

**Cozad Community Schools
Board of Education Regular Meeting
Monday, August 24, 2026 7:00 PM
Office of the Superintendent**

Mission: Cozad Community Schools, in partnership with family and community, prepares students to be successful lifelong learners through quality education.

Vision: Cozad Creates Success

Values - Guiding Principles

Respect - Trust, appreciate, celebrate, value, act with urgency

Integrity - Do the right thing, deliver highest quality instruction and practice full accountability

Teamwork - Teamwork at all levels districtwide, recognize and celebrate, have fun and enjoy

Innovation - Positive attitude, open to new ideas,

Courage - Embrace change and take calculated risk, encourage others, communicate directly with respect

1. **BOARD OF EDUCATION REGULAR MEETING 7:00 P.M.**
 - 1.1. **Call to Order, Roll Call**
 - 1.2. **Pledge of Allegiance**
 - 1.3. **Nebraska Open Meeting Law, Publication of Meeting**
2. **APPROVAL OF THE AGENDA**
3. **PUBLIC COMMENT**
4. **CONSENT AGENDA**
 - 4.1. **Approval of the Minutes of Previous Meeting(s)**
 - 4.2. **Classified Resignations**
 - 4.3. **Classified Hires**
5. **DISCUSS, CONSIDER AND TAKE ALL NECESSARY ACTION TO MAKE A TRANSFER FROM THE GENERAL FUND TO THE DEPRECIATION FUND**
6. **DISCUSS, CONSIDER AND TAKE ALL NECESSARY ACTION REGARDING TRANSFER TO DEPRECIATION FUND SUB-ACCOUNTS**

DEPRECIATION FUND	BALANCE	RECOMMENDATION	TRANSFER
			\$400,000.00
Cash Balance/Interest	\$141,249.40	\$141,249.40	
Ag Room	\$0.00	\$0.00	
Track/Football	\$424,230.00	\$499,230.00	\$75,000.00
Gym Floor Repl	\$9,914.00	\$9,914.00	
Heat Pumps (EL/MS) Repl	\$187,000.00	\$202,000.00	\$15,000.00
Roof Repair/Repl	\$286,952.83	\$286,952.83	
HVAC Repl	\$689,125.40	\$689,125.40	
Band Instruments Repl	\$697.71	\$697.71	
Textbooks	\$107,076.76	\$132,076.76	\$25,000.00
Technology Repl	\$100,400.75	\$100,400.75	
Bus/vehicle Repl	\$672,160.00	\$697,160.00	\$25,000.00
Auditorium	\$35,020.84	\$35,020.84	
Concrete	\$46,873.00	\$306,873.00	\$260,000.00
TOTAL	\$2,700,700.69	\$3,100,700.69	\$3,100,700.69

7. **GENERAL, BUILDING, BOND, LUNCH, ACTIVITIES AND DEPRECIATION FINANCIAL REPORTS AND CLAIMS**
 - 7.1. **Financial Report by Account**
 - 7.2. **Financial Claims**
8. **DISTRICT FINANCIAL OVERVIEW REPORT FROM CARL DIETZ**



Cozad Community School

Cozad Creates Success--#HaymakerWay

**Cozad Board of Education
Financial Planning Workshop**

August 24, 2026

Carl Dietz

EXPENSES UPDATE

- Total Payroll increased \$2.4M (29%) from 2014-2024
- Total expenses increased \$3.8M (36%) during the same time.
- Total expenses increased an average of 3.3% from 2009-2023
- Expenses increased 4.1% the past three years, or 1.36% annually.
- Projections are based on 1% increase in payroll next year and then 3%-4% the following years.
- Non-payroll bills are increased 3% annually.
- Total general fund expenses could increase \$200K next year and then \$400K-\$550K the following years.

EXPENSE PROJECTIONS

EXPENSES							
Year	Payroll	FICA	Retirement	Insurance	Tot Payroll	Bills	Total Expenses
2013-2014	\$5,919,038	\$452,806	\$584,801	\$1,183,808	\$8,140,454	\$2,125,102	\$10,265,556
2023-2024	\$7,678,758	\$587,425	\$715,834	\$1,535,752	\$10,517,769	\$3,483,705	\$14,001,474
2024-2025	\$7,917,586	\$605,695	\$707,023	\$1,583,517	\$10,813,822	\$3,321,970	\$14,135,792
2025-2026	\$8,194,702	\$626,895	\$599,852	\$1,638,940	\$11,060,389	\$3,421,630	\$14,482,018
2026-2027	\$8,274,516	\$633,000	\$605,695	\$1,654,903	\$11,168,114	\$3,524,278	\$14,692,393
2027-2028	\$8,522,752	\$651,990	\$623,865	\$1,704,550	\$11,503,158	\$3,630,007	\$15,133,165
2028-2029	\$8,863,662	\$678,070	\$648,820	\$1,772,732	\$11,963,284	\$3,738,907	\$15,702,191
2029-2030	\$9,218,208	\$705,193	\$674,773	\$1,843,642	\$12,441,815	\$3,851,074	\$16,292,890

EXPENSE PROJECTIONS

ADDITIONAL EXPENSE INFORMATION

Year	Exp Change	Payroll incr	Bills Incr.	\$ Increase
2013-2014				
2014-2015	6.22%	7.79%	0.22%	\$638,539
2015-2016	-0.50%	2.91%	-14.61%	-\$55,011
2016-2017	-0.50%	0.47%	-5.33%	-\$54,136
2017-2018	7.58%	2.61%	33.78%	\$817,964
2018-2019	-0.84%	2.36%	-13.76%	-\$97,474
2019-2020	7.75%	-0.29%	46.33%	\$892,232
2020-2021	-2.39%	3.91%	-22.98%	-\$296,004
2021-2022	4.32%	3.97%	5.84%	\$522,793
2022-2023	10.12%	5.30%	31.03%	\$1,278,634
2023-2024	0.64%	-2.71%	12.29%	\$88,381
2024-2025	0.96%	2.81%	-4.64%	\$134,318
2025-2026	2.45%	2.28%	3.00%	\$346,226
2026-2027	1.45%	0.97%	3.00%	\$210,375
2027-2028	3.00%	3.00%	3.00%	\$440,772
2028-2029	3.76%	4.00%	3.00%	\$569,027

RECEIPT PROJECTIONS

- From 2010-2025 the average general fund tax request increased an average of 8.2% annually.
- Projections are based on a \$230K tax increase in 2026-2027, \$400K in 27-28 and then an average of \$200K increase the following years.
- The average general fund tax request increase for the next five years is about 2.8%
- State Aid could drop \$200K in 2027-2028
- The general fund and building fund tax increase should stay below the JPH limit this year.

RECEIPT PROJECTIONS

RECEIPTS BY PROGRAM

YEAR	Taxes	Local	State Aid	SPED	Prop Tax Credit	Other State	State	Federal	Other	Total Rec
2013-2014	\$5,295,676	\$5,763,438	\$3,003,571	\$577,475	\$186,447	\$331,208	\$4,098,701	\$792,810	\$164,822	\$10,819,771
2023-2024	\$8,319,088	\$9,197,059	\$2,883,292	\$1,230,014	\$548,432	\$429,610	\$5,091,348	\$654,550	\$57,390	\$15,000,347
2024-2025	\$6,138,543	\$7,053,443	\$2,737,085	\$1,315,656	\$2,854,894	\$574,259	\$7,481,894	\$922,779	\$148,806	\$15,565,229
2025-2026	\$6,437,627	\$7,287,627	\$1,941,825	\$1,300,000	\$3,070,253	\$393,686	\$6,705,764	\$583,239	\$165,654	\$14,742,284
2026-2027	\$6,711,168	\$7,561,168	\$1,719,401	\$1,300,000	\$3,200,711	\$396,426	\$6,616,538	\$552,165	\$165,558	\$14,895,429
2027-2028	\$6,865,456	\$7,715,456	\$1,500,000	\$1,300,000	\$3,274,294	\$406,482	\$6,480,777	\$797,119	\$186,497	\$15,179,848
2028-2029	\$7,013,100	\$7,863,100	\$1,500,000	\$1,300,000	\$3,344,709	\$405,254	\$6,549,963	\$848,155	\$162,355	\$15,423,573
2029-2030	\$7,160,744	\$8,010,744	\$1,500,000	\$1,300,000	\$3,415,124	\$405,453	\$6,620,578	\$845,548	\$162,473	\$15,639,343

