**Request for Qualifications**

## Professional Architectural and Engineering Design Services

**Henry County R-I School District**

**Central Office**

**210 North Street**

**Windsor, MO 65360**



Scott Ireland

Superintendent

(660) 647-3533

Issued: November 15, 2020

**REQUEST FOR QUALIFICATIONS**

The Henry County R-I School District will accept qualifications for architectural services as described in the attached request. Qualified firms are invited to submit a formal proposal, which must be sent to the District’s Superintendent. Proposals must be received by **2:00 p.m.** **on December 8, 2020**, and bein accordance with the specifications and needs as described herein.

Selection of the most qualified firm is planned for the **December 10, 2020** Board of Education meeting.

This Request for Qualifications will be referred to as Exhibit A in the final contract between the District and the selected firm.

The District reserves the right to reject any and all proposals and to waive any "informalities" in the proposals received whenever such selection, rejection or waiver is in its best interest.

All proposal documents become public record once a negotiated contract has been executed.

**Qualified firms submitting proposals will be required to keep their proposals in effect for a period of ninety (90) days from the opening of proposals.**

**Administrative Information:**

#### District Contacts: Scott Ireland, Superintendent

Henry County R-I School District

210 North Street

Windsor, MO 65360

**E-mail: irelands@henrycountyr1.k12.mo.us**

**NOTE:** For an electronic copy of this RFQ, contact **Scott Ireland** by email.

#### Due Date:

Proposals must be submitted by **December 8, 2020**, no later than **2:00 p.m. (local time**).

Refer to “Submitting Your Response” section of this document for details.

**Anticipated Schedule of Events:**

* Responses due (by 2:00 p.m.) December 8, 2020
* Responses submitted to the Board of Education December 10, 2020
* Interviews conducted at the discretion of the District Week of December 10, 2020
* Notice of District decision December 11, 2020
* Board of Education approval of contract December 10, 2020

**Purpose**

The Henry County R-I School District (“District”) is seeking to establish a relationship with an Architectural firm (Consultant) for the purposes of implementing periodic requests for design work on projects identified through the District’s Master Facilities Plan or as otherwise determined by the District. A full scope of desired services is contained in Exhibit A of this RFQ, attached hereto. The District reserves the right to approve all consultants that make up the Architect team that may be required for the completion of a project. Upon successful approval, the District will utilize the selected firms.

**GENERAL CRITERIA FOR CONSULTANT SELECTION**

The Board, in consultation with the superintendent or designee, shall analyze the proposals received and list the top three qualified firms. The Board shall select the firm considered best qualified and capable of performing the desired services and shall negotiate a contract. Should the District be unable to negotiate an acceptable contract with the firm first selected, the Board may negotiate a contract with the next best qualified firm, and so on, until a contract acceptable to the District can be agreed to by both parties, or the Board may direct the Superintendent or designee to seek additional statements of qualifications from other firms and then submit a new list of qualified firms. The Board may authorize a qualified person to negotiate a contract for architectural, engineering or land surveying services on its behalf, but any negotiated contract must be approved by an affirmative vote of a majority of the whole Board.

The data submitted will be evaluated against the following criteria:

1. The specialized experience and technical competence, including that of partners and associates, demonstrated either with the district or elsewhere, with respect to the type of services desired by the Board.
2. The capacity and capability of the firm to perform the tasks requested, as well as any specialized services, within the time limitations established for the completion of the project.
3. The firm's past record of performance with respect to control of costs, quality of work, design, appearance and utility and the ability to meet time schedules.
4. The firm’s familiarity with the geographical area in which the project shall be located.

**DISTRICT SPECIFIC AREAS OF INTEREST**

The successful consultant will share with the District the consultant’s vision that:

* Reflects the breadth and depth of understanding of community needs;
* Demonstrates a conceptual understanding of projects designed for future vision and needs;
* Demonstrates designs for effective learning environments;
* Engages the client in an envisioning process for guiding conceptual designs;
* Recommends quality control measurements to ensure project success and keep the District informed; and,
* Recommends appropriate construction processes to ensure project quality, efficiency and cost effectiveness.

