

5.02 ADDENDUM TO OWNER/ARCHITECT AGREEMENT FOR DESIGN SERVICES

THIS ADDENDUM shall amend the American Institute of Architects Document B101 or B108, 2017 Edition, Standard Form of Agreement between Owner and Architect, (the "Agreement") between the parties named herein and shall be binding unto the parties as part of the whole. This Addendum does not limit in any way the terms and conditions set forth in the Agreement but shall amend the Agreement to include the following:

Owner holds a fee simple interest in certain real estate described in Exhibit A, attached hereto and made part hereof; and

Owner plans to rehabilitate and/or construct residential rental units on the property (the "Development"); and

The Pennsylvania Housing Finance Agency (the "Agency") will make a loan to Owner to rehabilitate and/or construct the Development.

The Architect and Owner agree that the provisions of this Addendum and the Agreement and the rights and obligations of the parties hereunder shall at all times be subject to and in conformity with the provisions of the Housing Finance Agency Law ("Act") and the rules and regulations of PHFA, as of this date.

The provisions of this Addendum supersede and void all inconsistent provisions in the Agreement and in any prior contract between the parties for the services to be performed hereunder.

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1. Owner agrees to pay the Architect a total fee of _____

_____ Dollars (\$ _____) for the work required by the Agreement and this Addendum provided that the work, including but not limited to the drawings and specifications for the Development, are approved by the Owner and PHFA. Said fee shall be paid in full from the initial draw as set forth in the Building Loan Agreement subject to the following retention:

- A. If there is a separate Construction Contract Administration Architect on the Development, retainage in the amount of Three Thousand Dollars (\$3,000) will be withheld from the Design Services fee.
 - B. The retention will be paid out after construction completion, upon receipt by PHFA of complete and acceptable set of "Record Drawings" (As-Built Drawings) in PDF format on a CD. The architect must invoice PHFA after the issuance of the Record Drawings to receive payment.
2. Drawings and specifications as instruments of service are the property of the Design Architect whether the work for which they are made is executed or not; and their use for any other Development is not authorized. However, if the work for which the drawings and specifications are executed has not been completed and there is a default or foreclosure under the mortgage, PHFA may use the drawings and specifications to complete construction of the work without additional fee or other costs.
3. The Design Architect and Owner recognize the interest of PHFA in the Development being designed pursuant to the Agreement and this Addendum, and any action, inaction or determination made pursuant to the Agreement and this Addendum by either Design Architect or Owner is subject to acceptance or rejection by PHFA. The Design Architect is required to act and serve in a professional capacity without bias or partiality.

4. The Design Architect agrees that when requested by Owner or PHFA, he/she will provide needed clarification or interpretation of any feature of the drawings and specifications without further charge.
5. The Design Architect shall provide, in addition to such other drawings and specifications as the contractor shall require, the following documents to Owner and PHFA under the provisions of this Addendum.
 - A. Two (2) hard copies of final working drawings and specifications.
 - B. One (1) electronic copy (PDF on CD) of final working drawings and specifications.
 - C. Upon actual completion of construction, one (1) electronic copy (PDF on CD) of Record Drawings, (“As Built Drawings”) indicating any changes in the buildings or plans shall be provided to PHFA.
 - D. One (1) hard copy of the Record Drawings shall be provided to the Owner.
6. Architect will remain available to answer questions that arise and make available any information requested by the Construction Contract Administration Architect during construction.
7. Architect shall maintain a professional liability policy during the period of construction and/or rehabilitation of the Development and for one (1) year following construction completion if any such policy is written on a “claims made” basis. The policy shall afford coverage for Owner and PHFA for Architect’s errors, omissions or negligence in connection with the work. Such policy shall be issued by a company in an amount and form acceptable to PHFA. Said insurance shall not be construed as a waiver of any obligations or liabilities that Architect otherwise has to Owner or PHFA in law or equity.

In the event Architect fails to maintain such insurance for the required period, Owner immediately becomes responsible for providing such coverage. Failure by Owner to obtain required coverage upon default by Architect will result in PHFA action. In such event, PHFA shall, based on sound business judgment, and at its sole discretion, take either or both of the following actions:

- A. Obtain said insurance (deducting the related cost from any funds held by PHFA for Architect and Owner).
 - B. Deduct from any funds held by PHFA for such purposes an amount to indemnify PHFA against the possibility of loss resulting from errors, omissions or negligence by Architect in connection with the work or default by the Architect and/or Owner.
8. In connection with the performance of work hereunder, Architect agrees not to discriminate against any employee or applicant for employment because of race, creed, religion, color, age, sex, disability or national origin.
 9. At the time working drawings and specifications are delivered to Owner and PHFA, the Architect shall submit a certificate stating any interest, direct or indirect, which he/she may have in a proprietary system of construction or a patented building design or business or industry that manufacturers materials that are shown in the drawings and specifications as specified for the Development.
 10. The Agreement and this Addendum shall not be modified except by a written statement signed by Owner, the Design Architect and PHFA.
 11. No portion of the Design Architect’s work or responsibility hereunder may be assigned, sublet or delegated to any person or entity with PHFA’s written consent.

12. It is expressly agreed and understood that PHFA is not, and nothing contained within this instrument shall be construed to constitute PHFA as the partner of or joint venture with the Owner or Architect with respect to the Development or any aspect thereof.
13. The Design Architect represents and covenants that (a) he/she has not nor shall he/she administer the construction of the Development or any portion thereof, (b) he/she is not a "contractor" within meaning of the Mechanics' Lien Law of 1963, that it shall not file a mechanics' claim against the Development and that in the event, however, a lien is filed by or on behalf of the Architect, counsel for PHFA is nominated, designated and appointed its attorney-in-fact by virtue hereof to enter a satisfaction thereof paid from appropriate accounts in the loan proceeds.
14. The Design Architect shall submit to PHFA a completed copy of the "Architect's Certification".
15. This Addendum shall bind and the benefits inure to, the respective parties hereto, their legal representatives, executors, administrators, successors and assigns.
16. The invalidity of any clause, part or provision of this Addendum shall not affect the validity of the remaining portions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed the Addendum this ____ day of

_____, _____.

WITNESS (ATTEST)

Architect:

a _____

By: _____

Title: _____

WITNESS (ATTEST)

Borrower/Owner:

a Pennsylvania Limited Partnership

By: _____

General Partner

By: _____

Title: _____

WITNESS (ATTEST)

By: _____

By: _____

Title: _____

ATTACH Exhibit "A", Legal description of property.