The Scope of Services provided by the Architect are limited to the requirements of Title II and III of the ADA. The Architect cannot provide recommendations or advice concerning which ADA requirements or measure may be "readily achievable", nor can the Architect determine the priorities of phasing of selected measures. These issues must be addressed by the Owner with priorities or phasing of selected measures. These issues must be addressed by the Owner with assistance from his or her financial and legal counsel.

§ 10.10 The Architect's services shall be provided to assist the Owner in making changes to an existing facility for which the Owner shall furnish, in a timely manner, documentation and information upon which the Architect may rely for its accuracy, and completeness. Unless specifically authorized or confirmed in writing by the Owner, the Architect shall not be required to perform or to have other destructive testing or to investigate concealed or unknown conditions. In the event documentation or information furnished by the Owner is inaccurate or incomplete, any

resulting damage, losses and expenses, including the cost of the Architect's Additional Services, shall be borne by the Owner.

**10.11 NON-DISCRIMINATION** The Architect agrees that neither the Architect nor its subcontractors will discriminate against any employee or applicant for employment to be employed in the performance of this contract, with respect to his or her hire, tenure, terms and conditions or privileges of employment, because of his/her race, color, religion, sex, disability, or national origin.

**§ 10.12 NO LIENS** The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Nebraska, or upon any funds of Owner.

**§ 10.13 APPLICABLE LAW** This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidation of any portion of this Agreement under the laws of the State of Nebraska or of the United States shall not affect the validity of the remainder of this Agreement.

**§ 10.14 CONFLICTS IN DOCUMENTS** To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

**§ 10.15 INDEPENDENT CONTRACTOR** It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

**§ 10.16 NO WAIVER** No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

**§ 10.17 FELONY CONVICTION** Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

**§ 10.18 CRIMINAL HISTORY RECORD CHECKS**

**§ 10.18.1** Architect shall obtain all criminal history information regarding its "covered employees", as defined below. If Architect is required by law to obtain fingerprint information, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 10.18.2** Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become

covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

**§ 10.18.3** For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Architect or any of Architect's consultants who have or will have continuing duties related to the services to be performed on Owner's Project and have or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under eighteen (18) years of age or enrolled in a public school: a felony offense under Nebraska Revised Statutes, Chapter 28, Article 3; an offense for which a defendant is required to register as a sex offender under Nebraska law; or an equivalent offense under federal law or the laws of another state.

**§ 10.19 RECORDS RETENTION** Architect shall keep all accounting and construction records on the Project for a period of at least twelve (12) years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements. In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

**§ 10.20 COMPLAINTS** The Nebraska Board of Engineers and Architects has jurisdiction over complaints regarding the professional practices of persons registered as architects and engineers in Nebraska.

#### **ARTICLE 11 COMPENSATION**

**§ 11.1** For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect for Project No. 1 and Project No. 2 as follows:

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

**§ 11.1.1 FEE FOR SITE EVALUATION AND PLANNING SERVICES, AND PRE-FINANCING DETERMINATION SERVICES:**

The Architect fee for the services for Project No. 1 and/or Project No. 2 described in paragraph 3.0, including utilization building audit, preliminary programming, site evaluation, and schematic design services and cost estimating services, and pre-financing determination services including all services for pre-financing determination conceptual cost estimating (including the retention of an independent cost estimator by the Architect), and pre-financing informational support for the Project, shall be paid on a fixed fee basis as follows:

<b>Project</b>	<b>Maximum Fee</b>
<b>Project No. 1 - Locker Room Renovation Project</b>	<b>\$15,000.00 – Fixed Fee</b>
<b>Project No. 2 - East Butler High School – Industrial Technology and Agriculture Education building</b>	<b>\$1,250 - Fixed Fee</b>

Such fee is exclusive of Reimbursable Expenses. In the event financing for a Project is NOT approved by the Board of Education of the East Butler Public School District, the Architect's total fee for services under all contracts related to the Projects shall be the amount specified in this paragraph, plus reimbursable expenses. Such maximum fee shall include all costs for the Architect's personnel performing services.

**§ 11.1.1.1 IN THE EVENT THE BOARD OF EDUCATION OF THE EAST BUTLER PUBLIC SCHOOL DISTRICT APPROVES THE MEANS OF FINANCING EITHER PROJECT NO. 1 OR PROJECT NO. 2 OF THE SCOPE SET FORTH IN THE SCHEMATIC DESIGN PREPARED BY THE ARCHITECT WITHIN TWENTY-FOUR (24) MONTHS FROM AND AFTER FEBRUARY 8, 2017.**

**§11.1.1.2 IN THE EVENT THE BOARD OF EDUCATION OF THE EAST BUTLER PUBLIC SCHOOL DISTRICT DOES NOT APPROVE THE MEANS OF FINANCING EITHER PROJECT NO. 1 OR PROJECT NO. 2, THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE AS TO SUCH PROJECT, AND IN SUCH EVENT THE ARCHITECT SHALL RECEIVE AS FINAL PAYMENT THE SUMS DUE UNDER SECTION 11.1.1 PLUS ANY EXPENSES TO BE REIMBURSED AS PROVIDED FOR HEREIN.**

**§ 11.1.2 FEE FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES:** The Architect's compensation for Design and Construction Administration Services Project No. 1 and/or Project No. 2 described in paragraphs 3.1 through 3.7 and Article 4 shall be a fixed fee calculated for each separate Project determined as follows:

**§ 11.1.2.1 FEE FOR BASIC SERVICES:** The Architect's fee for basic services for Project No. 1 and/or Project No. 2 identified in paragraph 3.1 to 3.7 of this Agreement is a Maximum Fixed Fee to be calculated on the basis of a percentage of the approved estimate of the Cost of the Work for the project set forth in paragraph 11.1.2.2 below. The Architect shall prepare an estimate of the Cost of the Work upon completion of the design development documents (hereinafter referred to as "DD Cost Estimate"); for purposes of this paragraph "Cost of the Work" shall be as defined at paragraph 1.3.3. The DD Cost Estimate for each project shall be submitted to, reviewed by the Board of Education of the Owner in consultation with the Owner's administration, Construction Manager at Risk (CM@R) and legal counsel. Upon completion of such calculation of the proposed Maximum Fixed Fee, such proposed fee shall be submitted for approval to the Board of Education of the Owner, and upon such approval attached hereto by addendum to this Agreement; provided, however, that such addendum shall not be valid until executed by appropriate officials of the Owner and Architect.

**§ 11.1.2.2 IDENTIFICATION OF PROJECTS AND PERCENT RANGE OF COST OF THE WORK AS BASIS FOR MAXIMUM FIXED FEE.** The identified projects and the percentage of the estimate of the Cost of the Work upon completion of design-development for each portion of the project to be applied to calculate the Maximum Fixed Fee to be paid to the Architect for each such project is as follows:

Phase	Percent of the Cost of the Work
<b>Project No. 1 - Locker Room Renovation Project</b>	___%
<b>Project No. 2 - East Butler High School – Industrial Technology and Agriculture Education building</b>	<b>TO BE DETERMINED – ADDED BY ADDENDUM</b>

**§ 11.2**

*(Paragraphs deleted)*

Additional compensation for Additional Services, including those services not identified as provided in Section 4.1, shall be paid to the Architect based upon actual hours expended for such services by the Architect's personnel, and invoiced showing the employee assigned, the employee's hourly rate set forth in the attached "WHS Standard Hourly Rate Schedule", Appendix "D", the employee's actual hours worked, and any attendant reimbursable expenses. Additional Services may only be incurred upon the advanced written authorization of the Owner.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

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

Additional compensation for Additional Services, including those services identified in Section 4.3, shall be paid to the Architect based upon actual hours expended for such services by the Architect's personnel, and invoiced showing the employee assigned, the employee's hourly rate set forth in the attached "WHS Standard Hourly Rate Schedule,, Appendix "D", the employee's actual hours worked, and any attendant reimbursable expenses. Additional Services may only be incurred upon the advanced written authorization of the Owner.

**§ 11.4** Compensation for Additional Services of the Architect's consultants, when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect with no markup.

At actual cost.

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

Schematic Design Phase	Twenty	percent (	20	%)
Design Development Phase	Thirty	percent (	30	%)
Construction Documents	Twenty Five	percent (	25	%)

Init.

Phase Bidding or Negotiation	Five	percent ( 5 %)
Phase Construction Phase	Twenty	percent ( 20 %)
Total Basic Compensation	One Hundred	percent ( 100 %)

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

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See "WHS Standard Hourly Rate Schedule" - Appendix "D"

Employee or Category	Rate
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**§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

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

- .1 Transportation and authorized out-of-town travel and subsistence (but not travel time costs);
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Printing, reproductions, plots, standard form documents and submittal exchange.;
- .4 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .5 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner, after providing two sets for each building in the Project;
- .6 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants; and
- .7 All taxes levied on professional services and on reimbursable

*(Paragraphs deleted)*  
expenses.

§ 11.8.2 For Reimbursable Expenses identified under paragraph 11.8.1, the compensation to be paid to the Architect shall be at a multiple of ONE and ONE-TENTH (1.10) times the actual expenses incurred by the Architect or the Architect's consultants.

§ 11.8.2.1 **PRE-CONSTRUCTION: FIVE THOUSAND DOLLARS (\$5,000.00)** without prior written authorization by the Owner.

§ 11.8.2.2 **DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES: TEN THOUSAND DOLLARS (\$10,000.00)** without prior written authorization by the Owner.

§ 11.8.3 The Owner shall be responsible for costs associated with contract document printing, reproductions, and plots of Construction Documents, other than those required to be provided by Architect under this Agreement and for costs associated with postage, handling and delivery of Construction Documents, other than those required to be provided by Architect under this Agreement.

#### § 11.9

*(Paragraphs deleted)*

#### **PAYMENTS TO THE ARCHITECT**

*(Paragraphs deleted)*

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

§ 11.9.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable thirty (30) days from the date of receipt of the Architect's invoice. Amounts unpaid forty-five ( 45 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. Owner may make payments to Architect via electronic funds transfer (EFT). Architect will provide bank account information to Owner upon execution of this Agreement.

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

SIX PERCENT (6%) per annum.

§ 11.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates shall be provided to the Owner upon presentation of Architect's progress payment applications. Records of all reimbursable expenses and expenses pertaining to any change in services on the Project and for services performed on the basis of flat rates shall be kept on a generally recognized accounting basis and shall be available for review to the Owner or its authorized representative during business hours at the Architect's office. Proof of payment of any reimbursable expense item shall be provided to the Owner with each claim for reimbursement by the Architect.

#### **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

§ 12.1.1 Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

§ 12.1.2 If, due to the Architect's omission, a required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents; provided the Architect will be responsible for paying any increased costs to the Project as a result of the Architect's omissions which are above and beyond the cost the Owner would have had to pay had the omission not occurred. In no event will the Architect be responsible for that portion of any cost or expense that provides betterment or upgrades or enhances the value of the Project.

§ 12.1.3 Architect is not responsible to Owner or any third-parties for errors, omissions or other deficiencies in the services of any other design professional or design-build contractor rendering design, engineering or related services for Owner not employed, contracted or hired by Architect. Architect's sole liability in connection with the services of Owner's consultants or design-build contractors shall be to coordinate Owner's consultant's portion of the Instruments of Service. Owner shall require consultants or design-build contractors retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 12.1.4 Corporate Protection Clause: It is intended by the parties to this Agreement that the Architect's services in connection with the Project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein the Owner agrees that as the Owner's sole and exclusive remedy any claim demand or suit shall be directed and/or asserted only against the Architect and not against any of the Architect's individual employees, officers or directors.