**AWARDING OF FUTURE PROJECTS:**

The District, in its sole discretion, shall select projects from its Master Facilities Plan to complete, and may also determine that other projects are necessary. The District intends to use the selected consultant to provide architectural services on the selected projects, but the District reserves the right to select a different architect to provide such services. Projects will be funded through the District’s currently available funds and any future bond or levy issues.

**OWNER**

The owner is the Henry County R-I School District and the projects will be located within the city limits of Windsor or within Henry County.

**AWARD OF CONTRACT**

The District reserves the right to reject any and all proposals, and waive any and all informalities and the right to disregard all non-conforming or conditional proposals or counter proposals.

The District may accept any proposal that would best serve the interest of the school district based on the qualifications and capability of the selected firm to provide the services required.

Legislation in the State of Missouri that became effective on August 28, 2016, allows for the use of the design-build delivery method for construction projects done by political subdivisions, including public school districts. This RFQ is not intended to apply to any design-build project or result in a design-build contract, and it is not anticipated that the projects for which the District will utilize the Consultant’s services will allow for the use of the design-build delivery method. However, the District may use the Consultant as a “design criteria consultant” in the event the District chooses to utilize the design-build delivery method for future projects.

**SERVICE PERIOD SCHEDULE**

The following are the dates when these services can begin and continue for a period of three years from contract execution. All insurance and background check documents must be on file with the District prior to the Consultant being authorized to proceed.

Contract Period: **Start Date – December 11, 2020** **Completion Date – December 11, 2023**

***The contract shall be subject to renewal for two (2) consecutive one-year periods after the initial contract period, pending agreement between both parties and Board of Education approval.***

**REQUIREMENTS**

The formal response shall contain the following information, in the following sequence and format.

**Title Page**

**Letter of Introduction**

### Table of Contents

1. **Prime Consultant’s Firm Profile and Philosophy**

All of the information submitted should be related to the Prime Consultant. Do not include information for any sub-consultant in this section. Sub-Consultant information is to be included in Section 8.

1. **Prime Consultant’s Approach to Planning and Design**

Submit a project approach regarding your firms understanding of projects, goals and objectives. In detail, describe your firms planning process and how you propose to include District Administration, Project Construction Management, the Core and Support Design Teams, Professional Staff and the Board of Education.

1. **Consultant’s Personnel Project Team**

Identify the names of any personnel (prime and sub-consultants) who will be members of the project team, and identify their level of experience.

1. **Prime Consultants Experience with Similar Projects**

PrimeConsultant should provide information about its experience on a typical school project and its overall qualifications to carry out the project. Please provide project descriptions, locations and color photos on relevant projects that have occurred in the last seven (7) years. All of the projects submitted should be projects completed by the Prime Consultant. Do not include past projects for any sub-consultant that may be included on your team. This information may be included in Section 8.

1. **Sustainable Design Experience**

Consultant should provide information about its sustainable design experience and capabilities on projects.

1. **Consultant References**

The Prime Consultant will provide a reference list from five (5) recent (within 5 years) public projects. Include name of project, contact name and telephone numbers. All of the references submitted should be projects completed by the Prime Consultant. Do not include references for any sub-consultant that may be included on your team.

1. **Information on Other Sub-Consultants Your Firm Will Employ for Projects**

Please include relevant information including: firm(s) history and profile, philosophy, specialization, experience, references, and role of each sub**.**

1. **Why Should the District Utilize Your Firm/Additional Information**

Please feel free to include information describing what makes your firm or team unique.

1. **The Proposal Submittal Form Included at the end of this RFQ**

**SUBMITTING YOUR RESPONSE**

Your response should follow the outline above and be concise. Failure to follow any of the instructions could nullify your response from consideration. It will be the responsibility of the Prime Consultant to submit one (1) original, nine (9) copies and one (1) electronic copy on a flash drive of your proposal. Parties are requested to sign the proposal with ink, and, when in the name of a company, by some officer whose title is shown. Submissions should be sealed and packaged with clear identification to read as follows:

**Request for Qualifications**

**Professional Architectural and Engineering Design/Consulting Services**

Scott Ireland, Superintendent

Henry County R-I School District

210 North Street

Windsor, MO 65360

Telephone: (660) 647-3533

The deadline for submitting your response will be no later than 2:00 P.M., December 8, 2020. Proposals received after this date and time will not be considered. Proposals, or modifications of proposals, will not be accepted by telephone, facsimile, or electronically, and any proposal submitted via those means will not be considered.