STATE AID

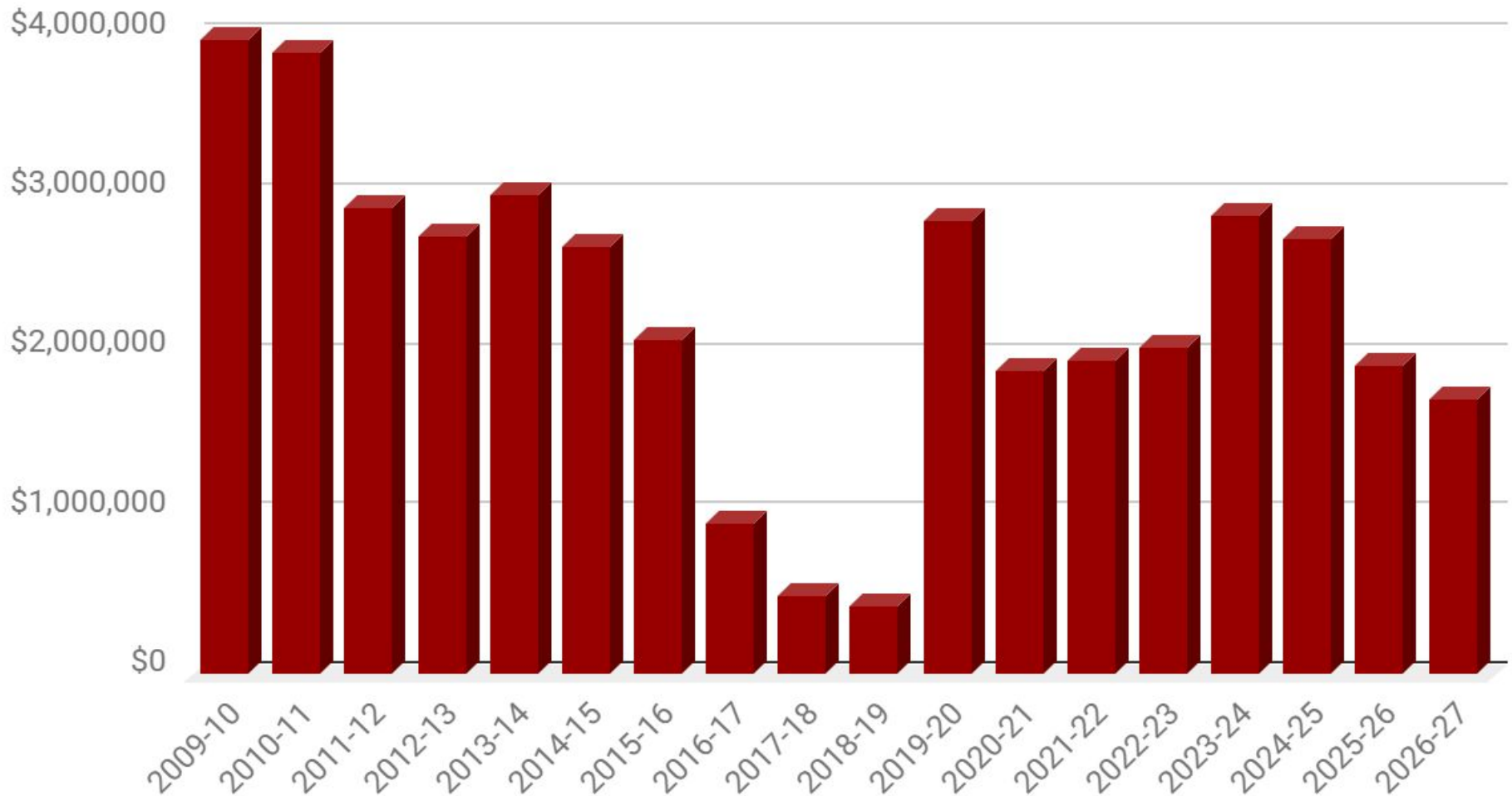
System Needs					
	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
Basic Funding	\$10,610,081	\$11,306,776	\$11,806,433	\$11,967,973	\$12,380,904
Poverty Allowance	\$85,000	\$391,000	\$403,750	\$425,000	\$425,000
LEP Allowance		\$85,000	\$110,500	\$127,500	\$127,500
Summer School Allow		\$3,650	\$27,772	\$29,343	\$28,843
Special Rec Allow	\$661,740	\$627,459	\$627,430	\$1,282,872	\$1,342,222
Transportation Allow	\$82,909	\$95,960	\$100,194	\$118,896	\$21,966
Dist. Ed. allow	\$23,149	\$22,186	\$20,657	\$22,180	
Student Growth Adj		\$6,236	\$225,358	-\$6,208	\$210,154
Tot. Calc. Needs	\$11,462,879	\$12,538,267	\$13,322,094	\$13,967,556	\$14,536,589
Needs Stabilization	\$239,774				
Total System Needs	\$11,702,653	\$12,538,267	\$13,322,094	\$13,967,556	\$14,536,589
System Resources					
Local Effort Rate	\$8,123,697	\$8,311,849	\$9,255,532	\$10,275,622	\$11,357,247
Option Funding		\$28,938	\$20,211	\$40,326	\$32,973
Income Tax Funds	\$97,778	\$111,984	\$130,610	\$128,352	\$116,479
Foundation Aid		\$1,359,944	\$1,375,232	\$829,203	\$821,999
Other Rec	\$1,452,241	\$1,346,970	\$1,430,113	\$2,292,787	\$2,587,395
Total Formula Resources	\$9,673,716	\$11,159,685	\$12,211,698	\$13,566,290	\$14,916,093
State Aid Calculated					
Equalization Aid	\$2,028,937	\$1,378,582	\$1,110,396	\$401,266	-\$574,807
Option Funding		\$28,938	\$20,211	\$40,326	\$32,973
Income Tax Funds	\$97,778	\$111,984	\$130,610	\$128,352	\$116,479
Foundation Aid		\$1,359,944	\$1,375,232	\$829,203	\$821,999
FA Outside Resources				\$552,802	\$547,999
State Aid Calculated	\$2,126,715	\$2,879,448	\$2,636,449	\$1,951,949	\$1,519,450
Prior year Correction	\$5,622	\$3,844	\$100,636	-\$10,124.00	\$199,951
Total State Aid	\$2,132,337	\$2,883,292	\$2,737,085	\$1,941,825	\$1,719,401