Init.

§ 12.1.5 Indemnification

§ 12.1.5.1 The Architect agrees, to the fullest extent permitted by law, to indemnify and hold the Owner harmless from any damage, liability or cost, subject to 8.1.3 (including liability to third parties, reasonable attorney’s fees and cost of defense) to the extent caused by the Architect’s negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her consultants or anyone for whom the Architect is legally liable.

§ 12.1.5.2 The Owner agrees to the fullest extent permitted by law to indemnify and hold the Architect harmless from any damage liability or cost (including liability to third parties, reasonable attorney’s fees and cost of defense) to the extent caused by the Owner’s negligent acts, errors or omissions and those of his or her consultants arising from the project that is the subject of this Agreement

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

- .1 AIA Document B103™–2007, Standard Form Agreement Between Owner and Architect, as amended for this Project.

.2

*(Paragraphs deleted)*

Other documents:

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

Appendix "A" - The Owner’s program for the Project as developed in conjunction with the Architect

Appendix "B" - 16 Division Excel Spreadsheet

Appendix "C" – Codes Compliance Protocol.

Appendix "D" – TCEP Standard Hourly Rate Schedule.

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

**Butler County School District 12-0502, a/k/a East  
Butler Public Schools, OWNER**

**THE CLARK ENERSEN PARTNERS**

*(Row deleted)*

*(Signature)*

Megan Kozisek, President, Board of Education

*(Printed name and title)*

*(Signature)*

Tim Ripp, Senior Principal

*(Printed name and title)*

# **Additions and Deletions Report for** **AIA® Document B103™ – 2007**

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 15:49:15 on 02/08/2017.

## **PAGE 1**

**AGREEMENT** made as of the 8<sup>th</sup> day of February in the year 2017.

...

Butler County School District 12-0502, a/k/a East Butler Public School District  
212 South Madison St.  
P.O. Box 36  
Brainard, NE 68626-0036  
Ph. (402) 545-2081  
Fax. (402) 545-2023

...

The Clark Enersen Partners  
1010 Lincoln Mall # 200  
Lincoln, NE 68508  
Ph. (402) 477-9291

...

*(Name, location and detailed description)*

East Butler Public Schools –212 South Madison St., Brainard, Nebraska, to include two (2) phases:

Phase 1: Locker Room Renovation: The design and documentation of locker room renovations located on the west side of the existing school facility including architecture, interior architecture, structural, mechanical, electrical engineering.. The locker room project will have a general layout with individual showers and toilet facilities centered in the space..

Phase 2: Study the following components:

- Investigate pre-school expansion to south of the existing building - one room to accommodate 20 students and play area
- Investigate splitting wrestling room - can a second level or mezzanine be incorporated into the existing space?
- Investigate expansion of fitness room I move into wrestling I relocate
- Investigate expansion of commons I kitchen
- Our design services will include architecture, interior architecture, structural I mechanical, electrical engineering as well as civil engineering I landscape architecture.  
(hereinafter the "Project" or "Projects").

## **PAGE 2**

The Owner's program for the Project as developed in conjunction with the Architect is to be determined during the pre-construction phase scope of work for each of the three phases of the Work of this Agreement; upon establishment of the Scope of the Work by the Board of Education of the Owner, this Agreement shall be amended to incorporate such Scope of the Work for the Locker Room Renovation Project and Industrial Technology and Agriculture Education building projects into the terms of this Agreement as Appendix "A".

...

The physical characteristics for each of the phases of the Work of the Project is set forth in the Scope of the Work established by the Board of Education of the Owner for each Project attached hereto as Appendix A. The Agreement may, at Owner's option, be amended by addendum to incorporate the Scope of the Work for the Locker Room Renovation Project and Industrial Technology and Agriculture Education building projects into the terms of this Agreement as an amended Appendix "A".

...

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

PAGE 3

<b>Phase Description</b>	<b>Phase Budget</b>
Locker Room Renovation Project	\$200,000.
East Butler High School – Industrial Technology and Agriculture Education building	To be determined (TBD) and added by addendum if Project is approved.

**§ 1.1.3.1 PROJECT FINANCING.** Project Financing shall be through the Owner's building fund, and other sources of revenue yet to be determined.

**§ 1.1.4 ANTICIPATED PROJECT CONSTRUCTION SCHEDULE.** The Owner's anticipated design and construction schedule:

- .1 — Design phase milestone dates, if any:
  
- .2 — Commencement of construction:
  
- .3 — Substantial Completion date or milestone dates:
  
- .4 — Other:

<b>Phase Description</b>	<b>Design Completion and Bidding of Work</b>	<b>Start Construction</b>	<b>Substantial Completion</b>
Locker Room Renovation Project	April 1, 2017	May 15, 2017	August 1, 2017
East Butler High School – Industrial Technology and Agriculture Education building	NA	NA	August 1, 2017

**§ 1.1.5 PROJECT CONSTRUCTION DELIVERY METHOD.** The Owner intends the following procurement or delivery method for the Project:

...  
.1 Design-Bid-Build under Neb. Rev. Stat. § 73-101, and § 73-106.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, ~~multiple bid packages,~~ bid package(s), or phased construction are set forth below:

...  
The Project will be subject to accelerated and/or fast-track scheduling and a single bid package with phase construction to accomplish project substantial Completion by the date established for each Project. The design phase and construction phase milestone dates for the Project shall be established based upon the Substantial Completion Date with design, sequencing, and bidding of the work through a single bid package, and ongoing construction administration by the Architect

§ 1.1.7 ~~Other Project information:~~

~~(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)~~ TERM OF AGREEMENT. The term of this Agreement shall be for a period beginning on the effective date stated on page 1, and continuing through the occurrence of one of the following events, whichever occurs first in time:

- .1 The completion of all services provided by the Architect for each Project under the terms of this Agreement, with the term of this Agreement to extend to twelve (12) months after the issuance to the Owner by the Architect of the Certificate of Substantial Completion for the identified Project issued last in time. Any additional services to be provided by the Architect shall be determined by a separate contract or addendum to this Agreement. This Agreement shall not extend for a period of more than four (4) years, and shall not create a continuing contract for architectural services for future building projects or bond elections beyond the terms of this paragraph.
- .2 The termination of this Agreement according to its terms.

§ 1.1.8 The Owner identifies the following ~~representative~~ representatives in accordance with Section 5.4:

~~(List name, address and other information.)~~ information.

Mr. Sam Stecher  
Superintendent of Schools  
East Butler Public Schools  
212 South Madison St.  
P.O. Box 250  
Brainard, NE 68626-0036  
Ph. (402) 545-2081

§ 1.1.9 The persons or entities, in addition to the Owner's ~~representative,~~ representatives, who are required to review the Architect's submittals to the Owner are as follows:

**PAGE 4**

Board of Education, East Butler Public Schools

§ 1.1.10 The Owner will retain the following consultants and ~~contractors~~ contractors with assistance from the Architect to procure such services:

...  
.1 Cost Consultant:

~~.2 Scheduling Consultant:~~

~~.3 Geotechnical Engineer:~~ Geotechnical Engineer: TO BE DETERMINED

~~.4 Civil Engineer:~~

~~.5 Other, if any:~~

~~.2 Other, if any:~~ *(List any other consultants or contractors retained by the Owner, such as a Project or Program Manager, construction contractor, or construction manager as constructor.)*

Topographic Surveyor – TO BE DETERMINED

...

[TO BE DETERMINED]

**§ 1.1.12** The Architect will retain the consultants identified in Sections 1.1.12.1 and ~~1.1.12.2~~:1.1.12.2, PROVIDED THAT ALL SUCH CONSULTANTS SHALL BE LICENSED ARCHITECTS AND ENGINEERS IN THE STATE OF NEBRASKA:

...

~~.1 Structural Engineer:~~

.1 Structural Engineer– TO BE DETERMINED.

...

~~.2 Mechanical Engineer:~~

- .2 Mechanical Engineer: – TO BE DETERMINED.
- .3 Electrical Engineer: – TO BE DETERMINED.
- .4 Civil Engineer: – TO BE DETERMINED.
- .5 Construction Administration Support: – TO BE DETERMINED.
- .6 Food Service Consultant: – TO BE DETERMINED.

...

NONE

...

NONE

**PAGE 5**

### **§ 1.3 DEFINITIONS**

**1.3.1 THE PROJECT:** For purposes of this Agreement, "the Project" shall mean the individual project at the above named facility owned and operated by the Owner as described herein and set forth on the Schematic Design documents prepared by the Architect.

**§ 1.3.2 THE WORK:** For purposes of this Agreement, "the Work" shall mean the Contract, Subcontracts or Multiple Prime Contracts for the construction of the Project.

**§ 1.3.3 COST OF THE WORK:** For purposes of this Agreement, "Cost of the Work" shall mean the total cost of all Contracts, Subcontracts or Multiple Prime Contracts for the construction of the Project and site improvements described in the Contract Documents and the Owner's Representative's Compensation for Basic Services and Owner's Representative's Expenses to be Reimbursed. "Cost of the Work" shall not include the Architect's fees for services or other professional fees and expenses, the cost of any insurance and surety contracts purchased or controlled by the Owner, or any other contracts or agreements that are not part of or described by the Construction Documents.

**§ 1.3.4 ESTIMATES OF COST OF THE WORK:** The estimates of the Cost of the Work to be provided by the Owner's Representative under this Agreement shall be reviewed by the Architect when presented to the Owner; the Architect to require the Owner's Representative on behalf of the Owner to provide such estimates of the Cost of the Work in a format based upon the standard construction industry sixteen (16) divisions of the Work following the 16 Division Spreadsheet Report form, Appendix "B", setting forth the estimated cost organized by the materials and systems, trade categories, allowances, contingency, and other items that comprise each division of the work.

**§ 1.3.5 ARCHITECT'S COMPENSATION FOR BASIC SERVICES:** For purposes of this Agreement, "Architect's Compensation for Basic Services" shall mean the compensation for services rendered owed to the Architect that is to be reimbursed pursuant to the provisions of Article 11.

**§ 1.3.6 EXPENSES TO BE REIMBURSED:** For purposes of this Agreement, "Expenses to be Reimbursed" shall mean those expenses incurred by the Architect that are to be reimbursed pursuant to the provisions of Article 11.

**§ 2.1** Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Nebraska. Pursuant to the Nebraska Engineers and Architects Regulation Act, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable Cost of the Work must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Nebraska. Architect agrees to notify Owner should Architect's license or registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and

local immigration laws and regulations. The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall design and provide construction administration services for the Project to meet the Owner's educational program requirements provided by the improvements set forth in the Excel 16 Division Spreadsheet Report form, Appendix "C".

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall be a registered professional architect licensed to practice in the state of Nebraska.

## PAGE 6

§ 2.5 **INSURANCE** The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost. Except for professional liability insurance, all insurance required of the Architect under this Agreement shall be written on an occurrence basis. Aggregate limits are per Project. All insurance policies for the Project, except workers' compensation insurance, shall name School District as additional insured. All insurance policies for the Project shall provide a blanket waiver of subrogation in favor of the School District.

§ 2.5.1 ~~Comprehensive Commercial~~ General Liability with policy limits of not less than (~~\$~~) One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage. Owner is to be included under such policy as additional insured to the extent of liability assumed by Architect, with coverage to be primary and not contributory with any such coverage maintained by Owner. The policy shall contain a severability of interests' provision in favor of the additional insureds. Contractual insurance coverage shall include subcontracts. Deductibles for commercial general liability insurance shall not exceed \$ 10,000.