**RESERVATIONS**

The District reserves the right to reject any and all proposals, waive informality and any technicalities or clerical errors in any proposal as the interest of these entities may require, and they will select the proposal which, in their judgment, best meets the interest of the District and requirements of the project(s).

All costs incurred for the preparation of any Proposal will be the sole responsibility of the submitter. All responses to this Request for Qualifications become the property of the District and will be part of the public record.

**CONTRACT NEGOTIATIONS**

Any firm submitting a proposal acknowledges and agrees that the Board’s selection of their firm as the most qualified shall in no way create a valid or binding contract between the Consultant and the District. Upon selection of the most qualified firm(s), the District will attempt to negotiate and contract for services described in this solicitation with the most qualified firm(s). If an agreement cannot be reached, there will be an attempt to negotiate a contract with the next most qualified firm(s). This process will continue until an agreement is reached.

**CONTRACT TERMS**

Any firm submitting a proposal agrees, by submitting a proposal, that the final contract between the District and the selected consultant shall be the AIA B101-2017 contract, as modified by the attached Exhibit B. Any firm submitting a proposal further agrees, by submitting a proposal, that the contract terms contained in this RFQ and its exhibits can only be modified by the District in its sole discretion. The submitting firm further agrees that it will make no attempt to change, delete or otherwise modify these contractual terms, and further agrees that any attempt to do so shall constitute failed negotiations and allow the District to negotiate a contract with the next most qualified firm(s). Further, any attempt to change, delete or otherwise modify these terms in the proposal itself shall be grounds for the District to reject the firm’s proposal.

**INSURANCE REQUIREMENTS**

The selected consultant shall be required to provide and maintain for the duration of the final contract with the District, insurance acceptable to and approved by the District as described below.

* 1. **Compensation Insurance**

Employee's Liability and Worker's Compensation Insurance for all employees performing services for the District, and in case any work is sublet, the consultant shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the consultant. In case any class of employees engaged in hazardous work is not protected under the Worker's Compensation Statute, the consultant shall provide, and shall cause each subcontractor to provide, Employee's Liability Insurance for the protection of their employees not otherwise protected.

* 1. **Public Liability and Property Damage Insurance, or Comprehensive General Liability Insurance**

Such public liability and property damage insurance, or comprehensive general liability insurance, as shall protect consultant and any subcontractor performing services covered from claims for damages for personal injury including accidental death, as well as from claims for property damages, which may arise from operations under this Agreement, whether such operations be by themselves or by any subcontractor or by anyone directly or indirectly employed by either of them, and the limits of such insurance policies shall be in the amount of not less than $2,000,000 aggregate and not less than $1,000,000 per claim.

* 1. **Automobile Public Liability And Property Damage Insurance**

Automobile public liability and property damage insurance in the amount of not less than $2,000,000 single limit for any one occurrence and not less than $500,000 per individual, covering both bodily injury, including accidental death, and property damage, to protect themselves from any and all claims arising from the use of the consultant’s own automobiles, teams and trucks; hired automobiles, teams and trucks; and automobiles both on and off the site of any project for which the consultant is providing services.

* 1. **Professional Liability Insurance**

Professional liability insurance covering consultant’s negligent acts, errors and omissions in its performance of professional services with policy limits of not less than two million dollars ($2,000,000.00) per claim and in the aggregate.

* 1. **Umbrella Coverage**

Umbrella coverage in the amount of $2,000,000.