HISTORICAL STATE AID

State aid dropped about over \$4 million from 2010 to 2019

Cozad State Aid



RECEIPTS AND EXPENSES

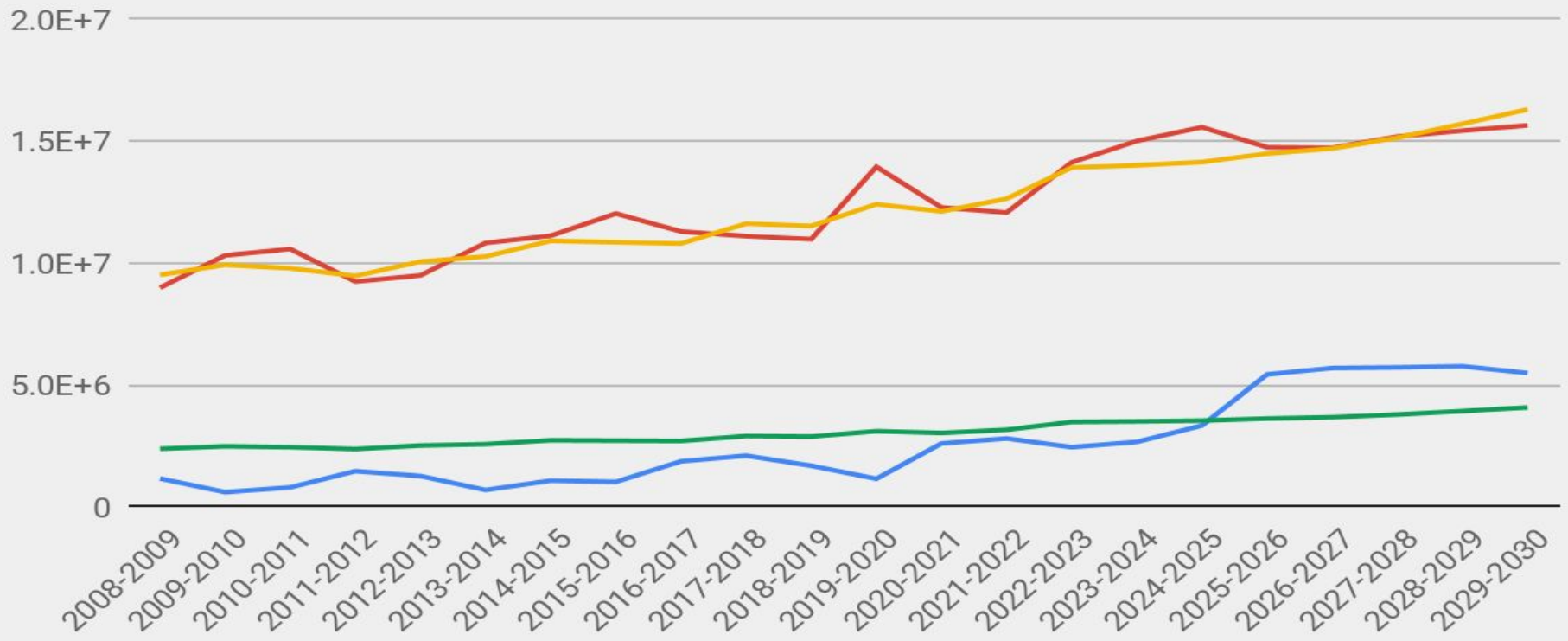
YEAR	Total Rec	Total Exp	Difference	Exp Incr	Rev Incr
2013-2014	\$10,819,771	\$10,265,556	\$554,215	\$212,303	\$1,332,367
2014-2015	\$11,115,662	\$10,904,095	\$211,567	\$638,539	\$295,891
2015-2016	\$12,025,854	\$10,849,084	\$1,176,770	-\$55,011	\$910,192
2016-2017	\$11,291,203	\$10,794,948	\$496,255	-\$54,136	-\$734,651
2017-2018	\$11,096,996	\$11,612,912	-\$515,916	\$817,964	-\$194,207
2018-2019	\$10,975,811	\$11,515,438	-\$539,627	-\$97,474	-\$121,185
2019-2020	\$13,940,008	\$12,407,670	\$1,532,338	\$892,232	\$2,964,197
2020-2021	\$12,274,478	\$12,111,666	\$162,812	-\$296,004	-\$1,665,530
2021-2022	\$12,064,534	\$12,634,459	-\$569,925	\$522,793	-\$209,944
2022-2023	\$14,123,401	\$13,913,093	\$210,308	\$1,278,634	\$2,058,867
2023-2024	\$15,000,347	\$14,001,474	\$998,873	\$88,381	\$876,946
2024-2025	\$15,565,229	\$14,135,792	\$1,429,437	\$134,318	\$564,882
2025-2026	\$14,742,284	\$14,482,018	\$260,266	\$346,226	-\$822,945
2026-2027	\$14,719,346	\$14,692,393	\$26,954	\$210,375	-\$22,938
2027-2028	\$15,179,848	\$15,133,165	\$46,683	\$440,772	\$460,502
2028-2029	\$15,423,573	\$15,702,191	-\$278,618	\$569,027	\$243,725
2029-2030	\$15,639,343	\$16,292,890	-\$653,547	\$590,699	\$215,769

GENERAL FUND CASH BALANCE

- From 2008-2020 the cash balance was dangerously low.
- A cash balance of three months of expenses is recommended
- The cash balance on Sept. 1, 2025 was \$5.4 million.

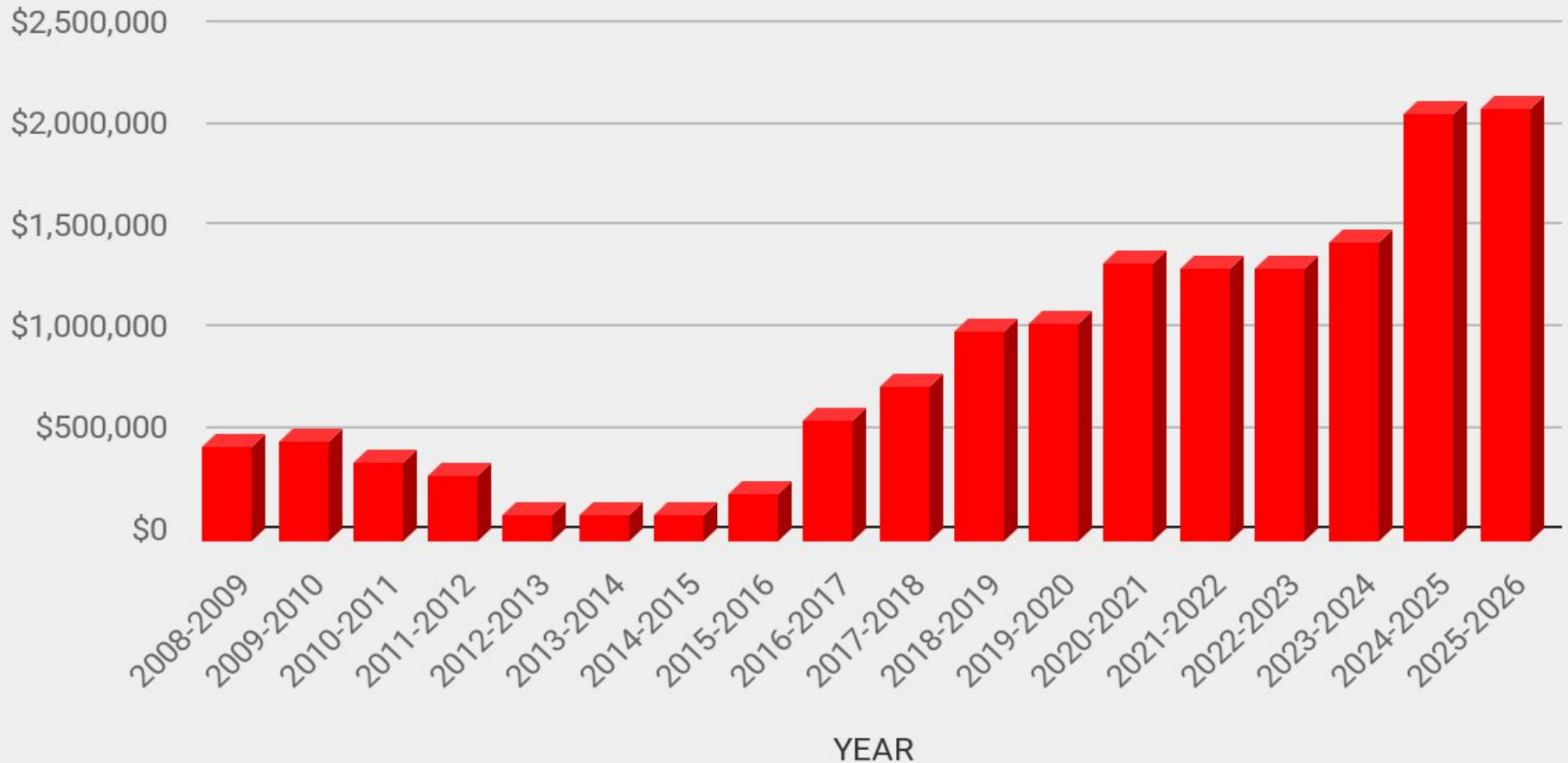
Receipts, Expenses, Cash Balance and Goal