§ 2.5.2 Automobile Liability covering ~~owned and rented~~ owned, rented, and non-owned vehicles operated by the Architect with policy limits of not less than (~~\$~~) One Million Dollars (\$1,000,000) combined single limit and aggregate for bodily injury and property damage.

§ 2.5.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for ~~Comprehensive Commercial~~ General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. Umbrella and excess liability policies shall include similar additional insured provisions as included in underlying policies.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than (~~\$~~) One Million Dollars (\$1,000,000). Workers' compensation and employer's liability insurance shall cover all of Architect's and Consultant's direct and leased employees engaged in services under the Agreement.

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than (~~\$~~) per claim and in the aggregate. One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate. The professional liability insurance shall remain in full force and effect for a period of three (3) years after the termination of this Agreement or the completion of the Architect's services hereunder, whichever occurs latest in time. If Owner chooses to acquire a policy of professional liability insurance for the Project, then Owner and Architect must agree on the limits of coverage, parties covered, deductible required and length of the policy period after substantial completion of the services. Deductibles for professional liability insurance shall not exceed \$ 100,000.

§ 2.5.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. All deductibles and premiums associated with the above coverages (except a project specific policy of professional liability insurance) shall be the responsibility of Architect. The certificates will show the Owner as an additional insured on the ~~Comprehensive General Liability, Automobile Liability,~~

~~umbrella or excess~~ Commercial General Liability and Automobile Liability. The Architect shall ensure that all Consultants engaged by the Architect carry and maintain sufficient insurance that is appropriate to the project in the reasonable discretion of the Architect. The Architect and Consultants shall submit proof of such insurance to the Owner before submittal of the first invoice. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal, or material modification of the policies.

~~ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES~~  
**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES.**

**§ 3.0 PRE-CONSTRUCTION SERVICES.** The Architect's Pre-Construction Services consist of those described in this Section 3.0.

**§ 3.0.1 PRE-CONSTRUCTION ISSUE PROGRAMMING SERVICES.**

**§ 3.0.1.1 PRE-FINANCING DETERMINATION SERVICES.** The Architect's Pre-Financing Determination Services consist of those described in this Section 3.0.1.

**§ 3.0.1.1 SITE UTILIZATION STUDIES.** The Architect shall prepare a site analysis, which may include land utilization, structure placement, facilities development, circulation systems, parking facilities and utility systems. The Architect may also include in the analysis the data provided by the Owner, including an analysis of surface and subsurface conditions, the soils report, vegetation, slope of land, ecological requirements, deeds, zoning and other legal restrictions, landscape features and materials.

**§ 3.0.1.2 CODES COMPLIANCE REVIEW.** The Architect shall arrange for and schedule a meeting with all applicable governmental authorities, including but not limited to the building codes inspector(s) and Nebraska State Fire Marshall and any deputy Fire Marshall with jurisdiction over the Project to conduct a review of all applicable building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures pursuant to the Codes Compliance Protocol attached hereto as Appendix "B".

**§ 3.0.1.2.1** Pursuant to the Codes Compliance Protocol, Appendix "B", the Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements, including all building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures imposed by governmental authorities or entities providing utility service to the Project. The Architect shall be responsible to design and prepare plans and specifications for regulations and mandates of such authorities/entities and shall prepare estimates of the Cost of the Work to include such code compliance, design standards, and requirements for the specified Project.

**§ 3.0.1.3 PRE-SCOPE DEFINITION CONCEPTUAL COST ESTIMATING.** Upon establishment of the Preliminary Program Statement, the Architect shall (1) provide in-house conceptual cost estimating (In-House Estimate) based upon the 16 divisions of the Work recognized in the construction industry for both the School Additions and Renovations Project that is accurate and based upon empirical data; (2) upon the Owner's request, and as an Additional Service, retain at Architect's cost an independent conceptual cost estimator (Independent Estimate) with established and verified experience with the construction market for labor and materials in the Brainard, Nebraska area, in the State of Nebraska and regionally to provide a separate cost estimate based upon the 16 divisions of the Work for both the East Butler High School K-12 Building Renovations Project and the Industrial Technology and Agriculture Education Building Project that is accurate and based upon empirical data; (3) conduct an analysis of the In-House Estimate and Independent Estimate to reconcile all differences and arrive at a consensus of the cost of each division of the Work set forth on the Excel 16 Division Spreadsheet Report, Appendix "C"; and, (4) provide to the Owner a reconciled pre-scope definition conceptual cost estimate for both the School Additions and Renovations Project.

**§ 3.0.1.4 MEETINGS AND PRESENTATIONS.** The Architect shall attend meetings with staff to receive input for the development of early programming for the building, school board meetings, public hearings, and citizen information meetings as directed by the Owner.

**§ 3.0.1.5 CONCEPTUAL DESIGN.** Upon selection of the scope of the Project by the Board of Education of the School District, the Architect shall provide input to the School District/Owner with regard to design options and solutions, advice on constructability and materials, cost efficiencies, and scheduling of the Work for each building that is part of the Project; and, shall provide pre-financing determination information preparation and presentation of the Program Statement and Schematic Design for the selected option, to include site plans, basic floor plans, and materials and building systems selections to assist the School District in providing the public with a clear vision and understanding of the scope, location on the proposed site with an ingress and egress analysis, appearance, structural components and quality, life-cycle and cost.

**§ 3.0.1.6 SCOPE REFINEMENT.** To assist the School District in refining and presenting to the public the Project Scope, the Architect shall:

**§ 3.0.1.6.1** Review along with the Program Statement and Schematic Design with the Administration, including a formal presentation, participation in discussion of each, and adjustment of schematic design.

**§ 3.0.1.6.2** Meet with community groups and present the Program Statement and Schematic Design as modified and receive input and analysis from the Citizens Committee.

**§ 3.0.1.6.3** Assist the Administration in presenting recommendations to the Board of Education and participate in discussion with the Board of Education and the preparation of the Final Scope Document. The Final Scope Document contains a description of the selected standard of construction for the Project, including building materials, structural components, mechanical and electrical systems, building finish, and fixtures, furniture and equipment (FF&E).

**§ 3.0.1.6.4 FINAL SCOPE DEFINITION CONCEPTUAL COST ESTIMATING.** Upon the definition of the scope of the Project (either the School Additions and Renovations Project) and establishment of the Program Statement and Schematic Design therefor, the Architect shall (1) update the In-House cost estimate based upon the 16 divisions of the Work for the selected Project that is accurate and based upon empirical data; (2) cause the Architect's independent conceptual cost estimator to prepare an updated Independent Estimate to provide a separate cost estimate based upon the 16 divisions of the Work for the selected Project that is accurate and based upon empirical data; (3) conduct an analysis of the In-House Estimate and Independent Estimate to reconcile all differences and arrive at a consensus of the cost of each division of the Work set forth on the Excel 16 Division Spreadsheet Report, Appendix "B"; and, (4) present to the Owner the reconciled conceptual cost estimate for the selected Project set forth on the Excel 16 Division Spreadsheet Report, Appendix "A" to assist the Owner in sizing the bond issue resolution request for funding to the taxpayers of the school district that will provide sufficient funding to construct the new building selected to the standard of construction materials and systems presented to the voters. Upon submission of the reconciled cost estimate, the Architect and Independent Cost Estimator shall meet with the Owner to discuss and, as needed, negotiate the content thereof by division of the Work to provide the Architect the basis for the Preliminary Independent Conceptual Cost Estimate.

**§ 3.0.1.8.4.1 INDEPENDENT CONCEPTUAL COST ESTIMATE:** If the Owner's requests as an Additional Service, and Independent Cost Estimate per paragraph 3.0.1.3, the Architect shall include with the Independent Conceptual Cost Estimate proposal a written statement of its basis which shall include:

**§ 3.0.1.8.4.1.1** A list of allowances for each separate component of the Work listed for each of the sixteen (16) divisions of the Work set forth by the Architect on the Excel 16 Division Spreadsheet Report, Appendix "B" and a statement of their basis.

**§ 3.0.1.8.4.1.2** A Construction Contingency for additional cost of no more than FIVE PERCENT (5.0%) and an Owner's Construction Contingency for additional cost of no more than FIVE PERCENT (5.0%).

§ 3.0.1.8.4.1.3 A list of the clarifications and assumptions made by the ARCHITECT in the preparation of the Independent Conceptual Cost Estimate proposal to supplement the information contained in the Final Scope Document.

**3.0.1.9 REVIEW OF PROPOSED ICC ESTIMATE:** The Architect shall meet with the Board of Education and CM@R (if any) to review the Independent Conceptual Cost Estimate proposal and the written statement of its basis. In the event that the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the ARCHITECT who shall make appropriate adjustments to the Independent Conceptual Cost Estimate proposal, its basis or both. The Owner will take action to approve or modify and approve the Independent Conceptual Cost Estimate proposal after the receipt of the Independent Conceptual Cost Estimate proposal by the Owner. The Independent Conceptual Cost Estimate proposal shall not be effective without written acceptance by the Owner. If the Owner rejects the Independent Conceptual Cost Estimate proposal, the Owner, CM@R (if any) and Architect shall again review the Independent Conceptual Cost Estimate and the written statement of its basis, and seek to negotiate an Independent Conceptual Cost Estimate the Owner will accept. As part of such negotiations, the Architect shall make appropriate recommendations to the Owner and Project Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents to bring the Project within the Construction Budget that shall not delete necessary components of the Project or materially reduce the educational program requirements of the Owner. If agreement on an Independent Conceptual Cost Estimate is not reached within seven (7) days of the date of the Owner's written rejection of the Independent Conceptual Cost Estimate proposed by the Architect, this Agreement shall be terminated pursuant to the provisions hereof.

§ 3.0.1.10 PRESENTATION TO PUBLIC The Architect shall participate in meetings to present facts and information regarding the Project to the public prior to the election on the bond issue question.

~~§ 3.1 The Architect's Basic~~ **DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES ISSUE SERVICES** The Architect's Design and Construction Administration Services consist of those described in Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in ~~this Article 3 are Additional Services.~~ Articles 3.1 through 3.7 and Article 4.1 are Additional Services. Such services shall include the following responsibilities applicable to all phases of the Work:

## PAGE 9

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

§ 3.1.4 ~~Upon the Owner's reasonable request, the Architect shall submit information to the Scheduling Consultant and participate in developing and revising the Project schedule as it relates to the Architect's services.~~ Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

§ 3.1.5 ~~Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.~~ The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.6 ~~The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.~~ shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect shall be responsible to:

§ 3.1.6.1 Design and prepare plans and specifications for the Project that meet the design and construction requirements of all applicable local, state and federal codes, statutes and regulations and mandates of governmental

authorities, including but not limited to **all** building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures for the East Butler High School building, in force as of the date of and during the term of his Agreement.

§ 3.1.6.2 Coordinate estimates for the Cost of the Work with the Construction Manager at Risk to include such codes compliance design standards and requirements.

