COMMITTEE ON WAYS AND MEANS

1. Invocation – Councilmember Sakran

2. Approval of Minutes:
   March 22, 2022

3. Bids and Purchases

4. Executive Department: Approval to submit the Department of Transportation (DOT) RAISE Planning Grant FY2022 application in support of the Lowcountry Lowline, a proposed 1.7 mile bicycle/pedestrian trail located in downtown Charleston. The grant requires 80/20 cost share. The required City match is $1,750,000 and the DOT funding request is $7,000,000. The application is due by April 14, 2022. The required City match is $1,750,000. The City of Charleston, as the grant applicant, will be responsible for the match. It was previously discussed in 2021 to allocate City TIF funding towards the project. The attached Lowline & City TIF Districts Overlay Map illustrates which TIF districts are included in the project area. In addition, the Friends of the Lowline have included a letter explaining their intent to raise funds to help fund the match.

5. Executive Department: Approval to accept a $70,250 grant award from the NLC Equitable Economic Mobility Initiative for the second round of funding. In the first round of funding, the total received was $25,000. The overall grant award amount received from the NLC Equitable Economic Mobility Initiative is $95,250. There is no City match required. The National League of Cities (NLC)’s Equitable Economic Mobility Initiative (EEMI) is a 15-month technical assistance and grant project intended to catalyze municipal action to expand economic mobility for residents while eliminating longstanding racial inequities.

6. Parks – Capital Projects: Approval of Municipal Operations Complex Professional Services contract with Edifice, LLC, in the amount of $59,500 for construction manager services for the replacement of the current City operational facilities located at Milford St. The current contract includes services for Phase I of the project including pre-construction services, pricing of existing complex to establish a baseline replacement cost, pricing of conceptual building program with material and structural alternates, pricing of site development, site analysis and conceptual master plan. Approval of the professional services contract will obligate $59,500 of the $600,000 project budget. The funding source for this project is the 2019 General Fund Reserves ($600,000).

7. Parks – Capital Projects: Approval of Parking Garages Structural Repairs Professional Services contract with ADC Engineering in the amount of $929,344.10 for the preparation of construction documents for short-term, intermediate and long-term repairs for 12 City garages as well as construction administration services. Approval of this professional services contract will obligate $929,344.10 of the $4,451,300 project budget. The funding source for this project is the Parking Fund.
8. Parks – Capital Projects: Approval of Johns Island Fire Station #23 Professional Services contract with Liollio Architecture in the amount of $855,732 for design, development of construction documents, bidding and construction administration for the construction of a 3-bay 12,000-14,000 ft fire station located on Johns Island. Approval of the professional services contract will obligate $855,732 of the bond $8,951,156 project budget. The funding source for this project is the 2021 IPRB Bond.

9. The Committee on Real Estate (Meeting was held on Monday, April 11, 2022 at 4:00 p.m., Conference Call: 1-929-205-6099; Access Code: 835 678 884)

a. An ordinance authorizing the Mayor to execute on behalf of the City a Lease Agreement to lease six parking spaces at 2150 Milford Street to the City of Folly Beach, South Carolina.

b. An ordinance authorizing the Mayor to execute on behalf of the City a utility easement, approved as to form by the Office of Corporation Counsel, to Dominion Energy South Carolina, Inc., encumbering a portion of the City’s real property designation as Charleston County TMS No. 463-16-02-039, commonly known as 645 Meeting Street, within the right of way shown on drawing D-84391, to permit installation and maintenance of underground electrical lines in order to create an electrical loop servicing 645, 649, and 651 Meeting Street and to allow for the conversion of overhead to underground cables north of 651 Meeting Street as shown on Drawing D-84391.

c. An ordinance to close and abandon Ackerman Court and authorizing the Mayor to execute on behalf of the City one or more quitclaim deeds and any other necessary documents, approved as to form by the Office of Corporation Counsel, to quitclaim equal portions to the adjacent property owners, subject to any and all easements and utilities.

d. Request approval of a Resolution to authorize the use of $514,870 of the City of Charleston’s Urban Greenbelt funds to provide for a conservation easement for the Oakville Tract.

e. Please consider the following annexations:

   (i) 1890 and 1886 Ashley River Road and 1407 Adele Street (0.35 acre) (TMS #351-07-00-027, 028, and 048), West Ashley, (District 7). The properties are owned by the Charleston Redevelopment Corporation.

   (ii) 2158 and 2154 Westrivers Road (0.48 acre) (TMS # 343-01-00-115; 136), James Island, (District 11). The property is owned by Ryan and Lauren Fogelgren.

   (iii) 2153 Westrivers Road (0.24 acre) (TMS # 343-06-00-209), James Island, (District 11). The property is owned by Nicholas and Martha Kliossis.

   (iv) 2931 Maybank Highway (0.61 acre) (TMS# 313-00-00-092), Johns Island, (District 5). The property is owned by HCC Holdings, LLC.

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Chief Daniel Curia
DEPT: Fire Department

SUBJECT: 2022 FORD TRUCKS
REQUEST: Approval to purchase a total of four (4) 2022 Ford trucks (1 - F-250
And 3 - F-150) from Alan Jay Automotive Management, 2003 US
Hwy. 27 South, Sebring, FL 33870. City of Tallahassee Cooperative
Contract.

COORDINATION OF COUNCIL: Ways & Means
DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

Corporate Counsel
Cap. Proj. Cmte. Chair
Fire Department
Procurement Director

Signature of Individual Contacted
Attachment

FUNDING: Was funding previously approved? Yes
If yes, provide the following:
Dept./Div: 062022 Account #: 58010
Balance in Account
Amount needed for this item

Does this document need to be recorded at the RMC’s Office?

NEED: Identify any critical time constraint(s).

CFO’s Signature: [Signature]
FISCAL IMPACT: 2022 Lease Purchase

Mayor’s Signature: [Signature]

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor’s Signature) PACKAGE IS
DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK’S AGENDA
MEETING.
City of Charleston
South Carolina
Charleston Fire Department

MEMORANDUM

To: Mayor John J. Tecklenburg and City Council

From: Jason M. Krusen, Deputy Fire Chief

Subject: Ford truck for the Fire Department

Date: March 22, 2022

The Charleston Fire Department is requesting to purchase four (4) Ford Trucks from Alan Jay Fleet Sales from City of Tallahassee contract #5179 for ($130,404). The vehicles are being purchased to replace existing vehicles in training, fire marshal division and Haz-Mat response. The current vehicles have high mileage and do not serve the needs for the position and will be rotated out of service.
# Requisition