■ Beg Cash ■ Receipts ■ Expenses ■ Goal



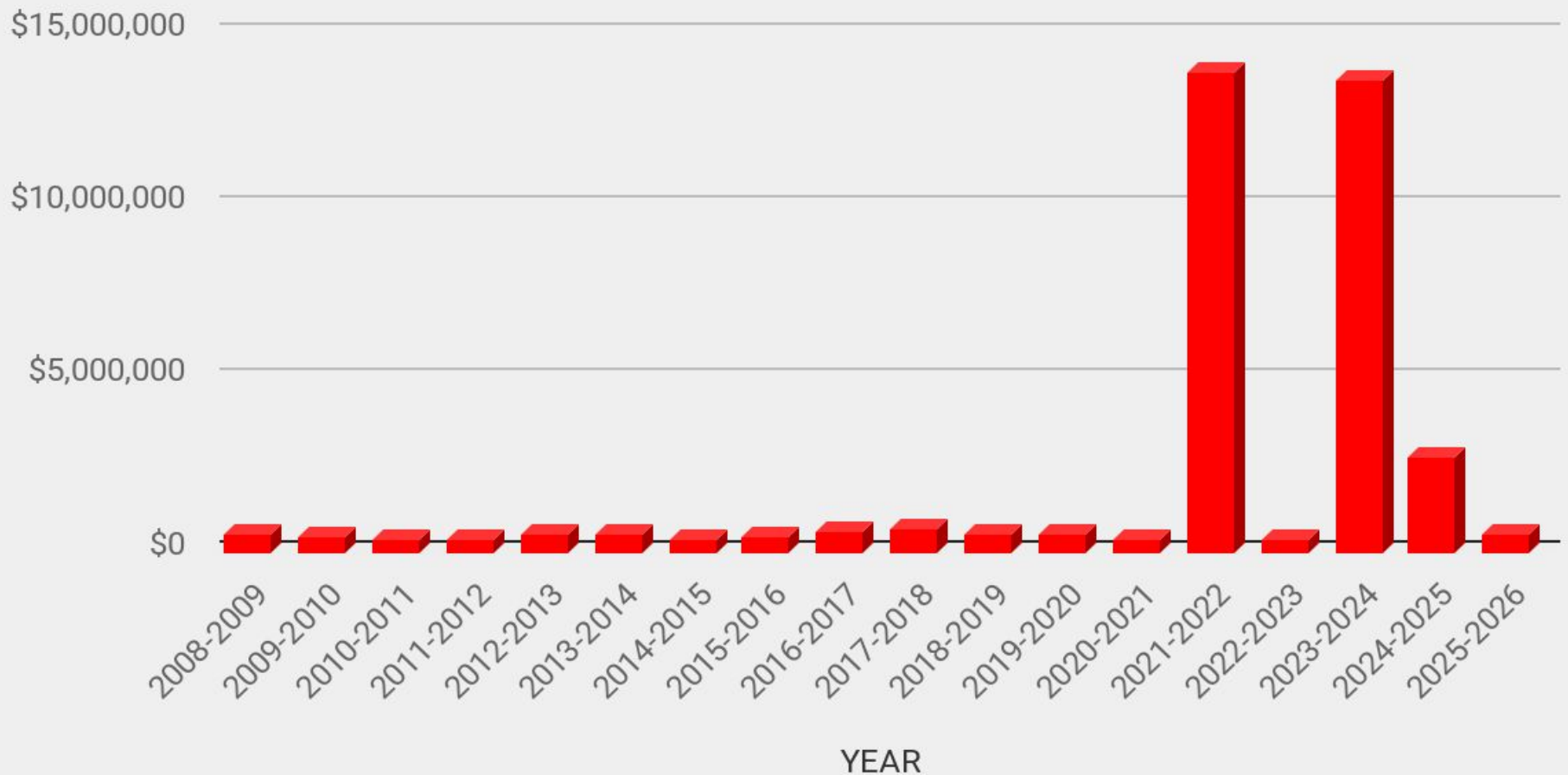
CHARTING YOUR CASH BALANCE

Depreciation Fund Cash



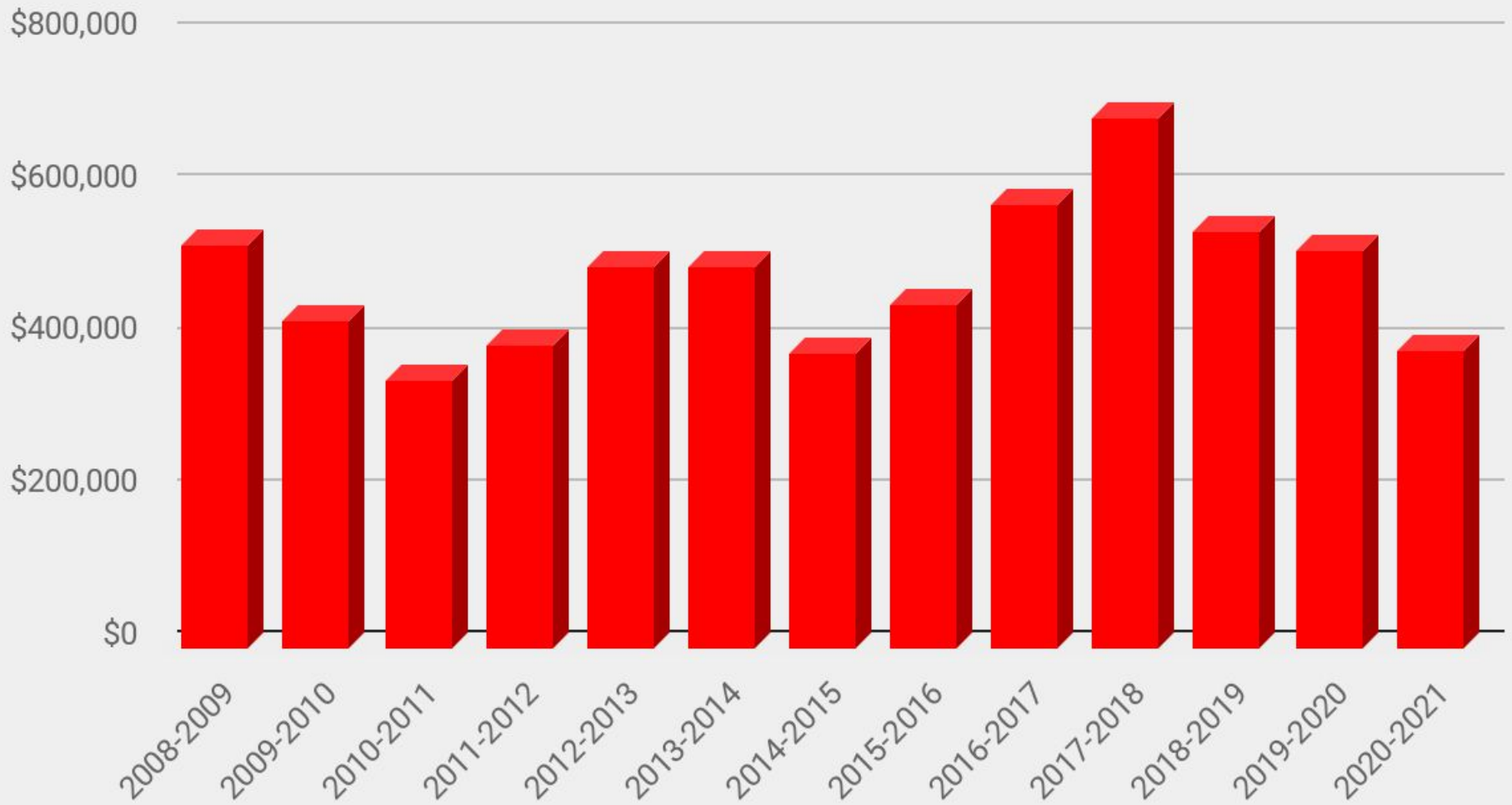
CHARTING YOUR CASH BALANCE

Building Fund Cash



CHARTING YOUR CASH BALANCE

Building Fund Cash Balance prior to Construction



2026-2027 BUDGET

BUDGET INFORMATION

	2026-2027	2025-2026	2024-2025	2023-2024	2022-2023
General	\$18,006,137	\$17,848,007	\$17,968,000	\$16,677,426	\$15,984,711
Depreciation	\$3,690,903	\$2,201,755	\$2,042,565	\$1,944,440	\$1,586,990
Employee Ben	\$29,571	\$28,743	\$28,203	\$20,502	\$19,769
Contingency					
Activities	\$1,118,412	\$998,149	\$807,818	\$918,250	\$758,072
Nutrition	\$1,015,353	\$1,006,704	\$1,061,200	\$1,112,831	\$1,117,921
Bond	\$4,434,966	\$4,917,789	\$3,035,048	\$2,351,660	\$2,364,544
Building	\$1,300,833	\$751,286	\$3,542,408	\$13,198,763	\$24,960,806
QCPUF	\$388,648	\$304,090	\$783,000		
Cooperatiave		\$304,090	\$783,000		
Student Fee	\$12,894	\$10,807	\$11,006	\$15,000	
TOTAL	\$29,997,717	\$28,371,420	\$30,062,248	\$36,238,872	\$46,792,813

TAX LIMITS

- The LB 644 growth was 2.54% (\$247,761) for 25-26 and 2.76% (256,788) for 24-25.
- LB 243 growth is limited to 3% annually.
- 2.5% growth is shown for the JPH.