§ 3.1.6.3 At the time of the delivery of the completed Construction Documents for the Project to the Owner the Architect shall submit to the Owner written approval of the plans and specifications for the Project from all applicable governmental authorities, including but not limited to the building codes inspector(s) and Nebraska State Fire Marshall and any deputy Fire Marshall with jurisdiction over the Project which confirms that such plans and specifications meet all applicable building codes, fire codes, in-door air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures for the East Butler High School building. The Architect will bring to the Owner's attention any authority/entity failing to provide written or stamped approval along with a brief summary of the Architect's efforts to gain approval. If the Architect performs the requirements of this paragraph, and subsequently the plans and specifications for the Project, or any portion thereof, are subsequently determined by any governmental authority to not meet the design requirements of applicable local, state and federal codes, statutes and regulations or mandates of governmental authorities, the Architect shall be responsible to redesign that portion of the Project as an additional fee to bring the Work into compliance with such code, statute or regulation; PROVIDED, however, that if the Architect fails to perform the requirements of this paragraph, the Architect shall be responsible to redesign that portion of the Project at no additional fee.

~~§ 3.1.7 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.~~

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

PAGE 10

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

...

~~§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Cost Consultant. The Architect shall meet with the Cost Consultant to review the Schematic Design Documents. Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than TEN PERCENT (10%).~~

~~§ 3.2.7 Upon receipt of the Cost Consultant's estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval. The Architect shall submit the Schematic Design Documents to the Owner and the Owner's Construction Manager, if any, and request the written approval from the Owner of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase. Phase in accordance with Sections 6.1 through 6.6.~~

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the ~~Cost Consultant~~. ~~The Architect shall meet with the Cost Consultant to review the Design Development Documents.~~ Owner's Construction Manager, if any, for review and written approval. If revisions to Design Development Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase, the Architect shall incorporate the required revisions in the Construction Document Phase in accordance with Sections 6.1 through 6.6.

~~§ 3.3.3~~ ~~Upon receipt of the Cost Consultant's estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.~~ Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than TEN PERCENT (10%).

...

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

...

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the ~~Owner~~ Owner, in coordination with the Construction Manager, in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; ~~(2) the form of agreement between the Owner and Contractor; and (3) and, (2)~~ the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the ~~Cost Consultant~~. ~~The Architect shall meet with the Cost Consultant to review the Construction Documents.~~ Owner's Construction Manager, if any, for review and written approval. If revisions to Construction Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase, the Architect shall incorporate the required revisions in accordance with Sections 6.1 through 6.6.

~~§ 3.4.5~~ ~~Upon receipt of the Cost Consultant's estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents.~~ Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project that have a projected cost of construction within the Project Budget with a design contingency for additional cost of no more than FIVE PERCENT (5%).

§ 3.4.6 The Architect on the Owner's behalf shall assist the Owner in filing the documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall assure that the design of the

Project will comply with applicable laws, statutes, ordinances, codes, rules and regulations in force as of the date of the Agreement.

§ 3.4.7 Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed.

§ 3.4.7 Owner shall review Article 11 (Insurance and Bonds) of AIA Document A201-2007, as amended, and Article 11 of specification section 007300, Supplementary Conditions of the Project Manual, with Owner's insurance carrier. Owner shall provide to the Architect written notification of either Owner's approval of or request to modify AIA A201 Article 11 and/or Supplementary Conditions specification section 007300.

## PAGE 12

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

...

### ~~§ 3.5.3 NEGOTIATED PROPOSALS~~

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by~~

- ~~.1 — facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~.2 — participating in selection interviews with prospective contractors; and~~
- ~~.3 — participating in negotiations with prospective contractors.~~

~~§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

...

~~§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor Construction Manager modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~

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

§ 3.6.1.4 The Architect shall in conjunction with the Construction Manager respond to all of any Contractor's requests for information unless such information is available to the Contractor from careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

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

§ 3.6.1.6 The Architect shall render initial decision on claims, disputes or other matters in question between the Owner and the Construction Manager as provided in the Contract Document. However, the Owner's decisions in consultation with the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intentions expressed in the Contract Documents.

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

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

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

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

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

**§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR/CERTIFICATES FOR PAYMENT TO CONSTRUCTION MANAGER**

§ 3.6.3.1 The Architect shall review and certify the amounts due the ~~Contractor, Construction Manager~~ and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the

~~Contractor's Construction Manager's Application for Payment~~, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

#### PAGE 14

§ 3.6.4.1 The Architect shall review the ~~Contractor's Construction Manager's~~ submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

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

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

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. ~~The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.~~ Architect shall acknowledge the receipt of each Construction Manager-generated Request for Information (hereafter, "RFI") within three (3) working days after receiving it. The Architect shall issue a written answer to the Construction Manager and the Owner, if desired, for each RFI (along with necessary descriptive drawings, specifications, or other documents) with the promptness necessary to avoid unnecessary delay or cost, within ten (10) working days after the RFI is received by the Architect. If the RFI processing will exceed the agreed upon review period, the Architect will notify the Construction Manager and Owner.

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

**§ 3.6.6.1** The Architect shall conduct ~~inspections~~ site visits for observable or reasonably discoverable defects and deficiencies in the work to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the ~~Contractor~~ Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the ~~Contractor~~ Construction Manager; and issue a final Certificate for Payment based upon a ~~final inspection indicating the Work complies~~ the Construction Manager's compliance with the requirements of the Contract Documents.

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

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

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

**§ 3.6.6.5** ~~Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.~~ The Architect, during the tenth (10th) month after the Date(s) of Substantial Completion, shall visit the Project to review the work and shall prepare a report to be issued to the Owner (and, at the Owner's direction, to the Construction Manager) indicating outstanding work to be corrected and warranty issues to be addressed by the Construction Manager. To the extent that services of the Architect are required for the Construction Manager's correction of the work or the Construction Manager's satisfaction of warranty requirements, such services, upon written approval of the Owner, shall be considered a Change in Services for which the Architect will be compensated.

#### **ARTICLE 4 — ADDITIONAL SERVICES**

**§ 3.6.6.6 UPDATED AS-BUILT DRAWINGS.** Promptly after the Owner receives the Notice of Substantial Completion from the Architect, the Architect shall furnish the Owner, at no expense to the Owner, reproducible As-built Drawings in a form approved by the Owner, and shall include all revisions made in the course of construction. The Architect shall also provide the Owner an electronic file of the As-built Drawings in a computer program acceptable to the Owner. Revisions or changes shall be properly annotated on the reproducible plans and cross-referenced. Each sheet of the plans shall be prominently noted, "As-built Drawings." The Architect may require the Construction Manager to maintain and update throughout the construction period a set of construction plans and specifications noting as-built conditions. The Architect shall rely on the accuracy of these documents in the preparation of as-built documents for submittal to the Owner.

**§ 3.6.6.7 OPERATING AND MAINTENANCE MANUALS AND TRAINING OF OWNER STAFF.** The Architect shall on behalf of the Owner coordinate with the Owner's Representative to review the work of the contractors and suppliers with regard to the preparation of operating and maintenance manuals, extensive assistance in utilization of any equipment or system (such as initial start-up, testing, adjusting and balancing); and training personnel for operation and maintenance. Upon written request by the Owner, Architect shall participate in Commissioning and Training of Owner's staff on an hourly basis.

**§ 3.7 DEFECTIVE WORK.** Upon Notice of Completion, the Architect shall:

**§ 3.7.1 DEFECTIVE WORK PERIOD.** Provide assistance, as requested by the Owner, to obtain from the construction contractor any refinement or adjustment to any equipment or system during the warranty period. Defective Work period shall mean one (1) year from the date of Notice of Completion. During the defective work period, the

construction contractor shall be responsible for damages resulting from defects in materials or workmanship of the Project. Assist the Owner in a TEN (10) month review of the completed work of the Project to determine if any operational deficiencies, material defects, or construction deficiencies exist that require correction.

**§ 3.7.2 REVIEW MEETING.** Prior to the expiration of one (1) year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and construction contractor to review the facility operations and performance.

**§ 3.7.3 DEFECTS IN WORK.** Make visits to the Project in response to Owner observations and reporting of apparent defects and deficiencies in the completed construction. Advise the Owner in writing of deficient or defective work and consult with the Owner to provide satisfactory methods for their correction. Additional site visits during the Warranty Period by the Architect shall be provided as an Additional Service on an hourly basis.

**§ 3.7.4 CLAIMS AND DISPUTES.** Architect shall render prompt advice on claims, disputes, and other matters which may arise between construction contractor and the Owner relating to operations of and defects in the completed work of the Project.

**ARTICLE 4 SCOPE OF SERVICES**

**§ 4.1 Additional**The Scope of Services listed below are ~~not~~ included in Basic Services ~~but may be required~~ for the Project. The Architect shall provide the listed ~~Additional Services only if~~ Scope of Services specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section ~~4.2-11.1~~.

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

PAGE 16

§ 4.1.1	Programming( <del>B202™-2009</del> )	Architect	
§ 4.1.2	Multiple preliminary designs	Architect	
§ 4.1.3	Measured drawings	Architect	
§ 4.1.4	Existing facilities surveys	Owner	
§ 4.1.5	Site Evaluation and Planning ( <del>B203™-2007</del> )	Architect	
§ 4.1.6	Building Information Modeling ( <del>B202™-2008</del> )information modeling	Architect	
§ 4.1.7	Civil engineering	Architect	
§ 4.1.8	Landscape design	Architect	
§ 4.1.9	Architectural Interior Design ( <del>B252™-2007</del> )	Architect	
§ 4.1.10	Value Analysis ( <del>B204™-2007</del> )	Architect	
§ 4.1.11	Detailed cost estimating	Owner	Construction Manager
§ 4.1.12	On-site project representation	Owner	Construction Manager
<del>§ 4.1.12</del>	<del>On-site Project Representation</del> ( <del>B207™-2008</del> )		
§ 4.1.13	Conformed construction documents	Not Provided	
§ 4.1.14	As-Designed Record drawings	Not Provided	
§ 4.1.15	Updated as-built or As-Constructed Record drawings	Owner	Construction Manager
§ 4.1.16	Post occupancy evaluation	Not Provided	
§ 4.1.17	Facility Support Services (B210™-2007)	Not Provided	
§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner’s consultants	Owner	
§ 4.1.20	Telecommunications/data design	Owner	
§ 4.1.21	Security Evaluation and Planning ( <del>B206™-2007</del> )Planning	Owner	
§ 4.1.22	Commissioning (B211™-2007)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	

§ 4.1.24	LEED® Certification ( <del>B214™-2012</del> )(B214™-2007)	<u>Not Provided</u>	
§ 4.1.25	Historic Preservation (B205™-2007)	<u>Not Provided</u>	
§ 4.1.26	Furniture, Furnishings, and Equipment Design (B253™-2007)	<u>Not Provided</u>	
§ 4.1.27	Single Bid Package by CONTRACTOR	<u>Architect</u>	<u>Multiple separate bid packages as Additional Service under 4.3.1.11</u>

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

All services designated as Architect's responsibility in Paragraph 4.1 will be included in Architect's Basic Services for said Project.

§ 4.2.1 Off-site civil engineering services NOT provided in Basic Services, but can be provided by or coordinated as an additional service

- a. State of Nebraska NPEDES permit preparation and coordination
- b. Off-site utility extensions or improvements
- c. Public roadway improvements and traffic impact studies
- d. Stormwater Pollution Prevention Plan (SWPPP) design services
- e. Army Corps of Engineers 404 permitting
- f. Platting service
- g. Boundary and topographic surveying services
- h. Post Construction Stormwater Management Plan (PCSMP) design and submittal services

PAGE 17

- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients; recipients, PROVIDED that the provision of one complete copy to the CONTRACTOR shall not be an additional service;

...

- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- ~~.8~~ Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- ~~.9~~ Evaluation of the qualifications of bidders or persons providing proposals;
- ~~.10~~ ~~.8~~ Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- ~~.11~~ ~~.9~~ Assistance to the Initial Decision Maker, if other than the Architect the Architect;
- ~~.10~~ Providing services made necessary by the default or termination of contractor, by defects or deficiencies in the construction of the Project or by failure of the Owner, any contractor or others performing services or Work in connection with the Project; or
- .11 Bid packages in excess of the one (1) provided as Basic Services under 4.1.27.

PAGE 18

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

- ...
- .5 Evaluating substitutions proposed by the Owner or ~~Contractor~~ Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom; or
  - .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.
  - .7 Failure of performance of Owner's consultants or contractors.
- ...

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the ~~Contractor~~ Construction Manager
- .2 Fifteen ( 15 ) visits to the site by the Architect over the duration of the Project during construction
- .3 ~~( ) inspections~~ One ( 1 ) inspection 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 ~~( ) inspections~~ One ( 1 ) inspection for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Thirty-Six ( 36 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. ~~Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.~~ The Owner hereby refers Architect to any applicable building code authority to obtain building code specifications.

§ 5.2 ~~The Owner shall furnish the services of a Scheduling Consultant that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.~~ [Omitted]

§ 5.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. ~~The Owner shall furnish the services of a Cost Consultant that shall be responsible for preparing all estimates of the Cost of the Work.~~ If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Provided, however, nothing herein shall relieve Architect of any responsibility or liability for the performance of Architect's contracted services.

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

...

§ 5.9 ~~The Owner shall~~ Unless otherwise provided in this Agreement, the Owner may, in its sole discretion, furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.10 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's ~~Instruments of Service-Construction Documents~~ but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observation, inspection or investigation. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project.

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

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

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

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include ~~contractors'-construction manager's fees (if one is retained),~~ general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

...

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

~~Consultant's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.~~

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

- ~~.1 give written approval of an increase in the budget for the Cost of the Work;~~
- ~~.2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work;~~
- ~~.3 terminate in accordance with Article 9; or~~
- ~~.4 implement any other mutually acceptable alternative.~~

~~§ 6.5 If the estimate of Owner chooses to proceed under Section 6.4.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall~~

- ~~.1 give written approval of an increase in the budget for the Cost of the Work;~~
- ~~.2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or~~
- ~~.3 implement any other mutually acceptable alternative. Services, or the budget as adjusted under Section 6.4.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.~~

~~§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with After incorporation of modifications under Section 6.5, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6. Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.~~

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

~~§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. All plans, drawings, specifications, computations, sketches, data, surveys, models, photographs, renderings, and other like materials relating to the services ("Documents") shall become the non-exclusive property of the Owner at the conclusion of the project, or termination of the services of the Architect, whichever is earlier, and shall be delivered to the Owner clearly marked and identified and in good order. The Owner may use the documents as it determines for other projects of the Owner or of which the Owner is a party, including, but not limited to, the construction of one or more like projects, without the approval of, or additional compensation to, the Architect. The Architect and the Architect's consultants shall incur no liability for the Owner's use or reuse of the Documents other than in connection with the Project unless the Architect is involved in the reuse project. Prior to the reuse of construction documents for a project in which the Architect is not also involved, the Owner shall remove and obliterate from such documents all identification of the original Architect, including name, address, and professional seal and stamp. Further, the Owner hereby indemnifies and holds harmless the Architect and its consultants from any loss or damage, including attorney's fee, incurred as a result of~~

this provision. Pursuant to this paragraph, the Owner may retain other architects, engineers and design professionals who may use the Documents for such purposes as the Owner determines. Notwithstanding any other provisions of this paragraph, the Owner shall not permit or convey the right to use the Documents to any third party.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. Subject to the Owner's rights of ownership of the Documents, the Architect shall hold all copyrights in the Drawings, Specifications, and other documents prepared by the Architect for this Project, and may use such documents, or any portion thereof, as the Architect deems appropriate. The Owner shall incur no liability for the Architect's and the Architect's consultants' use or reuse of the Documents other than in connection with the Project unless the Owner is involved in the reuse project. Prior to the reuse of construction documents for a project in which the Owner is not also involved, the Architect and the Architect's consultants shall remove and obliterate from such documents all identification of the Owner, including name and address.

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

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

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

## PAGE 21

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

§ 8.1.1.1 Architect stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against

~~each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. The Owner hereby expressly reserves the right to claim consequential damages against the Architect for claims, disputes or other matters in question arising out of or relating to the subject matter of this Agreement, provided that the amount paid under any such claim by the Architect/Owner shall be limited to the insurance coverage's of the Architect under the Architect's Professional Liability and General Liability insurance policies in effect for the project.~~

...

~~§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. Architect's consultants shall, during the construction of the Project and after the date of substantial completion for the period of time specified under Nebraska law for the statute of limitations, or when applicable the statute of repose, for professional negligence, indemnify and hold harmless the Owner and all of its school board members, officers, administrators, agents, representatives, servants, and employees from any and all losses, damages, liabilities, judgments, or expenses, including attorney's fees, on account of damage or destruction to property and personal injuries, including death, to any or all persons, including but not limited to invitees and employees of the Owner, Architect, Architect's consultants, general contractor or subcontractors and of all other persons performing any part of the work, which may directly or indirectly arise from or be connected with any negligent act, error or omission on the part of Architect or any breach of any of the Architect's obligations under this agreement and for patent, copyright or trademark infringement attributable to Architect's services. The Architect understands and agrees that the indemnification and hold harmless obligations of this section constitute a continuing obligation on the part of the Architect and survive and are enforceable beyond the term of the contract to the fullest extent permitted by law. Owner further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, partner, principal or employee of Architect shall have personal liability under this Indemnification provision, under any provision of the Agreement or for any matter in connection with the professional services provided in connection with the Project.~~

#### § 8.1.5 DIRECT NEGOTIATION

~~§ 8.1.5.1 Direct Negotiation, as defined below, will be the initial process utilized by the parties. Either the Owner or the Architect may make a request for Direct Negotiation as an initial attempt to resolve any claim, dispute, or other matter arising out of this Agreement.~~

~~§ 8.1.5.2 Direct Negotiation Representatives of the parties shall be the Owner's Designated Representative, as defined in Section 1.1.8 and the Architect's Designated Representative, as defined in Section 1.1.11.~~

~~§ 8.1.5.3 Direct Negotiation will take place at the project worksite or at a location as agreed to by Owner's and Architect's Designated Representatives.~~

~~§ 8.1.5.4 Each party shall document results of the Direct Negotiation, and these documents shall be exchanged between the parties.~~

#### **PAGE 22**

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

parties or court order. ~~If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

...

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

...

[  ] Litigation in a court of competent jurisdiction

...

### § 8.3 ARBITRATION

~~§ 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. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 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.~~

~~§ 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.~~

~~§ 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.~~

### § 8.3.4 CONSOLIDATION OR JOINDER

~~§ 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).~~

~~§ 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.~~

~~§ 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.~~

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the

~~Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

#### **OWNER TERMINATION**

§ 9.1.1 The Agreement may be terminated at-will and without cause by the Owner upon thirty (30) days written notice to the Architect.

§ 9.1.2 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination as follows:

§ 9.1.2.1 Expenses to be Reimbursed incurred by the Architect.

§ 9.1.2.2 The portion of the Architect's Compensation for Basic Services earned to the date of termination, which amount shall be computed as the amount payable for basic services for the actual hours worked through the date of termination by Architect's personnel assigned to the Project as calculated pursuant to Article 11.

§ 9.1.2.3 Cost of demobilization, including cost associated with computer systems, website shutdown provided that in no event shall demobilization costs exceed the sum of FIVE THOUSAND DOLLARS (\$5,000).

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

§ 9.1.4 This Agreement may be terminated by Owner for cause if Architect engages in conduct that would constitute a violation of state or federal criminal law related to or relevant to the Project, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

§ 9.1.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this Section.

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

§ 9.2.1 If the Owner fails to make timely payments to the Architect for undisputed sums in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days' written notice to Owner of the delinquency, or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2.2 If the Owner suspends the Project for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.2.3 If the Owner suspends the Project for more than ninety (90) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice. Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice and opportunity to cure 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.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.  
**AGREEMENT AND PAYMENT CONTINGENT UPON AVAILABILITY OF APPROPRIATED FUNDS OR FUNDS APPROVED BY THE VOTERS AND BOARD OF EDUCATION:**

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

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

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

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

§ 9.4.1 Any other provisions of the Contract Documents to the contrary notwithstanding, it is expressly understood and agreed that the legal obligation of the Owner under this Agreement, including the obligation of the Owner to pay the contract sum or any part thereof shall be contingent upon the availability of funds for the Project and any formal action of the Board of Education of the Owner for the purpose of payment of the Contract Sum or any part thereof. In the event the funding for the Project becomes unavailable for any reason, the Owner may terminate this agreement without cause under the provisions of this Article 9.

§ 9.4.2 It is agreed that the obligations of the Architect herein are expressly contingent upon reasonable proof to the Architect that the Owner has funds specifically approved by formal action of either the legal voters or the Board of Education of the Owner for the purpose of payment of the Contract Sum or any part thereof.

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.State of Nebraska and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in Butler County, Nebraska.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction-Construction, as amended for this Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the maker of said Modifications.

## PAGE 24

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to The Architect shall execute all certificates when appropriate and warranted relating to the completion of the Project, or portions thereof, by the contractor or contractors.. The Architect shall execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14

~~days prior to execution.~~ Agreement. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

...

**§ 10.6** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect's acts or omissions introduced or caused or allowed to be introduced to the Project site said hazardous materials as defined in AIA Document A201-2007, as amended for this Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

**§ 10.7** ~~The Architect shall have the right to~~ With prior written notice to the Owner, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. has provided notice of confidential information in Section 10.8 of this Agreement.

**§ 10.8** If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and ~~contractors whose contracts include~~ Construction Manager whose contract includes similar restrictions on the use of confidential information. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

**§ 10.9** The Architect will exercise his professional effort to interpret the Americans with Disability Act (ADA) and the ADA Accessibility Guideline (ADAAG) in place of the date of this Agreement. The Scope of Services provided by the Architect are limited to the requirements of Title II and III of the ADA. The Architect cannot provide recommendations or advice concerning which ADA requirements or measure may be "readily achievable", nor can the Architect determine the priorities of phasing of selected measures. These issues must be addressed by the Owner with priorities or phasing of selected measures. These issues must be addressed by the Owner with assistance from his or her financial and legal counsel.

**§ 10.10** The Architect's services shall be provided to assist the Owner in making changes to an existing facility for which the Owner shall furnish, in a timely manner, documentation and information upon which the Architect may rely for its accuracy, and completeness. Unless specifically authorized or confirmed in writing by the Owner, the Architect shall not be required to perform or to have other destructive testing or to investigate concealed or unknown conditions. In the event documentation or information furnished by the Owner is inaccurate or incomplete, any resulting damage, losses and expenses, including the cost of the Architect's Additional Services, shall be borne by the Owner.

**10.11 NON-DISCRIMINATION** The Architect agrees that neither the Architect nor its subcontractors will discriminate against any employee or applicant for employment to be employed in the performance of this contract, with respect to his or her hire, tenure, terms and conditions or privileges of employment, because of his/her race, color, religion, sex, disability, or national origin.

**§ 10.12 NO LIENS** The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Nebraska, or upon any funds of Owner.

**§ 10.13 APPLICABLE LAW** This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidation of any portion of this Agreement under the laws of the State of Nebraska or of the United States shall not affect the validity of the remainder of this Agreement.