**Req. Date:**

**Req.#**

**PO#:**

**Ship To:** 1950 Milford St.

---

## Account Codes:  
CITY OF TALLAHASSEE

## Contract #:  
5179

## Item # | Quantity | Unit | Description | Unit Price | Ext. Price  
--- | --- | --- | --- | --- | ---  
PQ | 3 |  | 2022 Ford F-150 Super cab, Race Red inc. | $24,804.00 | $74,412.00  
A5 | 3 |  | Standard Equipment Included: | inc. | $0.00  
99B 44G | 3 |  | Vinyl 40/20/40 Split Seat Inc. | $0.00  
99B 44G | 3 |  | 3.3L V-6 Engine Inc. | $0.00  
99B 44G | 3 |  | 10 speed Automatic Transmission/3.73 diff. Inc. | $0.00  
85A | 3 |  | Power Equipment Group Inc. | $1,165.00 | $3,495.00  
85A | 3 |  | A/C Inc. | $0.00  
85A | 3 |  | AM/FM Radio Inc. | $0.00  
85A | 3 |  | 145" Wheel Base 6.5' Bed Inc. | $0.00  
50S | 3 |  | Cruise Control Inc. | $220.00 | $660.00  
50S | 3 |  | Power Steering Inc. | $0.00  
50S | 3 |  | Power Brakes Inc. | $0.00  
50S | 3 |  | Power Windows and Door Locks Inc. | $0.00  
50S | 3 |  | Heavy Duty Vinyl Floor Inc. | $0.00  
50S | 3 |  | SYNC - Handsfree Voice Communication Inc. | $0.00  
53A | 3 |  | Trailer Tow Package w/ Class V Hitch inc. | $970.00 | $2,910.00  
18B | 3 |  | Integrated Trailer Brake Controller Inc. | $0.00  
18B | 3 |  | Black Platform Running Boards | $245.00 | $735.00  
18B | 3 |  | Bedliner (Spray-In) | $600.00 | $1,800.00  
18B | 3 |  | GPC SC SC Price Concession | $2,832.00 | $8,496.00

<table>
<thead>
<tr>
<th>Delivery Fee</th>
<th>State Tax</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00</td>
<td>$0.00</td>
<td>$92,508.00</td>
</tr>
</tbody>
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**Requestor**

**Authorized Approval**
**QUICK QUOTE SHEET**

**REQUESTING AGENCY**
CHARLESTON FIRE DEPARTMENT (SC)
**CONTACT PERSON**
JASON KRUSEN
**PHONE**
843-720-3053
**EMAIL**
krusenj@charleston-sc.gov
**PHONE**
843-720-3053
**FAX**
843-693-8970

**CONTRACT NUMBER 5179 - CITY OF TALLAHASSEE**

**MODEL**
X1C 160A
**DESCRIPTION**
2022 FORD F-150 SUPER CAB 2WD XL 6.5’ BED 145” WB

**MSRP**
$35,670.00
**GOVERNMENT PRICE**
$24,804.00

**FACTORY OPTIONS**

<table>
<thead>
<tr>
<th>CODE</th>
<th>DESCRIPTION</th>
<th>PRICE</th>
</tr>
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<tbody>
<tr>
<td>PQAS</td>
<td>Exterior Color Race Red with Steel Hood</td>
<td>$0.00</td>
</tr>
<tr>
<td>99B 46G</td>
<td>3.5L V6 PFDL Transmission</td>
<td>$0.00</td>
</tr>
<tr>
<td>188</td>
<td>Black Platform Running Boards</td>
<td>$245.00</td>
</tr>
<tr>
<td>85A</td>
<td>XL Power Equipment Group (w/100A, Requires valid VIN code)</td>
<td>$1,165.00</td>
</tr>
<tr>
<td>605</td>
<td>Power Door Locks, flip key and integrated key transmitter keyless entry, requires Autoblock MyKey Power Glass Sideview Mirrors w/Black Skull Caps, Heat and manual folding, Power: Front &amp; Rear Windows, Power: Tailgate Lock Illuminated Entry Perimeter Alarm</td>
<td></td>
</tr>
<tr>
<td>52A</td>
<td>CRUISE CONTROL</td>
<td>$220.00</td>
</tr>
<tr>
<td>52A</td>
<td>Trailer Tow Package (Ordering the Trailer Tow Package does not include Trailer Tow Mirrors. Trailer Tow Mirrors are a standalone option and must be ordered separately) (Option Code: 54Y/595)</td>
<td>$597.00</td>
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<tr>
<td>153</td>
<td>FRONT LICENSE PLATE BRACKET</td>
<td>$50.00</td>
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**AFTERMARKET OPTIONS**

<table>
<thead>
<tr>
<th>CODE</th>
<th>DESCRIPTION</th>
<th>FACTORY OPTIONS</th>
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<tbody>
<tr>
<td>GPC SC ADJUSTMENT</td>
<td>PRICE CONCESSION ADJUSTMENT FOR SC</td>
<td>$2,600.00</td>
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<tr>
<td>HD SOB</td>
<td>HD Scorpion Spray on Bedliner Under Rail</td>
<td>$2,832.00</td>
</tr>
</tbody>
</table>

**TOTAL COST**

$30,836.00

**TOTAL COST LESS TRADE IN(S)**

$92,508.00

**Comments**

STOCK UNIT VIN: [VIN NA], [VIN NA], [VIN NA] READY FOR QUICK DELIVERY

**VEHICLE QUOTED BY**

MATT FORTE

**GOVERNMENT ACCOUNT MANAGER**

Matt.Forte@alanjay.com

"I Want to be Your Fleet Provider"

I appreciate the opportunity to submit this quotation. Please review it carefully. If there are any errors or changes, please feel free to contact me at any time. I am always happy to be of assistance.
<table>
<thead>
<tr>
<th>Item #</th>
<th>Quantity</th>
<th>Unit</th>
<th>Description</th>
<th>Unit Price</th>
<th>Ext. Price</th>
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</thead>
<tbody>
<tr>
<td>PQ</td>
<td>1</td>
<td></td>
<td>2022 Ford F-250 crew cab, Race Red</td>
<td>$31,959.00</td>
<td>$31,959.00</td>
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<tr>
<td>4S</td>
<td>1</td>
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<td>Standard Equipment Included:</td>
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<td>$0.00</td>
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<tr>
<td>996 44S</td>
<td>1</td>
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<td>Cloth 40/Mini-Console/Cloth 40 Front Seat</td>
<td>$610.00</td>
<td>$610.00</td>
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<tr>
<td>X3E</td>
<td>1</td>
<td></td>
<td>6.2L V-8 Engine</td>
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<td>$0.00</td>
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<tr>
<td>90L</td>
<td>1</td>
<td></td>
<td>Power Equipment Group</td>
<td>$1,120.00</td>
<td>$1,120.00</td>
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<tr>
<td></td>
<td>1</td>
<td></td>
<td>A/C</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
<td></td>
<td>1</td>
<td></td>
<td>AM/ FM Radio</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
<td></td>
<td>1</td>
<td></td>
<td>176' Wheel Base 8' Bed</td>
<td>inc.</td>
<td>$0.00</td>
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<td></td>
<td>1</td>
<td></td>
<td>Cruise Control</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td>Power Steering</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td>Power Brakes</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td>Power Windows and Door Locks</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td>Heavy Duty Vinyl Floor</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td>SYNC - Handsfree Voice Communication</td>
<td>inc.</td>
<td>$0.00</td>
</tr>
<tr>
<td>TT</td>
<td>1</td>
<td></td>
<td>Trailer Tow Package w/ Class V Hitch</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
<td>52B</td>
<td>1</td>
<td></td>
<td>Tow Command Integrated Trailer Brake Contr.</td>
<td>$265.00</td>
<td>$265.00</td>
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<tr>
<td>18B</td>
<td>1</td>
<td></td>
<td>Black Platform Running Boards</td>
<td>$440.00</td>
<td>$440.00</td>
</tr>
<tr>
<td>94P</td>
<td>1</td>
<td></td>
<td>Collision Assist</td>
<td>$110.00</td>
<td>$110.00</td>
</tr>
<tr>
<td>HD SOB</td>
<td>1</td>
<td></td>
<td>Bedliner (Spray-In)</td>
<td>$675.00</td>
<td>$675.00</td>
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<tr>
<td>GPC SC</td>
<td>1</td>
<td></td>
<td>SC Price Concession</td>
<td>$2,332.00</td>
<td>$2,332.00</td>
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<table>
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<tr>
<th></th>
<th>Delivery Fee</th>
<th>State Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Total:** $37,896.00
## Quick Quote Sheet