TOTAL TAX REQUEST											
Tax Inc	Year	General Fund	2022 Bond	Elem Bond	Building Fund	QCPUF	General & Building Fund Tax	LB 644-727 JPH limit	Unused Authority carryover	LB 243 Limit with 3% growth	Additional 6%
	2013-2014	\$5,653,303		\$595,586	\$58,507		\$5,711,810				
	2023-2024	\$9,005,939	\$1,780,969	\$571,238	\$297,983		\$9,303,923	\$8,967,555		\$8,566,372	\$9,304,790
3.32%	2024-2025	\$9,304,896	\$1,919,196		\$449,491	\$282,826	\$9,754,387	\$9,560,707		\$9,108,490	\$9,927,986
6.44%	2025-2026	\$9,904,042	\$1,919,196	\$0	\$397,504	\$282,830	\$10,301,545	\$10,002,153		\$11,106,226	\$11,996,387
4.25%	2026-2027	\$10,324,873	\$1,547,285	\$0	\$414,778	\$301,637	\$10,739,651	\$10,559,084	\$1,544,955	\$12,423,702	\$13,305,989
2.30%	2027-2028	\$10,562,240	\$1,729,318	\$0	\$454,290	\$317,174	\$11,016,530	\$11,008,143		\$12,796,413	\$13,705,169
2.15%	2028-2029	\$10,789,385	\$1,729,318	\$0	\$454,290	\$317,174	\$11,243,675	\$11,291,943		\$13,180,305	\$14,116,324
2.11%	2029-2030	\$11,016,530	\$1,729,318	\$0	\$454,290	\$317,174	\$11,470,819	\$11,524,766		\$13,575,715	\$14,539,813

LEVY AND TAX REQUEST

- The General Fund Effective Rate would have been .55 and .52 the past two years.
- The Effective Tax Request has been approximately \$5.5 million and \$5.9 million the past two years. The chart below shows a 1%-4% tax increase.
- The general fund tax request increase for 26-27 is about 1.37%/
- The total tax increase is about 1.38%

TAX REQUEST INFORMATION

	2026-2027	2025-2026	2024-2025	2023-2024	2022-2023
General	\$10,141,454	\$9,904,041	\$9,304,897	\$9,005,939	\$8,400,000
Bond	\$1,985,073	\$1,919,192		\$1,780,970	\$1,550,000
Bond			\$1,919,192	\$571,238	\$425,000
Building	\$414,775	\$454,545	\$449,495	\$297,980	\$325,000
QCPUF	\$321,837	\$282,828	\$282,828		
TOTAL	\$12,863,139	\$12,560,606	\$11,956,412	\$11,656,127	\$10,700,000

LEVY INFORMATION

FUND	2026-2027	2025-2026	2024-2025	2023-2024	2022-2023
General	\$0.892950	\$0.872046	\$0.918792	\$0.9861	\$1.0109
Bond				\$0.2315	\$0.2242
Bond	\$0.174785	\$0.210885	\$0.224200	0.189435	0.167824
Building	\$0.036521	\$0.040022	\$0.054358	\$0.0326	\$0.0356
QCPUF	\$0.02834	\$0.02490	\$0.02793		
TOTAL	\$1.132594	\$1.147856	\$1.225277	\$1.4396	\$1.4385

JOINT PUBLIC HEARING

Prior Year <u>Non-Bond</u> Property Tax Request				(1)	\$	10,303,031.00
<i>(Total Personal and Real Property Tax Required for <u>All Other Purposes</u> from prior year budget - Cover Page)</i>						
Base Limitation Percentage Increase (2%)				2.00	%	(2)
Real Growth Percentage Increase						
	5,500,000.00	/	1,135,724,702.00	=	0.48	% (3)
	2026 Real Growth Value per Assessor		Prior Year Total Property Valuation per Assessor			
Total Allowable Growth Percentage Increase (Line 2 + Line 3)				(4)	2.48	%
Allowable Dollar Amount of Increase to Property Tax Request (Line 1 x Line 4)				(5)	\$	255,515.17
TOTAL PROPERTY TAX REQUEST (Line 1 + Line 5)				(6)	\$	10,558,546.17
<i>(Without needing to attend Joint Public Hearing, or be included on postcard notification)</i>						
ACTUAL PROPERTY TAX REQUEST						
2026-2027 ACTUAL <u>Non-Bond</u> Property Tax Request				(7)	\$	10,556,229.00

MONTHLY FINANCIAL REPORT

MONTHLY FINANCIAL REPORT

Payroll and Bills Breakdown (April)

	2023-2024	2024-2025	2025-2026
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GF Bills Payable	\$42,730	\$88,886	\$100,000
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GF Payroll	\$265,335	\$284,717	\$352,870
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Total GF Expenses	\$308,065	\$373,603	\$452,870
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Expense Running Total	\$2,866,406	\$3,075,842	\$3,546,293
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GF Running Balance			
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Total Expenses (Three Year Comparison)

Month	2023-2024	2024-2025	2025-2026
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September	\$457,767	\$441,956	\$506,479
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October	\$377,498	\$408,836	\$451,285
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November	\$376,983	\$388,602	\$416,009
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December	\$348,571	\$363,182	\$394,428
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January	\$323,770	\$379,443	\$448,756
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February	\$335,379	\$366,792	\$416,690
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March	\$338,373	\$353,428	\$459,776
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April	\$308,065	\$373,603	\$452,870
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May	\$350,097	\$373,187	
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June	\$318,617	\$369,773	
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July	\$287,800	\$311,312	
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August	\$278,449	\$335,367	
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Total Through April	\$2,866,406	\$3,075,842	\$3,546,293
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General Fund Revenue (Three Year Comparison)

Month	2023-2024	2024-2025	2025-2026
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September	\$579,146	\$571,038	\$346,984
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October	\$248,096	\$196,041	\$107,568
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November	\$299,656	\$88,111	\$129,853
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December	\$165,182	\$475,538	\$188,745
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January	\$869,446	\$521,580	\$715,277
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February	\$396,219	\$731,368	\$722,120
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March	\$234,552	\$260,245	\$143,215
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April	\$258,169	\$246,936	\$145,595
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May	\$866,772	\$1,016,168	
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June	\$258,640	\$272,284	
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July	\$83,716	\$70,376	
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August	\$61,977	\$64,311	
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Running Total	\$4,321,571	\$4,513,996	\$2,499,357
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Reconciled Cash Balances (April)

	2023-2024	2024-2025	2025-2026
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General			
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Depreciation			
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Employee Ben			
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Activity Fund			
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Nutrition			
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TAXING FUNDS

- ❖ **GENERAL FUND (01)** Finances all facets of services rendered by the school district.
- ❖ **BOND FUND (07)** Shall be used to record tax receipts, investment interest, and the payment of bond principal, interest, and other related costs (i.e. trustee fees).
- ❖ **SPECIAL BUILDING FUND (08)** Shall be established when a school board decides to acquire or improve sites and/or to erect, alter or improve buildings.
- ❖ **QUALIFIED CAPITAL PURPOSE UNDERTAKING FUND (09)** May be established for the removal of environmental hazards, the reduction or elimination of accessibility barriers in school district buildings.

NON-TAXING FUNDS

- ❖ **DEPRECIATION FUND (02)** May be established in order to facilitate the eventual purchase of costly capital outlay by reserving such monies from the General fund.
- ❖ **EMPLOYEE BENEFIT FUND (03)** May be established in order to specifically reserve *General Fund money* for the benefit of school district employees.
- ❖ **CONTINGENCY FUND (04)** May be established by a school district to fund uninsured losses and legal fees incurred by the school district.
- ❖ **ACTIVITIES FUND (05)** Is required to account for the financial operations of quasi-independent student organizations, and other school activities.
- ❖ **SCHOOL NUTRITION FUND (06)** is required to accommodate the financial activities of all Nutrition Programs operated by the school.
- ❖ **COOPERATIVE FUND (10)** May be used by the school district acting as the fiscal agent for any cooperative activity between two or more political subdivisions.
- ❖ **STUDENT FEE FUND (12)** Is a separate school district fund into which all money collected from students is deposited into a separate account.

9. **DISCUSS, CONSIDER AND TAKE ALL NECESSARY ACTION TO ADOPT A RESOLUTION INCREASING THE DISTRICT'S BASE GROWTH PERCENTAGE BY UP TO SIX PERCENT (6%)**
10. **DISCUSS, CONSIDER, AND TAKE ALL NECESSARY ACTION TO ENTER INTO A CONTRACT WITH ENGINEERING TECHNOLOGIES INCORPORATED FOR THE HIGH SCHOOL CHILLER AND MIDDLE SCHOOL BOILER REPLACEMENT PROJECT**



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 17th day of August in the year 2026 (“Effective Date”)
(In words, indicate day, month and year.)