**§ 10.14 CONFLICTS IN DOCUMENTS** To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

**§ 10.15 INDEPENDENT CONTRACTOR** It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

**§ 10.16 NO WAIVER** No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

**§ 10.17 FELONY CONVICTION** Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

#### **§ 10.18 CRIMINAL HISTORY RECORD CHECKS**

**§ 10.18.1** Architect shall obtain all criminal history information regarding its "covered employees", as defined below. If Architect is required by law to obtain fingerprint information, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 10.18.2** Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

**§ 10.18.3** For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Architect or any of Architect's consultants who have or will have continuing duties related to the services to be performed on Owner's Project and have or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the

offense, the victim was under eighteen (18) years of age or enrolled in a public school: a felony offense under Nebraska Revised Statutes, Chapter 28, Article 3; an offense for which a defendant is required to register as a sex offender under Nebraska law; or an equivalent offense under federal law or the laws of another state.

**§ 10.19 RECORDS RETENTION** Architect shall keep all accounting and construction records on the Project for a period of at least twelve (12) years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements. In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

**§ 10.20 COMPLAINTS** The Nebraska Board of Engineers and Architects has jurisdiction over complaints regarding the professional practices of persons registered as architects and engineers in Nebraska.

PAGE 26

**§ 11.1** For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect for Project No. 1 and Project No. 2 as follows:

...

**§ 11.1.1 FEE FOR SITE EVALUATION AND PLANNING SERVICES, AND PRE-FINANCING DETERMINATION SERVICES:** The Architect fee for the services for Project No. 1 and/or Project No. 2 described in paragraph 3.0, including utilization building audit, preliminary programming, site evaluation, and schematic design services and cost estimating services, and pre-financing determination services including all services for pre-financing determination conceptual cost estimating (including the retention of an independent cost estimator by the Architect), and pre-financing informational support for the Project, shall be paid on a fixed fee basis as follows:

Project	Maximum Fee
<b>Project No. 1 - Locker Room Renovation Project</b>	<b>\$15,000.00 – Fixed Fee</b>
<b>Project No. 2 - East Butler High School – Industrial Technology and Agriculture Education building</b>	<b>\$1,250 - Fixed Fee</b>

Such fee is exclusive of Reimbursable Expenses. In the event financing for a Project is NOT approved by the Board of Education of the East Butler Public School District, the Architect's total fee for services under all contracts related to the Projects shall be the amount specified in this paragraph, plus reimbursable expenses. Such maximum fee shall include all costs for the Architect's personnel performing services.

**§ 11.1.1.1 IN THE EVENT THE BOARD OF EDUCATION OF THE EAST BUTLER PUBLIC SCHOOL DISTRICT APPROVES THE MEANS OF FINANCING EITHER PROJECT NO. 1 OR PROJECT NO. 2 OF THE SCOPE SET FORTH IN THE SCHEMATIC DESIGN PREPARED BY THE ARCHITECT WITHIN TWENTY-FOUR (24) MONTHS FROM AND AFTER FEBRUARY 8, 2017.**

**§ 11.1.1.2 IN THE EVENT THE BOARD OF EDUCATION OF THE EAST BUTLER PUBLIC SCHOOL DISTRICT DOES NOT APPROVE THE MEANS OF FINANCING EITHER PROJECT NO. 1 OR PROJECT NO. 2, THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE AS TO SUCH PROJECT, AND IN SUCH EVENT THE ARCHITECT SHALL RECEIVE AS FINAL PAYMENT THE SUMS DUE UNDER SECTION 11.1.1 PLUS ANY EXPENSES TO BE REIMBURSED AS PROVIDED FOR HEREIN.**

**§ 11.1.2 FEE FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES:** The Architect's compensation for Design and Construction Administration Services Project No. 1 and/or Project No. 2 described in paragraphs 3.1 through 3.7 and Article 4 shall be a fixed fee calculated for each separate Project determined as follows:

**§ 11.1.2.1 FEE FOR BASIC SERVICES:** The Architect's fee for basic services for Project No. 1 and/or Project No. 2 identified in paragraph 3.1 to 3.7 of this Agreement is a Maximum Fixed Fee to be calculated on the basis of a percentage of the approved estimate of the Cost of the Work for the project set forth in paragraph 11.1.2.2 below.

The Architect shall prepare an estimate of the Cost of the Work upon completion of the design development documents (hereinafter referred to as "DD Cost Estimate"); for purposes of this paragraph "Cost of the Work" shall be as defined at paragraph 1.3.3. The DD Cost Estimate for each project shall be submitted to, reviewed by the Board of Education of the Owner in consultation with the Owner's administration, Construction Manager at Risk (CM@R) and legal counsel. Upon completion of such calculation of the proposed Maximum Fixed Fee, such proposed fee shall be submitted for approval to the Board of Education of the Owner, and upon such approval attached hereto by addendum to this Agreement; provided, however, that such addendum shall not be valid until executed by appropriate officials of the Owner and Architect.

**§ 11.1.2.2 IDENTIFICATION OF PROJECTS AND PERCENT RANGE OF COST OF THE WORK AS BASIS FOR MAXIMUM FIXED FEE.** The identified projects and the percentage of the estimate of the Cost of the Work upon completion of design-development for each portion of the project to be applied to calculate the Maximum Fixed Fee to be paid to the Architect for each such project is as follows:

Phase	Percent of the Cost of the Work
<b>Project No. 1 - Locker Room Renovation Project</b>	_____ %
<b>Project No. 2 - East Butler High School – Industrial Technology and Agriculture Education building</b>	<b>TO BE DETERMINED – ADDED BY ADDENDUM</b>

PAGE 27

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

Additional compensation for Additional Services, including those services not identified as provided in Section 4.1, shall be paid to the Architect based upon actual hours expended for such services by the Architect's personnel, and invoiced showing the employee assigned, the employee's hourly rate set forth in the attached "WHS Standard Hourly Rate Schedule", Appendix "D", the employee's actual hours worked, and any attendant reimbursable expenses. Additional Services may only be incurred upon the advanced written authorization of the Owner.

...

Additional compensation for Additional Services, including those services identified in Section 4.3, shall be paid to the Architect based upon actual hours expended for such services by the Architect's personnel, and invoiced showing the employee assigned, the employee's hourly rate set forth in the attached "WHS Standard Hourly Rate Schedule," Appendix "D", the employee's actual hours worked, and any attendant reimbursable expenses. Additional Services may only be incurred upon the advanced written authorization of the Owner.

**§ 11.4** Compensation for Additional Services of the Architect's ~~consultants~~ consultants, when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect ~~plus \_\_\_\_\_ percent (\_\_\_\_%), or as otherwise stated below, with no markup.~~

At actual cost.

...

Schematic Design Phase	<u>Twenty</u>	percent (	<u>20</u>	)	%)
Design Development Phase	<u>Thirty</u>	percent (	<u>30</u>	)	%)
Construction Documents Phase	<u>Twenty Five</u>	percent (	<u>25</u>	)	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	)	%)
Construction Phase	<u>Twenty</u>	percent (	<u>20</u>	)	%)

Total Compensation	Basic	<del>one hundred</del> <u>One</u> percent ( 100 %)
		<u>Hundred</u>

See "WHS Standard Hourly Rate Schedule" - Appendix "D"

- ~~.1~~ Transportation and authorized out-of-town travel and ~~subsistence~~; subsistence (but not travel time costs);
- ~~.3~~ Printing, reproductions, plots, standard form documents and submittal exchange.;
- ~~.4~~ Fees paid for securing approval of authorities having jurisdiction over the Project;
- ~~.4~~ Printing, reproductions, plots, standard form documents;
- ~~.5~~ Postage, handling and delivery;
- ~~.6~~ Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- ~~.7~~ Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner; the Owner, after providing two sets for each building in the Project;
- ~~.8~~ .6 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants; and
- ~~.9~~ .7 All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses; and
- ~~.11~~ Other similar Project related expenditures; expenses.

§ 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 identified under paragraph 11.8.1, the compensation to be paid to the Architect shall be at a multiple of ONE and ONE-TENTH (1.10) times the actual expenses incurred by the Architect or the Architect's consultants.

§ 11.8.2.1 PRE-CONSTRUCTION: FIVE THOUSAND DOLLARS (\$5,000.00) without prior written authorization by the Owner.

§ 11.8.2.2 DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES: TEN THOUSAND DOLLARS (\$10,000.00) without prior written authorization by the Owner.

§ 11.8.3 The Owner shall be responsible for costs associated with contract document printing, reproductions, and plots of Construction Documents, other than those required to be provided by Architect under this Agreement and for costs associated with postage, handling and delivery of Construction Documents, other than those required to be provided by Architect under this Agreement.

~~§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE~~

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

**PAYMENTS TO THE ARCHITECT**

**§ 11.10 PAYMENTS TO THE ARCHITECT**

**§ 11.10.1** An 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.

~~§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ( ) 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.)~~

~~—%~~

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

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

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

§ 11.9.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable thirty (30) days from the date of receipt of the Architect's invoice. Amounts unpaid forty-five ( 45 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. Owner may make payments to Architect via electronic funds transfer (EFT). Architect will provide bank account information to Owner upon execution of this Agreement. (Insert rate of monthly or annual interest agreed upon.)

SIX PERCENT (6%) per annum.

§ 11.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates shall be provided to the Owner upon presentation of Architect's progress payment applications. Records of all reimbursable expenses and expenses pertaining to any change in services on the Project and for services performed on the basis of flat rates shall be kept on a generally recognized accounting basis and shall be available for review to the Owner or its authorized representative during business hours at the Architect's office. Proof of payment of any reimbursable expense item shall be provided to the Owner with each claim for reimbursement by the Architect.

## PAGE 29

§ 12.1.1 Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

§ 12.1.2 If, due to the Architect's omission, a required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents; provided the Architect will be responsible for paying any increased costs to the Project as a result of the Architect's omissions which are above and beyond the cost the Owner would have had to pay had the omission not occurred. In no event will the Architect be responsible for that portion of any cost or expense that provides betterment or upgrades or enhances the value of the Project.

§ 12.1.3 Architect is not responsible to Owner or any third-parties for errors, omissions or other deficiencies in the services of any other design professional or design-build contractor rendering design, engineering or related services for Owner not employed, contracted or hired by Architect. Architect's sole liability in connection with the services of Owner's consultants or design-build contractors shall be to coordinate Owner's consultant's portion of the

Instruments of Service. Owner shall require consultants or design-build contractors retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 12.1.4 Corporate Protection Clause: It is intended by the parties to this Agreement that the Architect's services in connection with the Project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein the Owner agrees that as the Owner's sole and exclusive remedy any claim demand or suit shall be directed and/or asserted only against the Architect and not against any of the Architect's individual employees, officers or directors.

§ 12.1.5 Indemnification

§ 12.1.5.1 The Architect agrees, to the fullest extent permitted by law, to indemnify and hold the Owner harmless from any damage, liability or cost, subject to 8.1.3 (including liability to third parties, reasonable attorney's fees and cost of defense) to the extent caused by the Architect's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her consultants or anyone for whom the Architect is legally liable.

§ 12.1.5.2 The Owner agrees to the fullest extent permitted by law to indemnify and hold the Architect harmless from any damage liability or cost (including liability to third parties, reasonable attorney's fees and cost of defense) to the extent caused by the Owner's negligent acts, errors or omissions and those of his or her consultants arising from the project that is the subject of this Agreement

PAGE 30

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or ~~oral~~-oral, unless specifically provided for otherwise in this Agreement, as amended. This Agreement may be amended only by written instrument signed by both Owner and Architect.