**Contract Number 5179 - City of Tallahassee**

<table>
<thead>
<tr>
<th>Model</th>
<th>MSRP</th>
<th>Government Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022 Ford F-250 Crew Cab 4WD XL 8' Bed 175&quot; WB</td>
<td>$43,245.00</td>
<td>$31,959.00</td>
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### Factory Options

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<th>Option Code</th>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>PQ4S</td>
<td>Exterior: Red Interior Medium Earth Gray, Cloth 40/Memo Console/40 Front Seat, Driver's side manual lumbar</td>
<td>$610.00</td>
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<tr>
<td>996445</td>
<td>6.2L EFI V8 Engine with 6-Speed Automatic Transmission</td>
<td>50.00</td>
</tr>
<tr>
<td>X3E</td>
<td>3.73 E Locking Rear Differential</td>
<td>385.00</td>
</tr>
<tr>
<td>90L</td>
<td>Power Equipment Group: Delete passenger side door cylinder, upgraded door trim panel, Accessory Delay Advanced Security Package, SecuriLock Passive Anti-Theft System (PASS) and inclination/Interference sensors, MyKey, owner controls feature: Power Locks, Remote Keyless Entry, Folding Trailer Tow Mirrors w/Power, Heated Glass, manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals, Power Rear &amp; Front Side Windows, Touch up/downdriver/passenger window</td>
<td>1,120.00</td>
</tr>
<tr>
<td>TT</td>
<td>Factory Trailer Tow Hitch Standard</td>
<td>50.00</td>
</tr>
<tr>
<td>526</td>
<td>Electric Brake Controller</td>
<td>265.00</td>
</tr>
<tr>
<td>188</td>
<td>Black Platform Running Boards</td>
<td>440.00</td>
</tr>
<tr>
<td>94P</td>
<td>Pre Collision Assist: Automatic, Emergency Braking (AEB), Automatic high impact and forward collision warning</td>
<td>110.00</td>
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<tr>
<td>153</td>
<td>Front License Plate Bracket</td>
<td>50.00</td>
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### Aftermarket Options

<table>
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<tr>
<th>Option Code</th>
<th>Description</th>
<th>Price</th>
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</thead>
<tbody>
<tr>
<td>HS50B</td>
<td>HD spray on bedliner under rail</td>
<td>675.00</td>
</tr>
<tr>
<td>GPC 5SC</td>
<td>Price Concession Adjustment for SC</td>
<td>2,332.00</td>
</tr>
</tbody>
</table>

### Trade In

**TOTAL COST**: $37,896.00

**TOTAL COST LESS TRADE IN(S)**: $37,896.00

Estimated Annual Payments for 60 months paid in advance: $8,487.15

Municipal finance for any essential use vehicle, requires lender approval, WAC

**Comments**: STOCK UNIT VIN: [VIN NA] READY FOR QUICK DELIVERY

**Vehicle Quoted By**: Matt Forte

**Government Account Manager**: Matt.Forte@alanjay.com

"I Want to be Your Fleet Provider"

I appreciate the opportunity to submit this quotation. Please review it carefully. If there are any errors or changes, please feel free to contact me at any time. I am always happy to be of assistance.
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Fire Chief Daniel Curia
DEPT. Fire

SUBJECT: PURCHASE OF TWO (2) FORD ESCAPE
REQUEST: To purchase two (2) Ford Escape for the recruiters. The vehicles cost $26,247 (Total $52,494.00)

COMMITTEE OF COUNCIL: W & M DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

Corporate Counsel  Yes N/A Signature of Individual Contacted Attachment
Cap. Proj. Cmte. Chair  
Charleston Fire Dept.  X

Yes No N/A

FUNDING: Was funding previously approved? Yes  X No  N/A

If yes, provide the following: Dept./Div:  Account #:  58010
Balance in Account  Amount needed for this item $52,494.00

Does this document need to be recorded at the RMC's Office? Yes  No  X

NEED: Identify any critical time constraint(s)

CFO's Signature:  
FISCAL IMPACT: 2022 Lease Purchase

Mayor's Signature: John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
MEMORANDUM

To: Mayor John J. Tecklenburg  
and City Council

From: Daniel M. Curia, Fire Chief

Subject: Ford Escape

Date: March 16, 2022

The Charleston Fire Department is requesting to purchase two (2) Ford Escapes from Vic Bailey Ford on State Contracts #4400027171 for $52,494.00. The vehicles are purchased for the two recruiters. The vehicles are used to carry materials and visit recruiting opportunities and community events. The current vehicles have high mileage and do not serve the needs of the position.
<table>
<thead>
<tr>
<th>Item #</th>
<th>Quantity</th>
<th>Unit</th>
<th>Description</th>
<th>Unit Price</th>
<th>Ext. Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>U9G</td>
<td>2</td>
<td></td>
<td>2022 Ford Escape SE, AWD, Agate Black</td>
<td>$24,859.00</td>
<td>$49,718.00</td>
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<td></td>
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<td>Dark Earth Gray Interior</td>
<td>inc.</td>
<td>$0.00</td>
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<td></td>
<td></td>
<td>Standard Equipment Included:</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>2.5L Engine</td>
<td>inc.</td>
<td>$0.00</td>
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<td>Automatic Transmission</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
<td></td>
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<td></td>
<td>A/C</td>
<td>inc.</td>
<td>$0.00</td>
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<tr>
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<td></td>
<td>AM/FM Radio</td>
<td>inc.</td>
<td>$0.00</td>
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<td>Power Steering</td>
<td>inc.</td>
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<td>Power Brakes</td>
<td>Inc.</td>
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<td>Cruise Control</td>
<td>Inc.</td>
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<td>Power Door Locks</td>
<td>Inc.</td>
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<td>2</td>
<td>200A Model Trim Upgrade</td>
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<td>50C</td>
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<td>Floor Liners, Front and Rear w/Out Carpeted Mat</td>
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<td>942</td>
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<td>Daytime Running Lights (Non-Configurable)</td>
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<tr>
<td>60S</td>
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<td></td>
<td>Rear Parking Sensor - Reverse Sensing System</td>
<td>$253.00</td>
<td>$506.00</td>
</tr>
</tbody>
</table>

Delivery Fee $0.00
State Tax $1,000.00
Total $52,494.00
TO: John J. Tecklenburg, Mayor
FROM: Matt Fountain
DEPT: Stormwater
SUBJECT: ROAD AND BRICK ARCH REPAIR AT LOGAN AND WEST STREET
REQUEST: Approval to repair road and brick arch of stormwater drain at Logan
And West Streets by Palmetto Gunite Construction Company, 5330 Savannah Hwy., Ravenel, SC 29470.