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

Dawson County School District 24-0011, a/k/a Cozad Community Schools
A political subdivision and public school district of the State of Nebraska
170 Meridan Avenue
Cozad, NE 68130

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

Engineering Technologies, Inc. d/b/a ETI
A Nebraska corporation
825 M Street, Suite 200
Lincoln, NE 68508
(Engineering firm hereinafter referred to as “Architect”)

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

Cozad Community Schools – Cozad High School chiller replacement and Cozad Middle School boiler replacement project.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 to or deleted from the original AIA text.

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND 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.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

See the project description

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

To be determined

§ 1.1.3 The Owner's Construction Budget:

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

The Owner's Construction initial preliminary construction budget for the Project is approximately \$500,000.00, subject to further refinement by the Owner in consultation with the Architect (Engineer).

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

To be determined

.2 Construction commencement date:

To be determined

.3 Substantial Completion date or dates:

High School chiller operational by April 10, 2027
Middle School boiler operational by September 15, 2027
Substantial Completion to be determined

.4 Other milestone dates:

None

§ 1.1.5 The Owner intends the following construction procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

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

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Dan Endorf, Superintendent
Cozad Community Schools
1710 Meridian Avenue
Cozad, NE 68130
308-784-2745
dan.endorf@cozadschools.net

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

Not applicable

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Not required

.2 Site Survey:

Not required

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

None

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

Derek Kotschwar, Principal
Engineering Technologies, Inc.
825 M Street, Suite 200
Lincoln, NE 68508
402-476-1273
dkotschwar@eti-engineers.com

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Electrical Engineer:

ETI

.2 Mechanical Engineer:

ETI

§ 1.1.11.2 Consultants retained under Supplemental Services:

None

§ 1.1.11.3 The Owner reserves the right to refuse or limit Architect's use of any employee or consultants and to require Architect to remove any employee or consultant already engaged in the performance of the services on the Project.

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

None

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

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

§ 1.4 The term of this Agreement shall be for a period beginning on the Effective Date and shall continue 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 the 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 Project.
- .2 The termination of this Agreement according to its terms.

§ 1.5 This Agreement shall not create a continuing contract for architectural services for future building projects or bond elections beyond the terms of this Agreement.

§ 1.6 Any additional services to be provided by the Architect not otherwise identified in this Agreement shall be determined by a separate written agreement or addendum to this Agreement signed by both parties.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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

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

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement.

§ 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.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000) each accident, One Million Dollars (\$ 1,000,000) each employee, and One Million Dollars (\$ 1,000,000) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate. Policy limits for Professional Liability in excess of the Architect's usual and customary limits may be required to be added by a Specific Job endorsement, the premium of which may be covered by the Owner as a reimbursable expense.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.5.9 Excess or Umbrella Liability with policy limits of not less than Three Million Dollars (\$ 3,000,000).

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary mechanical and electrical engineering services and other services described herein. Services not set forth in this Article 3, or not identified as Basic Services in Article 4, are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, 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, and shall not be responsible for, the accuracy, completeness, and timeliness 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 shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for the date of Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause,

be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

§ 3.1.5 The Architect, at appropriate times, shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 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.

§ 3.1.7 Basic Services

§ 3.1.7.1 In addition to the usual and customary architecture and engineering services to be provided by the Architect under this Article 3, Basic Services under this Agreement also shall include the specific services identified in the non-exclusive list below.

- .1 Engineering design (including Electrical and Mechanical)
- .2 Construction administration and construction observation
- .3 Value analysis
- .4 Cost estimating
- .5 Conformed documents for construction
- .6 As-designed record drawings
- .7 Contractor's as-built drawings

- .8 Post-occupancy evaluation
- .9 Consultant coordination

§ 3.1.7.2 Specific Basic Services shall include the following items:

- .1 Prepare and provide one set of sealed working drawings, specifications, and other Contract Documents describing the material and workmanship required for the construction of the Project. Specification documents will be coordinated with the Owner to include its requirements.
- .2 Handle all matters pertaining to printing, advertising, and distribution of the Contract Documents. Assist in the solicitation for bids from qualified contractors.
- .3 Attend a pre-bid conference prior to the bid date to describe the project requirements to contractors and walk through the two facilities with them.
- .4 After the bidding process is complete, evaluate the bids received and make a recommendation as to the lowest responsible bidder.
- .5 Issue such additional instructions to the Contractor as may be necessary to interpret the approved plans and specifications or to illustrate changes required in the Contractor's work.
- .6 Review shop drawings submitted by the Contractor for general compliance with the approved plans and specifications.
- .7 Review applications for pay requests submitted by the Contractor.
- .8 Provide on-site observation trips during the course of the project, as necessary. On-site observation is required to observe installation procedures and to help maintain quality control.
- .9 When the Contractor completes all the work in accordance with the terms of the Contract, the Architect (Engineer) shall verify that the work done and materials supplied are in general conformance with the plans and specifications and shall recommend that final payment be issued to the Contractor.

§ 3.1.8 Owner's Approval Not a Waiver. Approval by the Owner of any plans, studies, designs, specifications, reports, or Instruments of Service furnished by the Architect under this Agreement shall not constitute and shall not in any way be deemed to be a release of the responsibility and liability of the Architect, its agents, employees, and

subcontractors, for the adequacy of the Architect's work or for the Instruments of Service, nor shall such approval be deemed to be an assumption of such responsibility and liability by the Owner for any defect in the Instruments of Service prepared by the Architect, its agents, employees, subcontractors, or consultants. The Owner's approval or acceptance of, or payment for, any of the Architect's services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

§ 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, including all applicable building codes, fire codes, indoor air quality standards, life-safety codes and standards, accessibility barrier standards, and any other required building components, systems or structures.

§ 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, the proposed procurement and 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. 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 representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable 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 more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

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

§ 3.2.6 The Architect shall submit to the Owner a written Opinion of Probable Cost of the Work prepared in accordance with Section 6.3.

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

§ 3.3 Design Development Phase Services

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

Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the written Opinion of Probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the written Opinion of Probable Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, the Owner's written authorization to proceed, 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 and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

§ 3.4.2.1 The Architect, at appropriate times during the Construction Documents Phase, shall 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, including:

- .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.
- .2** Prepare written Opinions of Probable Cost of the Work to include such codes compliance design standards and requirements for the improvements to be constructed.
- .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 Marshal, and any deputy Fire Marshal, 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 Project. 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. The Owner will notify the Architect if there is a change in the governmental authorities with jurisdiction over the Project during the term of this Agreement.

§ 3.4.2.2 The Architect shall design for accessibility by persons with disabilities in conformance with the provisions and references in applicable state or local building codes and the technical design requirements of the Americans with Disabilities Act (ADA) and, if applicable, the Fair Housing Act (FHA) in effect as of the date of completion of the design to the extent those statutes apply to the Project. The Owner will determine the full extent of its obligations under the ADA and FHA, including whether the ADA and/or the FHA apply to the Project, the extent that modifications are readily achievable under the ADA, and the extent that modifications to improve disability access are necessary during an alteration and provide the Architect with such information.

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

§ 3.4.4 The Architect shall update the written Opinion of Probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the Opinion of Probable Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall 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, if applicable, negotiated proposals; (2) confirming responsiveness of bids or, if applicable, proposals; (3) determining the successful bid or, if applicable, 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 assisting in preparing Bidding Documents for distribution to prospective bidders;
- .2 facilitating the distribution of Bidding Documents to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda;
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner; and
- .6 make recommendations to the Owner as to the lowest responsible bidder.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201, General Conditions of the Contract for Construction, as amended. If the Owner and Contractor modify AIA Document A201, 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 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 or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Except as provided in Section 3.6.6.5 through 3.6.6.8, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction 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. 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 promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect, after consulting with the Owner, has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and/or 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. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

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

Owner's decisions in consultation with the Architect's decisions on matter relating to aesthetic effect shall be final if consistent with the intentions expressed in the Contract Documents.