**Proof of Insurance** – A Certificate of Insurance, which names the District as additional insured on any policy under subparagraphs b and c above, is to be furnished within fifteen (15) calendar days following execution of the contract. Any such Certificate of Insurance shall contain a thirty (30) day mandatory cancellation notice. In addition, all such insurance listed above shall remain in effect until such time as the District has determined that the contract is complete. The District may demand proof of insurance at any time during the term of the contract. A failure to comply with such request shall constitute a material breach of the contract by the consultant.

**PROPOSAL SUBMITTAL**

The undersigned agrees and understands that:

The District has the right to reject any and all bids, to waive technicalities or other requirements for its benefits, and to accept the bid as genuine and is not made in the interest of or on behalf of any undisclosed person, firm or corporation, and is not submitted in conformity with any agreement or rule of any group, association, or corporation;

That there has been no attempt on their part to directly or indirectly induce or solicit any other vendor to submit a false or sham bid;

That there has been no attempt on their part to solicit or induce any person, firm or corporation to refrain from submitting a bid;

And that they have not sought by collusion or otherwise to obtain for themselves any advantage over any other bidder or over the District.

Signature

Print Name

Firm Name

Mailing Address

Phone (\_\_\_\_\_\_\_\_)

Email \_\_\_\_\_\_\_\_

Date

**Exhibit A**

**Description of Services**

Upon selection of projects from the completed Master Plan, or as otherwise selected by the District, it is the District’s intent to utilize the selected consultant to provide architectural services for the specific project. However, the District reserves the right to select a different architectural firm to complete these services. If the District selects the Consultant, then the following services will be provided by consultant:

1. Developing Final Designs, Construction Documents, and Specifications for any project that is assigned.
2. Providing all architectural, civil engineering, structural engineering, mechanical engineering, electrical engineering, technology planning and other building design services in connection with the development of the assigned project.
3. Providing all standard services covered by the AIA B101-2017 Standard Form of Agreement between the District and Architect, as amended by Exhibit B to the District’s RFQ.
4. Any other additional services requested by the District that are not covered by the AIA Standard Form of Agreement.

**Exhibit B**

**Henry County R-I School District**

**Supplemental Conditions to**

**AIA Document B101-2017**

The following supplements, modifies, changes, deletes from or adds to the "Standard Form of Agreement Between Owner and Architect", AIA Document B101-2017. Where any Article of the Standard Form of Agreement is modified or any Paragraph, Subparagraph, Clause, or portion thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect. Language that is being deleted shall be shown by strikethrough below. Language that is being added is shown in red.

**Article 1 Initial Information**

**§ 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. Both parties must consent, in writing, prior to any adjustment in the Architect's services, schedule for the Architect's services, and the Architect's compensation.

**Article 2 Architect’s Responsibilities**

**§ 2.2** The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing ~~in the same or similar locality~~ under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect’s services shall endeavor to comply with applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations (collectively, “Laws”), and any final Construction Documents shall comply with all applicable Laws. Additionally, Architect shall ensure that any final Construction Documents, including necessary Drawings and Specifications, are reasonably accurate and not substantially deficient or defective, so that construction of the project pursuant to the Construction Documents will be viable, feasible, and otherwise constructible, taking into account the conditions of the site, the budget for the Cost of the Work, all applicable Laws, and any other conditions to which the project is subject. For purposes of this paragraph, defective shall mean so faulty as to prevent or unreasonably delay completion of the contract performance by Owner’s Contractor. To the extent any final Construction Documents are not reasonably accurate, or are substantially deficient or defective, then Architect shall correct the same and shall bear the costs to the Owner related to changes in the Work.

**§ 2.5** The Architect shall maintain the following insurance until termination of this Agreement. ~~If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.~~

**§ 2.5.3** – *Delete in its entirety and replace with the following:*

Excess or umbrella liability insurance with policy limits of not less than Two Million Dollars ($2,000,000). Such excess or umbrella liability insurance policy shall result in the same or greater coverage as the coverages required under Sections 2.5.1, 2.5.2, and 2.5.5, 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.