COMMITTEE OF COUNCIL: Ways & Means
DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

Corporate Counsel: Yes  No  N/A
Cap. Proj. Cmte. Chair: Yes  No  N/A
Stormwater: X
Procurement Director: X

Signature of Individual Contacted
Attachment

FUNDING: Was funding previously approved? Yes  No  N/A

If yes, provide the following:
Dept./Div.: 050345
Account #: 52425
Balance in Account
Amount needed for this item: $65,000.00

Does this document need to be recorded at the RMC's Office? Yes  No

NEED: Identify any critical time constraint(s).

CFO's Signature: Matt Fountain
FISCAL IMPACT: Drainage Fund

Mayor's Signature:

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
EMERGENCY PURCHASE JUSTIFICATION FORM

DEPARTMENT: Stormwater Management

PRODUCT: Repair of road and brick arch storm drain: (Logan & West Streets)

VENDOR: Palmetto Gunite Construction Company

DATE: March 8, 2022

1. Describe in detail the Emergency and impact to City operations.

During the recent cleaning of the arch at Logan Street, an area of the brick arch just below Beaufain Street at West Street was found to be severely damaged and had been inadequately repaired by stacking RCP in the remaining arch. The chance of complete failure of the arch and road due to this existing repair makes this an emergency procurement.

2. Describe in detail the item affected and what corrective action needed.

The brick arch storm drain will be repaired using the approved shotcrete technique.

3. What is the estimated cost and time to complete repair/replacement.

The cost for this repair will not exceed $65,000.00. Work is underway. It had to be done to prevent a road collapse.

Requester Signature ___________________________ Title: Senior Project Manager

Approver Signature ___________________________ Title: Director of SW Monument
PROPOSAL

March 7th, 2022

Attn: Frank Newham
City of Charleston
Department of Public Service
2 George Street, 2nd Floor
Charleston, SC 29401

Subject: Brick Arch Repair at 122 Logan Street

Gentlemen:

We are pleased to submit our proposal for the rehabilitation of approximately 35 LF to repair the collapsed brick arch at the referenced location including the furnishing of all material, equipment, labor and supervision, as required to accomplish the work, as follows:

Scope of Work:
We shall install one new manhole, remove and replace the existing damaged arch roof, clean out and line the existing collapsed brick arch with shotcrete, and flowable fill the excavations to street level to be paved by others. This quotation is for budgetary reasons only, and may increase or decrease depending on the extent of the final work.

Payment:
Payment shall be in full upon completion in the amount of $65,000.00

Basis of Proposal:
1) We shall be provided the following goods/services at no cost to us:
   A) Free ingress/egress to the site until our work is completed;
   B) Any federal, state or location permits that may be required for this work.

Unless otherwise in part provided for in the above, this proposal is also subject to the conditions noted on the reverse side.

Accepted .................................., 20...

.............................................

By ............................................

PALMETTO GUNITE CONSTRUCTION CO., INC.

By .............................................

Approved: .................................
2) All Shotcrete will be installed in accordance with A.C.I. 506.2, "Specifications for Materials, Proportioning, and Application of Shotcrete".

3) All excavated areas shall be back filled to the required elevation.

4) We will follow all PPE measures and confined space entry procedures as set forth by federal and state laws.

5) We will provide traffic control, barricades, signage as necessary to perform this work.

6) Payment shall be made within 10 days of date of invoice. If payment is not received as stipulated and cost is incurred in relation to the collection of said funds, the recipient of this proposal agrees to pay all collection costs, including attorney's fees and interest at current rates. **No retainage will be held.**

7) If any part of this proposal is unclear or if you have any questions please contact Robert Snow at (843)-889-2227.

---

**Insurance:**

It is understood and agreed that we will furnish workman's compensation, public liability, and property damage insurance and pay social security on all employees on our payroll to comply with Federal and State laws.

Respectfully Submitted

---

Unless otherwise in part provided for in the above, this proposal is also subject to the conditions noted on the reverse side.

Accepted .................................., 20...

............................................

By ...........................................

PALMETTO GUNITE CONSTRUCTION CO., INC.

By ...........................................

Approved: ................................
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Wes Ratterree
DEPT. Information Technology
SUBJECT: DELL DESKTOP PERSONAL COMPUTERS
REQUEST: APPROVAL OF THE PURCHASE OF DELL COMPUTERS AS PART OF THE CITY'S ANNUAL PC ROTATION CYCLE. STATE CONTRACT #: 4400011358
COMMITTEE OF COUNCIL: Ways & Means
DATE: April 12, 2022
COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

<table>
<thead>
<tr>
<th>Department</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Contacted</th>
<th>Attachment</th>
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<tbody>
<tr>
<td>Information Technology</td>
<td>X</td>
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<td>[Signature]</td>
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<tr>
<td>Procurement</td>
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FUNDING: Was funding previously approved? Yes [X] No [ ] N/A [ ]
If yes, provide the following:
Dept./Div.: IT
Account #: 062021-52740
Balance in Account Lease-Purchase
Amount needed for this item $133,961.06

Does this document need to be recorded at the RMC's Office? [X] No [ ]

NOTES: Provides 100 Dell Desktop PCs with monitors @ $1,339.62 each as part of the City's annual rotation of PCs on a 4-6 year rotation cycle. 2021 LEASE-PURCHASE.

CFO’s Signature: [Signature] 2021 Lease Purchase

Mayor's Signature: John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we’ve created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your Premier page, or, if you do not have Premier, use this Quote to Order.

Quote No. 3000116308141.1
Total $133,961.06

Sales Rep Laura Burns
Phone (800) 456-3355, 6180176
Email Laura_Burns@Dell.com

Billing To
CITY OF CHARLESTON
CITY OF CHARLESTON
PO BOX 853
CHARLESTON, SC 29402-0853

Customer # 43392896
Quoted On Mar. 31, 2022
Expires by Apr. 30, 2022

Dell NASPO Computer Equipment PA - State of SC

Contract Code C000000010739
Customer Agreement # MNWNC-108/4400011358

Solution ID
Deal ID 14621854

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you're ready to place an order. Thank you for shopping with Dell!