...

- .1 AIA Document B103™-2007, Standard Form Agreement Between Owner and ~~Architect~~-Architect, as amended for this Project.
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3—Other documents:

...

Appendix "A" - The Owner's program for the Project as developed in conjunction with the Architect  
Appendix "B" - 16 Division Excel Spreadsheet  
Appendix "C" - Codes Compliance Protocol.  
Appendix "D" - TCEP Standard Hourly Rate Schedule.

...

Butler County School District 12-0502, a/k/a East  
Butler Public Schools, OWNER

**OWNER**

THE CLARK ENERSEN PARTNERS

**ARCHITECT**

...



## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Rex R. Schultze, 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 15:49:15 on 02/08/2017 under Order No. 8740817023\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B103™ – 2007, Standard Form of Agreement Between Owner and Architect for a Large or Complex Project, 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)*

School Nurse Report for Semester 1  
East Butler Public School  
Date of Report: January 18, 2017

During the first semester of the 2016/17 school year, there were 120 office visits made to the school nurse. The breakdown of what those visits necessitated are listed below.

Asthma Symptoms – 4

Bites - 4

Conjunctivitis – 12

Earache – 2

Fever (with no other symptoms) – 2

Headache or migraine – 13

Head Lice – Numerous cases involving four different families

Incontinent – 2

Injury – obtained either at school during recess or P.E. Class/or outside of school requiring attention of nurse – 26

Menstrual cramps – 2

Nausea/Vomiting/Upset Stomach/Diarrhea – 25

Other - 1

Pain (other than headache or stomachache) – 2

Rash – 6

Seizures (Asst of nurse) – 3

Sore throat – 8

Upper Respiratory Infection/Cough – 8

In addition to the above office visits, the school nurse also administered daily routine oral medications to students, instilled prescription eye drops, performed hand-held nebulizer treatments for asthma, and observed self-administration by student of asthma inhaler. Epi-pens for emergency use were ordered to replace the expired ones in both schools.

Once a space was designated for the nurse, the school nurse set up the “nurse’s office” and ordered necessary equipment, furniture, and supplies. Prior to the arrival of ordered equipment, supplies were purchased locally, equipment was borrowed from Four Corners Health Department or other school districts, or necessary items were brought to school from the nurse’s own home.

The required immunization report for the State was completed and submitted in order to meet compliance on all incoming kindergarteners, seventh grade students, and any out-of-state transfer students.

Frequent head checks for head lice were performed both on individual students and on the entire preschool and kindergarten classes. An information packet on head lice was prepared for all parents of elementary students. This was sent out at Mr. Biltoft's discretion.

A requested hygiene class was presented for three of the seventh- grade boys that are in a peer group. Basic hygiene kits were prepared and given to the three boys at the end of the class.

Informative health education and healthy guidelines were distributed in all teacher and staff mailboxes both in Dwight and Brainard. Health articles were occasionally submitted for the weekly bulletin.

The first round of health screenings was completed including heights, weights, dental screenings, hearing screenings, and vision screenings on all pre-k through 6<sup>th</sup> graders, 7<sup>th</sup> graders and 10<sup>th</sup> graders. Referral letters have been mailed out to parents.

Submitted by: Val Tvrdy, RN

## School Nursing on Site Finances for First Semester through Dec 31, 2016

Expenses incurred by Four Corners:

Wages	9564.89
Benefits	2938.75
FICA	731.71
Contract Labor	457.50
Mileage – Reimb to employee	535.24
Office / Supplies	27.49
Copies	63.40
Postage	0.93
Mileage—Company car	1369.98
Lamination	7.20
<b>TOTAL</b>	<b>\$15,697.09</b>

Paid to Four Corners by East Butler:

August, 2016	2266.25
September, 2016	1312.50
October, 2016	1671.25
November, 2016	1715.00
December, 2016	3832.50
	<b>\$10,797.50</b>

**Program loss to Four Corners = \$4,899.59**

*For comparison:*

*No. of hours school nursing on site: 308.50 hours*

*308.50 x \$35 / hour = \$10,797.50*

*308.50 x \$45 / hour = \$13,882.50*

*308.50 x \$50 / hour = \$15,425.00*

Other:

- Four Corners can offer other health department resources to augment school nursing efforts (equipment, additional staff when needed, documents, forms, etc)
- A team of public health nurses are available to provide nursing backup, continuity and expertise
- Close working relationship with the health department offers opportunities to more easily bring certain public health initiatives or programs to the school
- Collaboration for new and upcoming grant opportunities
- Identification, surveillance, and intervention of diseases and outbreaks; identification of at-risk students
- Coordination of health promotion and educational initiatives
- Strategic collaboration of public health and school health nurses to increase the school community's capacity to address population health

# MEMBERSHIP DUES INVOICE

in account with

## Nebraska Association of School Boards

1311 Stockwell, Lincoln, NE 68502 (402) 423-4951 or 1-(800) 422-4572

---

Name: East Butler Public Schools

County: Butler

NASB Region: 16

DATE	DESCRIPTION	AMOUNT DUE
January 29, 2017	<b>Annual Membership Dues</b> for NASB Fiscal Year 4/1/17 to 3/31/18	<b>\$3,831</b>
	All districts/ESU's who pay dues by 4/1/17 may subtract 2% from their total dues.	<b>\$77</b>
	TOTAL AMOUNT DUE IF PAID BY APRIL 1, 2017	<b><u>\$3,754</u></b>

---

**Thank you for your support and participation in NASB.**

EAST BUTLER PUBLIC SCHOOLS  
MAINTENANCE DEPARTMENT

BILLING CODE \_\_\_\_\_

QUOTE FORM

REQUESTED BY Superintendent

DATE: 12-14-16

COMPANY NAME: All Access Tech

QUOTE # 176

ADDRESS: 1410 North 51<sup>st</sup> Street  
Omaha NE 68132

P O # \_\_\_\_\_

CONTACT PERSON: Greg Sauber

PHONE# 402-321-0303

FAX# \_\_\_\_\_

JOB Handicap Door Buttons for Activity Door  
Brainard

QUOTE PREPARED BY Taylor

ACCEPTED \_\_\_\_\_ DENIED \_\_\_\_\_

NOTIFIED BY \_\_\_\_\_ DATE \_\_\_\_\_

ORDERED BY \_\_\_\_\_ DATE \_\_\_\_\_

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_

QUOTE VALID FOR \_\_\_\_\_ DAYS TERMS \_\_\_\_\_

TO ACCEPT THIS QUOTE, SIGN HERE \_\_\_\_\_  
SUPERINTENDENT



# ALL ACCESS TECH

Greg Sauber

1410 North 51st Street  
Omaha, NE 68132

402.321.0303  
gregsauber@all-access-tech.com

Quote 1612-0296		ALL ACCESS TECHNOLOGIES		12/12/2016
		1410 North 51st Street Omaha, NE 68132 402.321.0303 gregsauber@all-access-tech.com		
Company: Butler County Schoo Address: 312 South Madison S City/State/Zip: Brainard, NE 68628 Contact: T Butler Contact Phone: 402 560-6063 Email: tpollock@ebutler.esi			Quote # : 1612-0296 JHC WO/PO# : JHC Job # : Job Name : Butler School-operators JOB Location : Brainard, NE Terms : Net 30 (progressive billing)	
QTY	MANF	PART NUMBER	DESCRIPTION	COST
<b>DOOR OPERATORS - NORTH EXTERIOR ENTRNACE</b>				
2	Stanley	Magic Force	Door Operator - push LH	4940
1	BEA	5355AGN0000	Vestibule Push Plate Package (1) 10PBDGP1 Vestibule Plate & Square Box (1) 10BOX475SQSM (2) 4-1/2" Square Push Plates (2) Matching Boxes (4) 10TD433PB3V Transmitters (2) 10RD433 Receivers	585
1	AAT	Labor	Labor to Install Above Equipment  <b>Access Pont Notes: Sequence of Operations - Exterior Door - Ingress -</b> Upon presentation of a valid access control credential, the unlock signal from the access control system will first unlock the mag-lock, then the same signal will open the operator, closing will be initiated by the internal operator timer. Egress - open actuated by vestibule push plate.  <b>Interior Vestibule Door - Ingress and egress - operator will be activated</b> by vestibule push plate and/or corridor push plate. closing will be initiated by the internal operator timer.	1070
QTY	MANF	PART NUMBER	DESCRIPTION	COST
			Work Not Included/By Others: 120VAC supply voltage to both operators. Exterior access control reader cabling/wire mold shall be moved as per 12/5 site visit. AAT will provide splicing and terminations.	
<b>Total Project Price</b>				<b>\$6,595.00</b>

EAST BUTLER PUBLIC SCHOOLS  
MAINTENANCE DEPARTMENT

BILLING CODE \_\_\_\_\_

QUOTE FORM

REQUESTED BY Superintendent

DATE: 12-14-16

COMPANY NAME: Tyco

QUOTE # 175

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PO# \_\_\_\_\_

CONTACT PERSON: David Walk

PHONE# cell - 402-213-5589

~~FAX#~~ email dnmwalk@tyco.com

JOB Handicap Door Buttons for Activity Room  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUOTE PREPARED BY Taylor

ACCEPTED \_\_\_\_\_ DENIED \_\_\_\_\_

NOTIFIED BY \_\_\_\_\_ DATE \_\_\_\_\_

ORDERED BY \_\_\_\_\_ DATE \_\_\_\_\_

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_

QUOTE VALID FOR \_\_\_\_\_ DAYS TERMS \_\_\_\_\_

TO ACCEPT THIS QUOTE, SIGN HERE \_\_\_\_\_  
SUPERINTENDENT



**Handicap Access Proposal for  
East Butler Public School District  
212 S Madison St  
Brainard, NE 68626  
12/09/2016**

This Tyco Integrated Security Proposal (the "Proposal") contains Tyco proprietary and business confidential information and may not be shared with third parties without the prior written consent of Tyco. Tyco's provision of the equipment, systems, and/or services described in this Proposal is expressly conditioned upon Company's acceptance of the terms and conditions of the standard Tyco Integrated Security "AGREEMENT" COMMERCIAL TERMS AND CONDITIONS posted on <http://www.tycois.com/standardtandc>. The system design and specified equipment are subject to final approval by your local fire department or other authority having jurisdiction. This Proposal is valid for a period of sixty (60) days from the above date and any deletions or additions to this Proposal may result in changes to the pricing and/or terms and conditions.

**Inquiries regarding this proposal may be directed to:**

David Walk  
Tyco Integrated Security  
Phone #:  
Cell Phone #: 402-213-5589  
Email: dmwalk@tyco.com



East Butler Public School District  
212 S Madison St  
Brainard, NE 68626  
Estimate Name: East Butler\_ADA Addition

DATE 12/09/2016

DEAR Taylor Polock:

Thank you for allowing Tyco Integrated Security (Tyco) the opportunity to provide East Butler Public School District with our proposal for East Butler\_ADA Addition.

As an industry leader, Tyco's desire is to bring experience, industry insight and value to our customers by providing solutions that deliver lasting results while help keeping risk to a minimum. Your business is our business and helping to reduce your losses while improving operations means Tyco is consistently evaluating your issues and needs.

Tyco provides integrated security solutions to businesses like yours throughout the world. In North America, Tyco maintains over 200 full-service brick and mortar offices, staffed by more than 10,000 company-trained employees, including over 3,700 service personnel. With unparalleled presence across the U.S., Tyco service and installation teams are specially trained and focused on our technology offerings.