**§ 2.6** The Owner preserves all immunities recognized at law. Nothing herein shall be construed as a waiver of sovereign or governmental immunity, as set forth in RSMo. § 537.600 et seq. Any insurance purchased by the Architect hereto is not intended to act as a waiver, nor is it a waiver of any defense available to Owner and its employees by statute or at common law.

**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 structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. All of the Architect’s services shall be made with reasonable promptness and without delay. The Architect shall indemnify and hold the Owner harmless from any and all claims made by the Contractor or any other affected parties arising out of the Architect’s unreasonable delay in performing its duties.

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

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be responsible to the Owner for the services furnished to the Architect by any of the Architect’s own consultants to the same extent as if the Architect has furnished the service itself. The Architect will also coordinate and resolve any inconsistencies in its work and the work of its consultants. All of the Architect’s contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: “The Owner is intended to be a third party beneficiary of this Agreement.” 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.~~ consultants; provided, before such reliance it shall first review same in its capacity as project architect. 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** – *Delete in its entirety and replace with the following:*

As soon as practicable after receiving authorization to proceed from the Owner, the Architect shall submit for Owner’s approval a schedule for the performance of the Architect’s services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as requested by the Owner. 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. Reasonable cause shall include the failure of the Owner’s Bond Issue to pass. 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, which shall not be unreasonably withheld.

**§ 3.2 Schematic Design Phase Services**

**§ 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 as may be applicable to the project scope; 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. Approval by the Owner shall be deemed to be approval of the concept though not the means, techniques, or particular material recommended by the Architect.

**§ 3.3 Design Development Phase Services**

**§ 3.3.2** The Architect shall update the estimate of the Cost of the Work within ten (10) days of the Owner’s approval of the Schematic Design Documents, prepare~~d~~ it in accordance with Section 6.3, and provide it to the Owner.

**§ 3.4 Construction Documents Phase Services**

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall ~~assist~~  be responsible for, with assistance from the Owner and/or the Owner’s representatives, in the development and preparation of (1) bidding and procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) 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 estimate for the Cost of the Work within ten (10) days of the Owner’s approval of the Design Development Documents, prepare~~d~~ it in accordance with Section 6.3, and provide it to the Owner.

**§ 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 negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction to be reviewed by the Owner’s legal counsel. The Architect shall be familiar with and comply with Missouri law governing the Owner’s legal obligations in the competitive bidding process, which can be found in the Policies and Procedures of the Owner’s Board of Education.

**§ 3.5.2 Competitive Bidding**

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

**.1** procuring the reproduction andfacilitating the distribution of Bidding Documents to prospective bidders;

**.2** distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;

**.~~2~~3** organizing and conducting a pre-bid conference for prospective bidders;

**.~~3~~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; and,

**.~~4~~5** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall~~, as an Additional Service,~~ consider requests for substitutions and prepare and distribute addenda identifying approved substitutions, if the request is timely, to all prospective bidders.

**§ 3.6 Construction Phase Services**

**§ 3.6.1.1** The Architect shall provide administration of ~~the~~ any Contract between the Owner and the Contractor as set forth below, and including, if applicable, ~~and~~  as in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended by the Owner and Contractor. ~~If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~ The Architect shall be provided a copy of any amendments to AIA Document A201-2017, and if the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect’s services under this Agreement without Architect’s consent, which shall not be unreasonably conditioned, withheld or delayed.

**§ 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 not under the direct control of the Architect.

**§3.6.2 Evaluations of the Work**

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents and shall notify the Owner about the rejection. 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, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 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.

**§ 3.6.2.5** ~~Unless~~ If the Owner and Contractor designate the Architect ~~another person~~ to serve as an initial decision maker~~, as that term is defined in AIA Document A201-2017~~, the Architect shall render initial decisions on any disputes that may arise ~~Claims~~ between the Owner and Contractor as provided in the Contract Documents.

**§ 3.6.4 Submittals**

**§ 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 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, unless the Architect knows or receives notice of any deficiencies with the adequacy or accuracy of the services.

**§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** ~~The~~ Upon consultation with and approval by the Owner, the Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Owner shall not be liable for payment for additional work not based upon a Change Order or Construction Change Directive.