Regards,
Laura Burns

Shipping Group

Shipping To
RECV DEPT
CITY OF CHARLESTON
2 GEORGE ST,STE2800
INFORMATION TECHNOLOGY
CHARLESTON, SC 29401-3583
(843) 805-3220

Shipping Method Standard Delivery

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<tr>
<th>Product</th>
<th>Unit Price</th>
<th>Quantity</th>
<th>Subtotal</th>
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<tbody>
<tr>
<td>OptiPlex 5090 Small Form Factor</td>
<td>$926.00</td>
<td>100</td>
<td>$92,600.00</td>
</tr>
<tr>
<td>Dell 27 Monitor - P2722H, 68.6cm (27&quot;)</td>
<td>$250.00</td>
<td>100</td>
<td>$25,000.00</td>
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<tr>
<td>Logitech MK540 Advanced Wireless Keyboard and Mouse - Black</td>
<td>$53.00</td>
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<td>$5,300.00</td>
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Shipping Group Details

Shipping To
RECV DEPT
CITY OF CHARLESTON
2 GEORGE ST, STE 2800
INFORMATION TECHNOLOGY
CHARLESTON, SC 29401-3583
(843) 805-3220

Shipping Method
Standard Delivery

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<td>Windows 10 Pro (Includes Windows 11 Pro License) English, French, Spanish</td>
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<td>No Microsoft Office License Included - 30 day Trial Offer Only</td>
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<td>No Cable Cover</td>
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<td>No Anti-Virus Software</td>
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<td>Custom Configuration</td>
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<td>No AutoPilot</td>
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<td>EPEAT 2018 Registered (Silver)</td>
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<td>Intel Standard Manageability</td>
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<td>Dell Limited Hardware Warranty Plus Service</td>
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<td>Onsite/In-Home Service After Remote Diagnosis 4 Years</td>
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**Dell 27 Monitor - P2722H, 68.6cm (27")**

<table>
<thead>
<tr>
<th>Description</th>
<th>SKU</th>
<th>Unit Price</th>
<th>Quantity</th>
<th>Subtotal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dell 27 Monitor - P2722H, 68.6cm (27&quot;)</td>
<td>210-BBCK</td>
<td>250.00</td>
<td>100</td>
<td>$25,000.00</td>
</tr>
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**Logitech MK540 Advanced Wireless Keyboard and Mouse - Black**

<table>
<thead>
<tr>
<th>Description</th>
<th>SKU</th>
<th>Unit Price</th>
<th>Quantity</th>
<th>Subtotal</th>
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</thead>
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<tr>
<td>Description</td>
<td>SKU</td>
<td>Unit Price</td>
<td>Quantity</td>
<td>Subtotal</td>
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<td>Logitech MK540 Advanced Wireless Keyboard and Mouse - Black</td>
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</table>

| Subtotal:     | $122,900.00 |
| Shipping:     | $0.00       |
| Environmental Fee: | $0.00   |
| Estimated Tax: | $11,061.06  |

Total: $133,961.06
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Wes Ratterree DEPT. Information Technology
SUBJECT: TYLER TECHNOLOGIES/ENERGOV "ASSIST" SUPPORT
REQUEST: APPROVAL TO RENEW ANNUAL MAINTENANCE AND SUPPORT FOR THE
TYLER-ENERGOV "ASSIST" SUPPORT SERVICE. SOLE SOURCE.

COMMITTEE OF COUNCIL: Ways & Means DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

<table>
<thead>
<tr>
<th>Information Technology</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Contacted</th>
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</thead>
<tbody>
<tr>
<td>Procurement</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attachment

FUNDING: Was funding previously approved? Yes [X] No [ ] N/A [ ]
If yes, provide the following.
Dept./Div.: IT Account #: 161000-52206
Balance in Account $2,867,334.48 Amount needed for this item $50,346.27

Does this document need to be recorded at the RMC's Office? Yes [ ] No [X]


CFO's Signature: Matthew, Date 04-06-23, Any White, CF

FISCAL IMPACT:

Mayor's Signature: John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK’S AGENDA MEETING.
SOLE SOURCE JUSTIFICATION FORM

DEPARTMENT: Information Technology

PRODUCT: Tyler Assist System Support

REQUISITION NUMBER: PR221322

VENDOR: Tyler Technologies

DATE: March 22, 2022

1. Please state the use for this/these product(s).

   Annual Tyler Assist System Support renewal for the City's Government Management System using Tyler Technologies Energov and Munis software.

2. Can the above product(s) be purchased from more than one distributor? If so, please list their company name and telephone number.

   No. See below.

3. Please explain in detail why this product is considered a sole source. (i.e. accessories, replacement parts, disposable supplies, compatibility with existing equipment, or a change in this product would invalidate results of research). Please estimate completion date of research.

   Tyler Technologies is the manufacturer of the Energov and Munis software used for the City's Government Management System (GMS) and must supply the System Support for these systems.

4. Have you evaluated comparable products within the last two years?

   YES or NO X

   If yes, please state the complete results of the evaluation.

   If no, do you wish to evaluate this product? Explain why this item is the only acceptable product, on the market, for your utilization at this time.

   Renewal of support for existing software systems.

   SIGNATURE [Signature]  TITLE [CIO]
Remittance:
Tyler Technologies, Inc
(FEIN 75-2303920)
P O Box 203556
Dallas, TX 75320-3556

Questions:
Tyler Technologies - Local Government
Phone  1-800-772-2260 Press 2, then 2
Email  ar@tylertech.com

Bill To  City of Charleston
Attn: Accounts Payable
PO Box 853
Charleston, SC 29402

Ship To  City of Charleston
Department of Information Technology
2 George Street
Suite 2800
Charleston, SC 29401

<table>
<thead>
<tr>
<th>Cust No.-BillTo-ShipTo</th>
<th>Ord No</th>
<th>PO Number</th>
<th>Currency</th>
<th>Terms</th>
<th>Due Date</th>
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<tbody>
<tr>
<td>48831 - 15217 - MAIN</td>
<td>160456</td>
<td></td>
<td>USD</td>
<td>NET30</td>
<td>05/01/2022</td>
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</table>

Date Description
Contract No. Charleston, SC: EnerGov Assist - Complete Package
Maintenance start 01/May/2022 End 30/Apr/2023

Units Rate Extended Price
1 46,189.24 46,189.24

Announcement
Subject: Tyler Product Name Updates

As one of our valued clients, we are excited to share with you that many of our products are getting new, simplified names. These updated names will be functional in nature, making it easier to understand what our products do.

We want to assure you there will be no change in product functionality or the support and services currently received, we are simply changing the names of our products. In February 2022, you will begin seeing new names used in various documentation and materials, including client support tools, business invoices, tylertech.com, within software applications, etc.

This announcement is simply making you aware of these changes; no further action is needed on your part. Should you have further questions, please visit our FAQ page at tylertech.com/FAQ.

**ATTENTION**
Order your checks and forms from Tyler Business Forms at 877-749-2090 or tylerbusinessforms.com to guarantee 100% compliance with your software.

Subtotal 46,189.24
Sales Tax 0.00
Invoice Total 46,189.24
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Wes Ratterree
DEPT. Information Technology

SUBJECT: ANNUAL MAINTENANCE AND SUPPORT RENEWAL FOR EDMS
REQUEST: APPROVAL OF RENEWAL OF ANNUAL MAINTENANCE AND SUPPORT FOR THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM (EDMS).
STATE CONTRACT: 4400016689

COMMITTEE OF COUNCIL: Ways & Means
DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

<table>
<thead>
<tr>
<th>Information Technology</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Contacted</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
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FUNDING: Was funding previously approved? Yes [x] No [ ] N/A 
If yes, provide the following: Dept./Div.: IT Account #: 161000-52206
Balance in Account $2,817,334.48 Amount needed for this item $71,934.55

Does this document need to be recorded at the RMC's Office? [x] Yes [ ] No

NOTES: The Electronic Document Management System (EDMS) is used for processing, accessing and storing all electronic documentation to include City records, archives, drawings and plans.