§ 3.6.2.6 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 Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site and of the Work on the Project as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) 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 suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

§ 3.6.4 Submittals

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

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

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents, 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. 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 Contractor-generated request for information within three (3) working days after receipt by the Architect. The Architect shall endeavor to issue a written answer to the Contractor and the Owner, if desired, for each Contractor request for information (along with necessary descriptive drawings, specifications, or other documents) with the promptness necessary to avoid unnecessary delay or cost, but no longer than ten (10) working days after the request for information is received by the Architect. If the request for information processing will exceed the agreed upon review period, the Architect will notify the Contractor and Owner.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect, after advising the Owner in writing, may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The 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:

- .1 conduct site visits for observable or reasonably discoverable defects and/or deficiencies in the Work;
- .2 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .3 in consultation and with approval of the Owner, issue Certificates of Substantial Completion;
- .4 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .5 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

§ 3.6.6.6 Promptly after the Owner receives the Certificate of Substantial Completion from the Architect, the Architect shall furnish the Owner, at no expense to the Owner, reproducible Architect As-Design Record Drawings, and the Contractor's As-Constructed Drawings in a form approved by the Owner. The Architect shall also provide the Owner an electronic file of the Architect's As-Design Record Drawings, and the Contractor's As-Constructed 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 either "As-Designed Record Drawings," or "As-Constructed Record Drawings."

§ 3.6.6.7 The Architect shall, on behalf of the Owner, 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.

§ 3.6.6.8 Upon the issuance of a Certificate of Substantial Completion, the Architect shall:

- .1 Provide assistance, as requested by the Owner, to obtain from the Contractor any refinement or adjustment to any equipment or system during the Corrective Work period. Corrective Work period shall mean one (1) year from the date of the Certificate of Substantial Completion.
- .2 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 discuss satisfactory correction. Additional site visits during the Warranty Period by the Architect shall be provided as an Additional Service on an hourly basis.
- .3 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 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Unless otherwise specified as an Architect-provided Basic Service, the Architect shall provide the listed Services as Supplemental Services only if specifically designated in the table below as the Architect's responsibility and only if the Owner notifies the Architect in writing of the need for Supplemental Service and the Owner authorizes the Architect to perform such Supplemental Services in writing. The Owner shall compensate the Architect for those Supplemental Services authorized by the Owner as provided in Section 11.2. Failure of the Architect to notify and obtain written authorization to perform Supplemental Services will result in a denial of compensation by the Owner. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. *(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Architect Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided

Architect Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Not Provided
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis required under Sections 6.5, 6.6 and 6.7	Architect (as Basic Service)
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Architect (as Basic Service)
§ 4.1.1.14 Conformed documents for construction	Architect (as Basic Service)
§ 4.1.1.15 As-designed record drawings	Architect (as Basic Service)
§ 4.1.1.16 As-constructed record drawings	Architect (as Basic Service)
§ 4.1.1.17 Post-occupancy evaluation	Architect (as Basic Service per § 3.6.6.8)
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Architect's consultants	Architect (as Basic Service)
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Architect (if authorized)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

None

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

None

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services 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 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 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 Additional 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 size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations, provided that the Architect fully complied with the Architect's requirements under §§ 3.1.7 and 3.4.2.1 herein;
- .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 models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner after initial bidding;
- .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 [omit];
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 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, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination, and thereafter the Owner and the Architect shall meet and confer about how, if at all, the Architect may be compensated for those services already performed

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 [omit];
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 [omit]

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

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is later, may be compensated, in the sole discretion of the Owner, as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Architect, 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 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. 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.

§ 5.4 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 other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7[omit]

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

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

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

§ 5.11 The Owner shall provide timely 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 and Construction Documents, provided however that the Owner's failure or omission to do so shall not relieve the Architect of its responsibilities hereunder and the Owner shall have no duty of observation, inspection or investigation. The Owner shall be entitled to rely on the Architect's Instruments of Service, 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.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall timely notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor 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 contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner. The Owner's Construction Budget shall include the Cost of the Work and construction contingency, but not an Owner's contingency.

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

§ 6.3 In preparing Opinions of Probable Cost of Work, the Architect shall be permitted to include reasonable contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the Opinion of Probable Cost of the Work to meet the Owner's budget. The Architect's Opinion of Probable Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed cost estimating services, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

§ 6.5 If at any time the Architect's latest Opinion of Probable Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall at the Owner's direction and in the Owner's sole discretion (i) redesign and make appropriate changes, modifications and revisions to the design and Construction Documents for the Project in order to reduce the Architect's Opinion of Probable Cost of the Work within the Owner's budget for the Cost of the Work, or (ii) make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work.

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

- .1 the Owner may give written approval of an increase in the budget for the Cost of the Work;
- .2 the Owner may authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 the Owner may terminate this Agreement in accordance with Section 9.5;
- .4 in consultation with the Architect, the Owner may revise the Project program, scope, or quality as required to reduce the Cost of the Work;
- .5 in consultation with the Owner, the Architect shall redesign and make appropriate changes, modifications and revisions to the design and Construction Documents without change to the Project program, scope or quality; or,
- .6 the Owner may implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under either Section 6.6.4 or Section 6.6.5, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1, and assist with the negotiation of a lower contract price with the Contractor for the Project or the re-bidding of the Project as required by the Owner and/or by law.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 The Architect grants to the Owner a perpetual, world-wide, royalty-free, paid-up, nonexclusive license to use the Architect's Instruments of Service, including all Drawings and Specifications and all electronic source files in whatever format, for any purpose, including the design and/or construction of current or future facility projects of the Owner. 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 suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service. The Architect and the Architect's consultants shall incur no liability for the Owner's use or reuse of Instruments of Service other than in connection with the Project unless the Architect is involved in the reuse project. Prior to the reuse of any Instruments of Service 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. 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 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.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.1.2 The Architect acknowledges that the 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, the 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 Only to the extent damages are covered by property insurance and payment is received from applicable 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, 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.

§ 8.1.3 The Architect waives consequential damages against the Owner for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement, except as specifically provided in Section 9.7. The Owner expressly reserves the right to claim consequential damages against the Architect, subject to the limitation on damages provided in § 12.14.

§ 8.1.4 Architect Indemnity

§ 8.1.4.1 Indemnity / Non-Professional Acts. The Architect and Architect's consultants shall indemnify, defend and hold harmless the Owner, and all of its board members, officers, administrators, agents, representatives, and employees, from any and all third party losses, damages, liabilities, judgments, or expenses, including reasonable attorney's fees and expenses, 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, Owner's consultants, the Architect, and the Architect's consultants, to the extent caused by the negligent acts, errors or omissions by the Architect, its employees and its consultants, and for patent, copyright or trademark infringement attributable to the Architect's services.

§ 8.1.4.2 Indemnity / Professional Acts. The Architect shall indemnify and hold harmless the Owner, and all of its board members, officers, administrators, agents, representatives, and employees, from and against from any and all third party losses, damages, liabilities, judgments, or expenses, including reasonable attorney's fees and expenses, 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, Owner's consultants, the Architect, and

the Architect's consultants, but only to the extent they are caused by the negligent acts, errors or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold harmless the Owner does not include a duty to defend. The Architect's duty to indemnify the Owner under this § 8.1.4.2 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

§ 8.1.4.3 The Architect understands and agrees that the indemnification, defense, 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.

§ 8.1.5 Direct Negotiation. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to a written request to seek to resolve such through direct negotiation at a meeting of the senior management of the Owner and the Architect as a condition precedent to mediation. The parties shall endeavor to schedule a meeting within two weeks of such request.

§ 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.

§ 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 this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

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

- ☐ Arbitration pursuant to Section 8.3 of this Agreement
- ☒ Litigation in a court of competent jurisdiction in Dawson County, Nebraska
- ☐ Other: *(Specify)*

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

§ 8.3 [omit]

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect for undisputed sums in accordance with this Agreement and such non-payment is not cured within ten (10) calendar days' after receipt by the Owner of written notice from the Architect, 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 Owner shall pay the Architect all undisputed sums due prior to suspension. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 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 days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' advance written notice and opportunity for the other party 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.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7

Notwithstanding any other provisions of the Contract Documents to the contrary, it is expressly understood and agreed that the legal 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. 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.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Nebraska. Mandatory and exclusive jurisdiction and venue for any disputes shall be in state or federal courts in Dawson County, Nebraska.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, as amended. 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, including any payments due to the Architect by the Owner prior to the assignment.