**Article 4 Supplemental and Additional Services**

**§ 4.2 Architect’s Additional Services**

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

**§ 4.2.4** *[Delete in its entirety]*

**§ 4.2.5** If the services covered by this Agreement have not been completed within Thirty-Six (36) months of the date of this Agreement, through no fault of the Architect, extension of the Architect’s services beyond that time shall either be compensated as Additional Services, be compensated as mutually agreed upon by the parties, or the Owner shall have the right to terminate this Agreement upon payment for all services rendered up to the date of termination.

**Article 5 Owner’s Responsibilities**

**§ 5.11** The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. However, the Owner shall not be liable for failure to provide said notice or for failure to become aware of any fault or defect in the Project. Further, the Owner’s failure to provide said notice or become aware of any fault or defect in the Project will not relieve the Architect of its duties and obligations set forth herein.

**Article 6 Cost of 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. If Architect’s compensation is based on a percentage of the cost of the work, the cost of the work also does not include the cost of work required to correct the errors or omissions of Architect or any of its consultants.

**Article 7 Copyrights and Licenses**

**§ 7.3.1** ~~In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1.~~ The Owner shall not use the Instruments of Service without retaining the author of the Instruments of Service or in accordance with Section 9.7.1. ~~The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.~~ The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**Article 8 Claims and Disputes**

**§ 8.1 General**

**§ 8.1.2** *[Delete in its entirety]*

**§ 8.1.3** *[Delete in its entirety]*

**§ 8.2 Mediation** *[Deleted in its entirety]*

**§ 8.3 Arbitration** *[Deleted in its entirety]*

**§ 8.1.2** The method of binding dispute resolution for all claims and disputes shall be the following:

[X] Litigation in a court of competent jurisdiction

The Owner and the Architect may participate in non-binding mediation to resolve and claims and disputes between each other, but shall not be required to do so.

**Article 9 Termination or Suspension**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, through no fault of the Architect or its consultants, 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 business 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 by the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted except where the Architect has failed to perform its duties as set forth in this Agreement. ~~Architect may suspend services at his sole discretion and without penalty.~~

**§ 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 reasonable costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, but not including lost profit or other fees not yet due and payable to Architect.

**§ 9.7.1** *[Deleted in its entirety.]*

**Article 10 Miscellaneous Provisions**

**§ 10.1** This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~ The sole and exclusive enue of any litigation arising out of this Agreement shall be in the Circuit Court of Henry County, Missouri, and the parties consent to the jurisdiction of the same.

**§ 10.8.1** The receiving party may disclose "confidential" or "business proprietary" information as soon as reasonably practical following notice to the other party, when required by law, arbitrator's order, or court order, including a 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.

**§ 10.10** The Architect shall indemnify and hold the Owner and the Owner’s Board members, officers and employees (the “Indemnified Party” or “Indemnified Parties”) harmless from and against all damages, losses, expenses, and judgments arising from claims by third parties, including reasonable attorneys’ fees, but only to the extent they result from the Architect’s, its employees’, or its consultants’ negligent performance of professional services under this Agreement, willful misconduct, or malicious acts (the “Indemnified Acts”). Architect further agrees, either after adjudication by a court of competent jurisdiction or upon agreement and acknowledgement by the Architect, to pay upon demand or reimburse the Indemnified Parties pursuant to this provision for any costs and fees either agreed to by Architect or determined by the court to have been reasonably and actually incurred by the Indemnified Party in the defense of those claims resulting from the Indemnified Acts.

**§ 10.11** Prior to commencement of the work, the Architect shall provide to the Owner a sworn affidavit and other sufficient documentation to affirm its enrollment and participation in the Federal Work Authorization Program. Federal Work Authorization Program means the E-verify program maintained and operated by the United States Department of Homeland Security and the Social Security Administration, or any successor program. The Architect shall also provide the Owner a sworn affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

**§ 10.12** The relationship of the Owner and the Architect is one of District and independent contractor and not master and servant or joint venturers. Except as specifically provided herein, the Architect does not have the authority to act for and on behalf of the Owner.