CFO's Signature: [Signature]
FISCAL IMPACT:

Mayor's Signature: [Signature]

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
# Invoice

**Invoice Number:**
6714

**Invoice Date:**
Jan 10, 2022

**Page:**
1

---

**Sold To:**
CITY OF CHARLESTON  
PO BOX 304  
CHARLESTON, SC  29402

**Remit to:**
TEAM IA, INC.  
P.O. BOX 1643  
LEXINGTON, SC  29071-1643

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<table>
<thead>
<tr>
<th>Customer ID</th>
<th>Customer PO</th>
<th>Payment Terms</th>
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<tr>
<td>CHARLESTONSC</td>
<td></td>
<td>Net Due</td>
</tr>
<tr>
<td>Sales Rep ID</td>
<td>Shipping Method</td>
<td>Ship Date</td>
</tr>
<tr>
<td>LORRIYARB</td>
<td>Electronic</td>
<td>1/31/22</td>
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<th>Quantity</th>
<th>Description</th>
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<th>Extension</th>
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<tr>
<td>1.00</td>
<td>EDMS System Annual Maintenance renewal per attached department detail.</td>
<td>65,995.00</td>
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<td>65,995.00</td>
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<td>0.00</td>
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</table>

**Check No**

---

**Payment Receive**

**TOTAL**
65,995.00
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Jason Kronsberg/Wes Chappell
DEPT: Parks Department

SUBJECT: JOE RILEY BALLPARK STADIUM REPAIRS
REQUEST: Approval for Emergency Repairs at Joe Riley Ball Park Stadium by Phillips Industrial Services in Goose Creek, SC and Steel Fab, Inc. in Charlotte, NC. Emergency Purchase

COMMITTEE OF COUNCIL: Ways & Means DATE: April 12, 2022

COORDINATION: This request has been coordinated with (attach all recommendations/reviews)

Corporate Counsel
Cap. Proj. Cmte. Chair
Parks Department
Procurement Director

FUNDING: Was funding previously approved? Yes □ No □ N/A □

If yes, provide the following:
Dept / Div: 023010
Account #: 52410
Balance in Account: $27,341.81
Amount needed for this item: $131,439.67

Does this document need to be recorded at the RMC's Office? Yes □ No □

NEED: Identify any critical time constraint(s)

CFO's Signature: Mayor's Signature:

FISCAL IMPACT:

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
City of Charleston
South Carolina

EMERGENCY PURCHASE JUSTIFICATION FORM

Department: Parks

Product: Abrasive Blast and Paint & Steel Repairs

Vendor: Phillips Industrial & Steel Fab

Date: March 16, 2022

1. Describe in detail the Emergency and impact to City operations.
   
   In December 2021, Parks Facility Maintenance staff noticed that the structural beam below the suite deck behind home plate had rusted pieces of metal falling onto the seating bowl below. The Citadel baseball season began on 2/18 and the area needed to be made safe for fans to attend games.

2. Describe in detail the item affected and what corrective action needed.
   
   In December, we did not know the extend of the damage as the area of concern was below the suite decking and it appeared that it need to be abrasive blasted and painted. Phillips Industrial was then contracted to blast and epoxy paint the steel to prevent further damage. Upon the erection of scaffolding and blasting, it was apparent that there was much further damage and the connections holding up the railing had failed. Further assessment and design work was complete by Applied Building Sciences. Steel Fab was then contracted to provide the new additional steel beams, weld stiffening plates and anchor the channel into the concrete deck of the suites. See attached Memo and backup documentation.

3. What is the estimated cost and time to effect repair/replacement.
   
   Phillips Industrial - $25,782.67
   Steel Fab - $55,657
   Total - $121,439.67
   87 days

Requester Signature [Signature] Title Deputy Director

EPJJF1-2016
Memorandum

To: Gary Cooper

From: Wes Chappell

Date: 3/16/2022

Re: Joseph P. Riley Jr. Ballpark – Suite Deck Repair

In early December 2021 maintenance staff noticed rusted pieces of metal had fallen on to the seating area below the suites behind home plate. At this time, we contacted Phillips Industrial to provide a proposal to sand blast and epoxy paint the steel beam. The Citadel baseball season practice started in January and the first game was on February 18, 2022, so time was of the essence. We directed Phillips Industrial to start work to prevent further degradation of the beam and to eliminate the safety hazard of falling rusted metal. Scaffolding was erected in the seating bowl behind home plate to access the area of concern. Once the steel beam and channel were sand blasted it was apparent that the connection between the steel beam and channel holding up the suite railing system had failed. Following this inspection by City staff on 1/7/22, Applied Building Sciences [structural engineering firm] performed a visual inspection that afternoon. ABS’s preliminary observation was:

“The structural steel and slab supporting the suite decks exhibited corrosion and damage sufficient to necessitate repairs. The support of the guard system due the weld failures between the C10 and W12 is compromised. Portions of the C10, W12, and metal deck exhibit sufficient section loss to necessitate repairs. This portion of the suite decks should be off limits to occupancy until structural mitigation can be performed.

The cause of the damage appears to be long-term moisture exposure and poor drainage and waterproofing conditions. As built, water that accumulates on the slab is directed into the C10 and W12 beams that support the guard rail and the slab at the edge. The long-term exposure to moisture resulted in corrosion and section loss to the steel members.”

Parks Facility Maintenance then continued to work with ABS on a temporary repair to allow the suites to remain safely in-service for occupancy in the short-term. ABS then worked on a temporary repair design which consisted of add stiffing plates to the channel, new additional steel beams underneath the suite decking and anchoring the channel into...
the concrete of the suite concrete deck with all-thread rods. The design was sent to the City on 2/3/22.

To keep the repair moving as quickly as possible we reached out to several steel fabrication companies to see who was available. Steel Fab was able to mobilize a crew to start repairs the week of 2/14 on T&M rates. Steel Fab was able to complete all structural repairs by 3/11/22. Phillips Industrial then remobilized to re-prime areas of the steel that were welded and provide the final coat of paint. The scaffolding was then removed on 3/14/22 just in time for the Citadel’s game vs Texas on 3/16.

The total cost of the repair is $131,439.67

See attached additional reports, design, and invoices for the repairs to the suite deck.

cc: Jason Kronberg – Director, Department of Parks, Amy Wharton – CFO, BFRC, Robin Robinson – Senior Buyer, BFRC, Diane Howard – Admin Manager, Department of Parks
City of Charleston
Attention: Clate Moon
843.709.2728

17 December 2021

Re: Joe Riley Stadium – Beams Behind Home Plate
Phillips Proposal BH-272-21

Phillips Industrial greatly appreciates the opportunity to present the following proposal to provide maintenance painting to the steel beams on the upper deck of Joe Riley Baseball Stadium.