We are proud of our history, financial strength and depth and breadth of services we offer and I look forward to discussing our proposal with you and showing you why Tyco is the premier leader in the electronic security industry.

I offer you my personal commitment to help ensure Tyco meets your business needs.

Sincerely,

David Walk  
Commercial Business Solutions

**License Information:** AL 2014/15-1498,1499,1500,1501,1502,1542,594,595 The Security Industry is governed by the rules and regulations of the Alabama Electronic Security Board of Licensure. If you would like information on these rules and regulations or would like to register a complaint you can contact the Board at: AESBL 7956 Vaughn Rd., Montgomery 36116, (334) 264-9388 Fax: 334-264-9332 AK 38381, 5430 Fairbanks Street, Suite 8 Anchorage, AK 99507 AR 0030740116, 003587, Regulated by Arkansas Bd. of Private Investigalors & Private Security Agencies, #1 State Police Plaza Dr., Little Rock 72209, (501) 618-8600 AZ ROC281489 CA ACO7207, 977249; alarm company operators are licensed and regulated by the Bureau of Security & Investigative Services, Dept. of Consumer Affairs, Sacramento, CA 95814 DC ECS1327 FL EF20000413, EF20000890, EF20000341, EF0000478 GA LVA002833, LVA205386, LVA204776, LVA205526, LVU001160, LVU004635 HI CT-32427 IL 127001526 MA 45-C MI 3601206461, 5103373, 6060 Torrey Rd. Suite F Flint, MI 48504; MN TS651063 MS 15024088 NC 846-CSA, 4901 Glenwood Ave., Suite 200, Raleigh, NC 27612, (919) 788-5320 NM 375283 NV 0077542 NY 12000305846, Licensed by NYS Dept. of State OH E16782, 50-18-1052, 50-25-1050, 50-29-0003, 50-48-1032, 50-57-1119, 53-31-1582 OK 67 OR CLE322, 197010; PA Pennsylvania Home Improvement Contractor Registration Number; PA010083 RI 18004, TSC2726, AF-09170 TN C-1704,-1705,-1706,-1707,-1708,-1709,-1710,-1711 TX B00536, 4200 Buckingham Road Ste 150, Ft. Worth, TX 76115 - Dept of Public Safety, Private Security 5805 N. Lamar Blvd, Austin 78752 UT 8390557-6501 VA 11-7587, 11-7580, 11-7575, 11-7591, 11-7589, 11-7578, 2705147765A WA TYCOIS886OO,11824 N Creek Pkwy. #105, Bothell, WA 98011 WV 050291.

**Mississippi: MS 15024088.** See a comprehensive list of licenses on [www.tycois.com/about-us/legal](http://www.tycois.com/about-us/legal). **California Customers Only:** Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

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**TYCO INTEGRATED SECURITY CONFIDENTIAL AND PROPRIETARY BUSINESS INFORMATION**

Page 2 of 6

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East Butler Public School District  
212 S Madison St  
Brainard, NE 68626  
Estimate Name: East Butler\_ADA Addition

## PAYMENT OPTIONS

### Tyco-Owned Option

Allows you to reduce the up-front cash requirements needed to install new security system and, at the same time, keep your monthly cost low.

**Installation Investment Package: \$ 2500.00**  
**Total Monthly Payment Including Preferred Services: \$ 216.48/month**

### Outright Sale Option

Provides your business with ownership of the electronic security equipment upon purchase.

**Installation Investment Package: \$10693.59**  
**Total Monthly Payment Including Preferred Services: \$ 0.00/month**

\*Does not include Maintenance. Standard Warranties will apply.

TYCO INTEGRATED SECURITY CONFIDENTIAL AND PROPRIETARY BUSINESS INFORMATION

Page 3 of 6



## SCOPE OF WORK FOR East Butler Public School District

This proposal presented by Tyco is being provided at the request of East Butler Public School District to successfully meet the specifications of the East Butler\_ADA Addition Project at the 212 S Madison St, , Brainard, NE 68626 location.

We propose to install and maintain a Access system which will consist of the following:

Contact Information:

Facility Manager: Talor Pollock PH: (402) 545-2081 Email:tpollock@ebutler.esu7.org

System Operation:

TycoIS to install ADA compliant functionality to a set of doors Vestibule (1 outside and 1 Inside door). We are supplying the wire and connection from the ADA buttons to our Kantech panel and programming the card reader to open the doors in sequence when a proper credential has been presented.

-TycoIS Locksmith (Able Locks) to provide ADA opener system, Door hardware (ADA buttons) for the Activity entrance/vestibule doors. See SOW and sitemap attached.

-TycoIS techs to run 18/4 from Kantech panel to the ADA devices. Each Run will be about 200' from button to panel.

-Customer to supply a 110 outlet or have electrician hardwire a connection to the Access Power panel to be installed above drop Ceiling to supply power for the door openers.

-ADA button should operate both doors to open simultaneous-1 button outside and 1 button inside the school next to the exit door.

Please use conduit from ADA button if wire will need to be run up outside wall and into drop ceiling 10' and use wire mold from ADA button inside school to protect wire. 10'

**TYCO INTEGRATED SECURITY CONFIDENTIAL AND PROPRIETARY BUSINESS INFORMATION**

Programming Info: Utilize all existing access equipment as is. Program Access panel to release and open doors upon ADA button being activated, Program and show customer how to enter a special needs credential to open doors on a card read.

Site Conditions: Existing construction, School, drop ceiling 10ft. use 18/4 wire. Penetrate outside stone/brick wall to enter into drop ceiling from outside. Use 10' conduit outside and 10' wiremould inside to run wire through. We are using the existing equipment in place. KT-300 at headend outside door has existing REX button, REX motion, Door contact, Maglock and Card reader. Bring 8 and 10 foot ladder.

Existing Equipment: There is already a access control system in place. KT-300 and 400. The entrance door has a door contact, REX button, REX motion, Electric Maglock and Mullion Reader.

Customer Expectations: M-F 7:30-4:30pm please contact Taylor on arrive and departure.

Training Expectations: Train customer on how to enroll a special needs access card.

General Comments:

Customer Responsibilities / Tyco Exclusions: Customer is responsible for providing a 110 power outlet or a electrical code compliant hardwired connection for TycoIS provided power panel to operate Door Openers above ceiling where panel is to be installed.

Customer will provide access to the server room where the existing access panel for the activity entrance doors

Customer will provide access to the Access Server and login information for technicians to program and make any changes to Access hardware.

Documentation Needs: Please print out SOW and Drawing for technicians.



## BILL OF MATERIALS FOR East Butler Public School District

### East Butler ADA Addition System

QTY	PRODUCT CODE	DESCRIPTION	LOCATION
1	Profile Codes	Profile Codes	
1	65	Access Control	
1	Programming	Programming	
2	K4T-RM1	RELAY DPDT FOR KT-300	
2	RB75-24	Relay Module- 24VDC 5 Amps, 120VAC DPD	
2	RB45	Relay Module- 6VDC or 12VDC operation, 5 Amp/120VAC DPDT Contacts	
1	AL900ULPD4	Power Supply / Charger- 12VDC or 24VDC @ 6 Amp with four (4) fuse protected outputs. UL/CUL Listed.	
400	740049A	Plenum Wiring HCP/ADA	
2	Locksmith	ADAEZ Pro Complete Kit, HCP Buttons, P1056 Hardware Kit	Install Activities' School Entrance

## Elementary Principal Report February Board Meeting



### I. **Preschool/Kindergarten Information**

- A. Preschool applications for in-district students will be accepted March 27-31. Applications for out-of-district students will be accepted April 3-7. They will be available in the office March 1.
- B. Preschool tuition will be \$60.00 for in-district and \$70.00 out-of-district.
- C. Any child who will reach the age of five on or before July 31 is eligible to attend kindergarten. Kindergarten registration will take place March 6-10.
- D. Kindergarten round-up will take place on March 10 in Brainard and Dwight. There will be a parent meeting and time for teachers to work with incoming students.

### II. **NeSA/NWEA Testing Schedule**

- A. April 4-5 NeSA Reading Grades 3-6
- B. April 11-12 NeSA Math Grades 3-6
- C. April 19-20 NeSA Science Grade 5
- D. April 24-28 NWEA Testing Grades K-6

### III. **Cultural Arts Field Trip**

- A. Grades 3-6 students will be attending a cultural arts field trip in Omaha on February 3. Students and staff will be attending “The Time Traveler’s Guide to the Orchestra” presented by the Omaha Symphony at the Holland Performing Arts Center. The group will also attend the Joslyn Art Museum.

### IV. **TigerBots Competition**

- A. The TigerBots were involved in the First Lego League Competition at Columbus Lakeview on January 28. They presented their group project, shared their core values, explained their robot, and participated in the robotics competition. The students and coaches did an excellent job of representing our school.

### V. **Professional Learning/Parent-Teacher Conferences**

- A. The next professional learning opportunity will take place on February 13. Staff will continue working with Edivate in collaborative partners. The writing frameworks group will also meet with Ron Coniglio to discuss next steps to improving writing.
- B. Conferences will be held February 8 at East Butler. School will be dismissed at 1:30.

### VI. **East Butler Geography Bee/Butler County Spelling Bee**

- A. 10 students in grades 5-8 qualified to take part in the East Butler Geography Bee. Trevin Brecka was the winner of the competition and will be taking a written test to decide if he qualifies for the next round.
- B. The Butler County Spelling Bee was held on January 29 at David City High School. Suzie Piitz was the runner-up in the competition.

### VII. **Additional Information:**

- A. *My Mouth is a Volcano!: The Musical* will be presented to PK-6 students on February 22.
- B. The 100<sup>th</sup> Day of school was celebrated on January 24. There will also be an elementary assembly to recognize Nebraska’s 150<sup>th</sup> Birthday on March 1.

To: East Butler Public Schools Board of Education  
From: Michael Eldridge, Secondary Principal  
Date: February 8, 2017  
Re: Secondary Principal's Report

**I. Master Schedule**

- a. Our first meeting with the scheduling committee was on Friday. Some items we discussed were:
  - i. Course opportunities - AP level, Dual credit, trying to offer more electives.
  - ii. My goal is to strengthen our Master schedule by providing more opportunities for our students. Which would include more advanced level classes.
- b. Dual Credit
  - i. I have been in contact with 3 colleges about their dual credit programs (early entry).
    1. Nebraska Wesleyan
    2. Peru State College - We are not in their service area, so they recommended checking with Wayne State.
    3. Wayne State College - I just received information from the College.
    4. Part of the requirement for teaching a dual credit course is that the teacher needs to have a masters in their content area or a masters plus 18 credit hours in their content area
      - a. The majority of our staff has a Masters in Curriculum & Instruction or Administration.
  - c. I will keep you posted as we move forward.

**II. Professional Development**

- a. We will be having Professional Learning on February 13th.
- b. We will continue with Edivate. The focus will be our Principles of Learning tenet - Monitoring Progress

**III. ACT**

- a. I have reserved the Klein Center to administer the ACT test to our Juniors on April 19th.
- b. Everything is proceeding as it should to lead up to this date.
- c. We are currently working out plans to prep the Juniors for this exam.

**IV. Spring Testing**

- a. March 21-22 NeSA Reading (Grades 7 & 8)
- b. April 4-5 NeSA Math (Grades 8)
- c. April 11-12 NeSA Science (Grades 7, 8)
- d. April 19 ACT Test (Grade 11)
- e. April 24-28 NWEA Testing (Grades K-11)
- f. May 3 ACT Makeup Test Date (Grade 11)