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

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

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

§ 10.6.1 Notwithstanding § 10.6, the Architect shall be responsible and liable for any hazardous materials or toxic substances, as defined in AIA A201, that the Architect, by its acts or omissions, knowingly or should have known introduces, causes, or allows to be introduced to the Project site. The Architect shall promptly disclose in writing to the Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which the Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written authorization by 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 of the specific information considered by the Owner to be confidential or proprietary.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Notwithstanding the foregoing, the parties expressly understand, acknowledge and agree that because the Owner is a

governmental entity subject to public records laws, any information provided by the Architect to the Owner may be subject to disclosure in accordance with applicable State and federal public records laws.

§ 10.8.1 The receiving party may disclose “confidential” or “business proprietary” information after seven (7) days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a public records request, subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. The Owner hereby 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 invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

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

- .1** Stipulated Sum
(Insert amount)

Not applicable

- .2** Percentage Basis
(Insert percentage value)

~~Nine and 6/10~~ % of the final Cost of the Work (**9.6%**), as calculated in accordance with Section 11.6.

- .3** Other
(Describe the method of compensation)

Not Applicable

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1, if approved by the Owner, 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.)

The Architect’s Hourly Rate Schedule, Appendix A, for hours incurred by the Architect’s personnel assigned and working on the Project.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, if approved by the Owner, the Owner shall compensate the Architect as follows:

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

The Architect’s Hourly Rate Schedule, Appendix A, for hours incurred by the Architect’s personnel assigned and working on the Project.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect with no markup, plus percent (%), or as follows:

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

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Thirty	percent (	30	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Thirty	percent (	30	%)
Total Basic Compensation	one hundred	percent (	100	%)

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

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth on the Architect's Hourly Rate Schedule, Appendix A. Except as otherwise agreed to in writing by the Owner, the hourly for all personnel and consultants listed on the Architect's Hourly Rate Schedule, Appendix A, shall remain fixed and shall not be adjusted during the entire term of this Agreement. Except as otherwise agreed to in writing by the Owner, the hourly rates of the Architect's consultants charged to the Owner shall be the same hourly rates the consultants charge the Architect, without any markup to the Owner.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project only if requested by and authorized in writing in advance by the Owner, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence (but not Architect time), only if requested by and authorized in writing in advance by the Owner;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents, not otherwise provided or directly paid for by the Owner;
- .5 Postage, handling, and delivery;
- .6 [omit]
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner for the Project;
- .8 [omit]

.9 All taxes levied on professional services and on reimbursable expenses;

.10 [omit]

.11 [omit]

.12

Reproduction of bid documents (plans and specifications) and associated distribution and postage/shipping costs will be directly billed to the Owner by the printer in order for the Owner to obtain tax exempt privileges.

Rates for the foregoing Reimbursable Expenses shall be based upon the Architect's Reimbursable Expense Schedule, attached as Appendix A. Except as otherwise agreed to by the parties, the rates for all reimbursable expenses listed on the Architect's Reimbursable Expense Schedule, Appendix A, shall remain fixed and shall not be adjusted during the entire term of this Agreement.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants with no markup plus percent (%) of the expenses incurred.

§ 11.8.3 The Architect shall not incur Reimbursable Expenses in excess of the aggregate amount of \$2,000.00 without the prior written consent of the Owner, which consent shall not be unreasonably withheld.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed in the preceding month. Payments of undisputed invoice amounts are due and payable by the Owner within forty-five (45) calendar days after receipt by the Owner of the Architect's invoice. If the Owner disputes all or any portion of an invoice of the Architect, the Owner shall give written notice to the Architect within forty-five (45) calendar days of the Owner's receipt of the invoice, stating the amounts and reasons for the dispute. Undisputed amounts unpaid forty-five (45) calendar days after the Owner receives the invoice shall bear interest at the rate of six percent (6%) per annum. Disputed invoice amounts shall not bear any interest.

%

§ 11.10.2.2 The Owner may withhold amounts from the Architect's compensation for the purpose of reimbursing the Owner for any damages or expenses caused by the Architect's negligence or inability to uphold the standard of care, or to offset sums requested by or paid to contractors for the cost of changes in the Work as a result of the Architect's negligence.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times and shall be provided to the Owner upon presentation of the Architect's progress payment applications. Records of all reimbursable expenses 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 expenses item shall be provided to the Owner with each claim for reimbursement by the Architect.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

§ 12.1 The Architect will exercise the Architect's professional effort to interpret the Americans with Disability Act (ADA) and the ADA Accessibility Guideline (ADAAG) in place on 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.

§ 12.2 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. The Architect by execution of this agreement certifies that the Architect is an equal opportunity employer and actively recruits a well-qualified and diverse staff including minority applicants as well as historically underutilized business subcontractors, and does not discriminate against any employee or applicant for employment or subcontractor by reason of race, color, national origin, religion, marital status, sex, age, disability or sexual orientation.

§ 12.3 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 Owner's property of whatever nature or kind, nor upon any of the land of the Owner, such property being public property belonging to a political subdivision of the State of Nebraska, or upon any funds of Owner.

§ 12.4 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. The Architect shall assume sole responsibility for any debts or liabilities that may be incurred by Architect in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement.

§ 12.5 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.

§ 12.6 The 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.

§ 12.7 Criminal History Record Checks

§ 12.7.1 The Architect shall obtain all criminal history information regarding its "covered employees", as defined below. 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.

§ 12.7.2 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 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.

§ 12.7.3 For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Architect or any of Architect's consultants who has or will have continuing duties related to the services to be performed on Owner's Project and has 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 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.

§ 12.8 The Architect shall keep all accounting and construction records on the Project for a period of at least ten (10) 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.

§ 12.9 The Architect agrees to use the federal immigration verification system to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska. The federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. This requirement applies to all subcontractors of the Architect. The Architect shall, by written agreement, require compliance with the federal immigration verification system by all subcontractors. If the Architect is an individual or sole proprietorship, the following applies:

- .1 The Architect must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
- .2 If the Architect indicates on such attestation form that he or she is a qualified alien, the Architect agrees to provide the US Citizenship and Immigration Services documentation required to verify the Architect's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
- .3 The Architect understands and agrees that lawful presence in the United States is required and the Architect may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

§ 12.10 The Owner does not waive governmental immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns.

§ 12.11 Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to

perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

§ 12.12 The Architect certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If the Architect breaches or violates this warranty, the Owner may, at its discretion, terminate this Agreement without liability to the Owner, or deduct from the Agreement price or consideration, or otherwise recover the full amount of any commission, percentage, brokerage, or contingency fee.

§ 12.13 The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach.

§ 12.14 Notwithstanding any other provision of this Agreement, the Owner agrees that Architect's total liability to the Owner for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Architect under this Agreement, shall not exceed the greater of (1) the amount of Architect's insurance provided and recovered under this Agreement, or (2) the amount of Architect's total compensation under this Agreement.

§ 12.15 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.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

☐ Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:

(List other documents, if any, forming part of the Agreement.)

Architect's Hourly Rate Schedule, Appendix A
Architect's Reimbursable Expense Schedule, Appendix A

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

PRESIDENT BOARD OF EDUCATION *(Signature)*

BY: Joel Carlson

(Printed name and title)

PRINCIPAL *(Signature)*

BY: Derek Kotschwar

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

Appendix A

ENGINEERING TECHNOLOGIES, INC.

2026 STANDARD BILLING RATES

<u>Staff Position</u>	<u>Billing Rate</u>
Principal	\$220.00
Professional Engineer	\$200.00
CxA Commissioning Agent	\$200.00
Engineer I / Senior Designer	\$180.00
Technology Project Manager.....	\$165.00
Engineer II	\$150.00
Construction Manager	\$150.00
BIM Manager	\$150.00
Designer I	\$150.00
Designer II	\$140.00
Engineering Technician I	\$130.00
Engineering Technician II	\$120.00
Engineering Technician III	\$110.00
Administrative Staff	\$90.00

2026 REIMBURSABLE EXPENSE CHARGES

<u>Expense</u>	<u>Charge</u>
Mileage	Federal Mileage Allowance + 10%
Transportation Expense	Actual Cost + 10%
Consultants	Actual Cost
Supplies, Miscellaneous, Etc.	Actual Cost + 10%
Printing Charges	Actual Cost + 10%
Black and White Copies/Prints.....	\$0.12/each + 10%
Color Copies/Prints	\$0.59/each + 10%
Bond Paper (Plots)/Small - 24" x 36"	\$3.00/sheet
Bond Paper (Plots)/Large - 30" x 42"	\$4.50/sheet

11. **AGENDA SETTING AND FUTURE MEETINGS**
12. **ADJOURNMENT**