Scope of Work (abrasive blast/paint)
1. Conduct preconstruction safety meeting.
2. Mobilize
3. Provide scaffolding as needed.
4. Set up containment on site and sensitive items adjacent to work.
5. Perform chloride test and pressure wash if required.
6. Abrasive blast to SSPC-SP6 standard.
7. Apply full prime coat of epoxy.
8. Apply full intermediate coat of epoxy.
9. Apply full finish coat of polyurethane.
10. Provide caulking to seal gap between two beams.
11. Cleanup and dispose spent abrasives.
12. Demobilize

Scope of Work (powertool/paint)
1. Conduct preconstruction safety meeting.
2. Mobilize
3. Provide scaffolding as needed.
4. Protect items adjacent to work as required.
5. Pressure wash using 5000psi pressure washer to remove loose paint, loose rust, etc.
6. Spot power tool clean areas of bare steel to SSPC SP3 standard.
7. Apply spot prime coat of epoxy.
8. Apply full intermediate coat of epoxy.
9. Apply full finish coat of polyurethane.
10. Provide caulking to seal gap between two beams.
11. Cleanup and dispose spent abrasives.
12. Demobilize

Qualifications
1. Phillips Industrial is a certified contractor with the Society of Protective Coatings (SSPC) for The Coating of Complex Structures (QP1), Hazardous Coating Removal (QP2), and Shop Applied Coatings (QP3).
2. City of Charleston will provide:
   a. 110V power.
b. Potable water.
c. Removal of radar assembly behind home plate for abrasive blasting scope.
d. Sealing of topside joint at box level slab-to-beam interface. The overall performance and lifespan of the new coatings and sealant applied to the beams flanges will be improved if water penetration from the topside is mitigated or, preferably, eliminated.

3. Payment terms are net 30.

Cost Breakdown

<table>
<thead>
<tr>
<th>Prep Option</th>
<th>Labor / Equipment / Material Price</th>
<th>Scaffold Price</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>Abrasive Blast</td>
<td>$13,335.00</td>
<td>$22,725.00</td>
<td>$64,060.00</td>
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</table>

Thank you for your time and consideration. If you have any questions, please feel free to contact me.

Regards,

Bud Herring
Assistant Project Manager
Corporate Offices: 1841 Bushy Park Road, P.O. Box 37, Goose Creek, SC 29445
Phone (843) 884-8566 Toll Free 800-293-7760 Fax (843) 884-7985
WWW.PHILLIPSINDSVG.COM
E-mail: phillips@phillipsindsvc.com

City of Charleston
Attention: Mr. Wes Chappell
843.906.0291

17 March 2021

Re: Joe Riley Stadium - PCO1

Phillips Industrial greatly appreciates the opportunity to provide you with our coatings services. The following covers the extra work required due to the structural deficiencies uncovered following abrasive blasting. Daily diaries and vendor invoices are included for your records.

<table>
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<tr>
<th>Date</th>
<th>Labor and Equipment Cost</th>
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<td>2/18/2022</td>
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<td>3/3/2022</td>
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<td>3/4/2022</td>
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<td>3/7/2022</td>
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<td>3/8/2022</td>
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<td>3/13/2022</td>
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<td>3/14/2022</td>
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<td>3/16/2022</td>
<td>$116.00</td>
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<td>TOTAL</td>
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<tr>
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<tr>
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<td>XCL21-3350-02</td>
<td>CQS</td>
<td>$1,062.75</td>
<td>$106.28</td>
<td>$1,169.03</td>
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<td>2/23/22</td>
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<td>Sherwin-Williams</td>
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<td>$3,268.03</td>
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Total Cost... $11,722.67

Thank you for your time and consideration. If you have any questions, please feel free to contact me.

Regards,
Scott McLaughlin
Vice President
**Customer:** City of Charleston  
**Date:** 2/17/2022  

**Contact:** Clay Moon  
**Job Title:** Steel Beam Repair  
**Job #:** 5505  
**City & State:** Charleston, SC  
**PO #:**  
**Phone:**  
**Fax:**  
**Daily Diary #:** 1  

<table>
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<th>Sub.</th>
<th>G/T Rate</th>
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<td>S</td>
<td>1</td>
<td>$75.00</td>
<td>$75.00</td>
<td>$</td>
<td>$</td>
<td>75.00</td>
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<td>Terry</td>
<td>T</td>
<td>1</td>
<td>$45.00</td>
<td>$45.00</td>
<td>$</td>
<td>$</td>
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<tr>
<td>Louis</td>
<td>T</td>
<td>4</td>
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<td>$180.00</td>
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**Equipment / Safety Equipment / Sundries / Description**  

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<td>$910.00</td>
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**Total** $910.00  
**Grand Total** $1,210.00  

**Work Description:** Unload and blast the steel beams to specified standard.
Customer: City of Charleston
Contact: Clare Moon
Address: 
City & State: Charleston, SC
Phone: 
Fax: 

Date: 2/18/2022
Job Title: Steel Beam Repair
Job #: 5505
PO #: 

Name | Craft | S/T | Rate | Sub. | G/T | Rate | Sub. | Total |
--- | --- | --- | --- | --- | --- | --- | --- | --- |
Drew | S | 1 | $75.00 | $75.00 | | | $ | $75.00 |
Joanna | T | 4 | $45.00 | $180.00 | | | $ | $180.00 |
Chris K. | T | 5 | $45.00 | $225.00 | | | $ | $225.00 |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |
| | | | | | | | $ | |

**Total** $480.00

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<td>Day</td>
<td>$180.00</td>
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<td>$90.00</td>
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**Grand Total** $570.00

Work Description: **Paint All Beams**
**DAILY DIARY**

Customer Sign-off on a Daily Basis

**Customer:** City of Charleston

**Contact:** Slate Meen

**City & State:** Charleston, S.C.

**Phone #:** (843) 709-2788  Fax #: 

**Date:** 3/3/22

**Job Title:** Steel Beam Repair at BullPen K

**Job #:** 522  Daily Diary #: 01

**PO #:**

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<td>J. Fox</td>
<td>Super</td>
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<td>58'</td>
<td>477.50</td>
<td></td>
<td></td>
<td></td>
<td>477.50</td>
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<tr>
<td>S. Reid</td>
<td>Tech.</td>
<td>7.5</td>
<td>45'</td>
<td>371.25</td>
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<td>371.25</td>
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**TOTAL** 848.75

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<tr>
<td>Truck #186</td>
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<td>2 day</td>
<td>150.00</td>
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<tr>
<td>Race Trailer #144</td>
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<td>1 day</td>
<td></td>
</tr>
</tbody>
</table>

**Total** 150.00

**GRAND TOTAL** 998.75

**Work Description:**

Got equipment, tools and supplies together and tested equipment had pre-con meeting, traveled to job site, scraped/cleaned debris off stock beams, then cleaned up and went to store in Williams to pick up paint and picked up for for pressure washers.