**§ 10.13** Prior to commencement of the Work, Architect agrees that all of its employees who will be performing the Work and on District property will have completed criminal background checks in accordance with Mo. Rev. Stat. § 168.133 and the requirements of the Missouri Department of Elementary and Secondary Education, including a background check through the Federal Bureau of Investigation’s criminal history files, the Missouri Highway Patrol’s criminal history database and sexual offender registry. Architect will not allow any employees whose background check reveals that he/she has exhibited behavior that is violent or harmful to children or adults to be present on District property.

**§ 10.15** Architect, its employees, agents, subcontractors and representatives shall comply with all Policies and Procedures of the District’s Board of Education when providing services under this Agreement, including the District’s tobacco-free campus Policy.

**§ 10.16** The District may require payment from Architect and any of its subcontractors for any fines imposed upon the District for Architect’s or any of its subcontractors non-compliance with applicable laws. The District may hold payments to the Architect in amounts matching any such fines until resolution of any dispute regarding such fines, but outstanding or withheld fees will be immediately paid upon resolution of said dispute.

**§ 10.17** Architect will comply with all applicable requirements of federal and state civil rights laws and rehabilitation statutes and shall not discriminate based on race, religion, color, sex, national origin, age or disability.

**§ 10.18** The District is a public entity exempt from payment of state sales taxes and will furnish Architect with all required information to allow Architect to benefit from this status, to the extent applicable. Architect shall apply the exemption in accordance with state law for purchases required for the services. Architect shall pay all other required sales, consumer, use and other similar taxes, if any.

**§ 10.19** The Architect will perform all services in accordance with all applicable codes in force at the time of the submission of permit documents identified by the City of Windsor, Henry County, and the State of Missouri whichever are applicable relative to the jurisdictional authority. It is the sole responsibility of the Architect to ensure that these codes are applied and utilized during the design process. The respective code authority has the final authority to approve or disapprove the final designs, specifications and drawings.

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

**§ 10.21** To the extent that § 34.600, RSMo. applies to this Agreement, Architect hereby certifies pursuant to said statute that it is not currently engaged in and shall not for the duration of this Agreement engage in a boycott of goods or services from: the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or, persons or entities doing business in the State of Israel.

**Article 11 Compensation**

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

**§ 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 follows:

**~~.1~~** ~~Transportation and authorized out-of-town travel and subsistence;~~

**~~.2~~** ~~Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~

**.~~3~~1** Fees paid for securing approval of authorities having jurisdiction over the Project;

**.~~4~~2** Printing, reproductions, plots, standard form documents;

**.~~5~~3** Postage, handling and delivery;

**~~.6~~** ~~Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~

**~~.7~~** ~~Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~

**~~.8~~** ~~Architect’s consultants’ expense of professional liability insurance in excess of the amounts set forth on the attached Insurance Requirements, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of the amounts set forth on the attached Insurance Requirements;~~

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

**~~.10~~** ~~Site office expenses if Owner has requested a site office; and~~

**~~.11~~** ~~Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,~~

**~~.12~~** ~~Other similar Project-related expenditures.~~

**§ 11.9 Architect’s Insurance** *[delete in its entirety]*

**§ 11.10 Payments to the Architect**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed, Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ~~Thirty (30)~~ Forty-Five (45) days after the invoice date shall bear interest at the rate entered below~~, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect~~.

~~1 1/2 % of monthly where the Architect Banks~~ 9% per annum.

**§ 11.10.2.2** The Owner shall not withhold amounts from the Architect's compensation ~~to impose a penalty or liquidated damages on the Architect, or~~ to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Owner has a good-faith objection to the amount of compensation requested by the Architect or a good-faith belief that the Architect can be found to be legally liable for such amounts. ~~the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.~~

**Article 13 Scope of the Agreement**

**§ 13.2.2** Exhibits:

Exhibit A – Henry County R-I School District’s Request for Qualifications dated November 15 2020;

Exhibit B – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Proposal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2020; and,

Exhibit C – Henry County R-I School District Supplemental Conditions to AIA Document B101-2017.