**Signature:**

---

**Safety is Our Number One Priority - Every Day!**
**DAILY DIARY**
Customer Sign-off on a Daily Basis

**Customer:** City of Charleston  
**Contact:** Clare Moon  
**City & State:** Charleston, S.C.  
**Date:** 3/4/22  
**Job Title:** Steel beam erection ballpark  
**Job #:** 572  
**Daily Diary #:** 02

<table>
<thead>
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<th>Sub.</th>
<th>O/T</th>
<th>Rate</th>
<th>Sub.</th>
<th>Total</th>
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<tbody>
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<td>J. Rose</td>
<td>Super</td>
<td>8.0</td>
<td>59</td>
<td>414</td>
<td>2.0</td>
<td>77</td>
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<td>66.28</td>
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<td>S. Seoul</td>
<td>Tech.</td>
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**TOTAL** 1633.02

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<tbody>
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<td>Track #126</td>
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<td>150.00</td>
</tr>
<tr>
<td>Race Trailer #146</td>
<td>100</td>
<td>2 Day</td>
<td>200.00</td>
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<tr>
<td>Bristol Blasters (2)</td>
<td>200</td>
<td>2 Day</td>
<td>200.00</td>
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</tbody>
</table>

**Total** 350.00  
**GRAND TOTAL** 1983.02

**Work Description:**
Setting hand and power toolerd (Bristol blasted) cleaned corroded beams and rust spots and we've brushed them then broke down and packed up equipment and tools and blew down again and cleaned up.

**Signature:**

---

Safety is Our Number One Priority – Every Day!
DAILY DIARY
Customer Sign-off on a Daily Basis

Customer: City of Charleston  Date: 3-7-22
Contact: Clay Moen  Job Title: Steel Beams Repair
City & State: Charleston, S.C.  Job #: 572  Daily Diary #:
Phone #: 843-709-2548  Fax #: PO #:

<table>
<thead>
<tr>
<th>Name</th>
<th>Craft</th>
<th>S/T</th>
<th>Rate</th>
<th>Sub.</th>
<th>O/T</th>
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<tr>
<td>Johnny Figueroa</td>
<td>Painter</td>
<td>C</td>
<td>$57.32</td>
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<td>Eduardo Balboa</td>
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<td>Roger Audishon</td>
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**TOTAL**  978.00

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<tr>
<td>Truck 144</td>
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<td>Race trail 144</td>
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<tr>
<td>DuraPlate 255 White 1 gal.</td>
<td></td>
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</table>

Total GRAND TOTAL 1038.00

Work Description: Finish hand tool painting, prime, wipe and spot primed steel beams and cleaned up.

Safety is Our Number One Priority - Every Day!
**DAILY DIARY**

Customer Sign-off on a Daily Basis

Customer: **City of Charleston**

Contact: **Gale Munn**

City & State: **Charleston, S.C.**

Phone #: **843-701-2763** Fax: 

Job #: **672-** Daily Diary #: 

<table>
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<td>Eduardo Badano</td>
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<td>5</td>
<td>58.25</td>
<td>240.00</td>
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<td>Egars Armstrong</td>
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**Equipment / Safety Equipment / Sundries / Description**

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**Total**

**GRAND TOTAL**

**665.00**

Work Description: **Set up and intermediate brown and cleaned up**

Foreman's Signature: ______________________ Customer's Signature / Print Name: ______________________ Date: **3-8-22**

*Safety is Our Number One Priority - Every Day!*
**DAILY DIARY**
Customer: City of Charleston  
Date: 3-13-22  
Job Title: Paint Beams

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<td>Chris FauP</td>
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<td>7</td>
<td>50.00</td>
<td>Sub.</td>
<td>3</td>
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<td>Manell Poncea</td>
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<td>Eduard Phillips</td>
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<td>Jeanna Phillips</td>
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<td>Roger Anderson</td>
<td>Painter</td>
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**TOTAL** 449.62

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<td>Truck 176 LONCAR Polyurethane Green L 1 Gal</td>
<td>150.00</td>
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**GRAND TOTAL** 1049.6

**Work Description:** Top coated Beams

**Foreman's Signature:** Roger Anderson  
**Customer's Signature:**  
**Date:** 3-13-22

**Safety is Our Number One Priority—Every Day!**
**DAILY DIARY**

Customer Sign-off on a Daily Basis

Customer: City of Charleston  
Contact: Clate Moon  
City & State: Charleston, S.C.  
Phone #: (843) 709-2228  
Date: 3/14/22  
Job Title: Steel Beam Repairs/Print  
Job #: 572  
Daily Diary #: 08  
PO #:  

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<td>J. Rose</td>
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<td>58</td>
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**TOTAL** 540.25

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<tr>
<td>Track #186</td>
<td>150</td>
<td>1 Day</td>
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<tr>
<td>Race Trailer #147</td>
<td>150</td>
<td>2 Days</td>
<td>300</td>
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**Total** 450  
**GRAND TOTAL** 690.25

**Work Description:**
- Cleaned weld burn spots and other rust spots, solvent wiped cleaned, mixed paint then applied paint to steel then followed cleanup procedures.

Customer's Signature / Print Name  
Date: 3/14/22

*Safety is Our Number One Priority - Every Day!*
**Customer:** City of Charleston  
**Date:** 2/21/2022

**Contact:** Clate Moon  
**Job Title:** Steel Beam Repair

**Address:**  
**City & State:** Charleston, SC

**Phone:**  
**Fax:**  
**Daily Diary #:** 3

### Daily Diary

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<tr>
<td>Drew M</td>
<td>S</td>
<td>1.5</td>
<td>$75.00</td>
<td>$112.50</td>
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<td>Joanna P</td>
<td>T</td>
<td>1.5</td>
<td>$45.00</td>
<td>$67.50</td>
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<td>Marius V</td>
<td>T</td>
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**Total** $ 292.50

### Equipment / Safety Equipment / Sundries / Description

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<td>Truck 40</td>
<td>Ea</td>
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**Total** $ 250.00  
**Grand Total** $ 542.50

**Work Description:** Remove masking and load beams onto truck. Deliver to JRB.

---

**CSM**  
**PM's Signature**  
**Customer's Signature**  
**Date**
Customer: City of Charleston  
Contact: Claye Moon  
Address:  
City & State: Charleston, SC  
Phone:  
Fax:  
Date: 3/16/2022  
Job Title: Steel Beam Repair  
Job #: 572  

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<td>2</td>
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Total $116.00

Grand Total $116.00

Work Description: Demobilize Trailer

PM's Signature  
Customer's Signature  
Date
**INVOICE**

**DATE:** 1/25/2022  
**NAME:** PHILLIPS INDUSTRIAL  
**ADDRESS:** PO BOX 37, GOOSE CREEK, SC 29445

**PURCHASE ORDER#:** 572-5796-BH  
**INVOICE#:** XCL21-3350-02  
**JOB#:** XCL21-3350  
**QUOTE#:** 24826SH

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<td>Material</td>
<td>RENTAL PERIOD 1/25/22 - 2/22/22</td>
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*NEXT RENTAL PERIOD 2/23/22 - 3/23/22*

**PRE-TAX AMOUNT:** $975.00

| STATE: | SC | TAX RATE: | 9% |
| COUNTY: | Charleston | TAX AMOUNT: | $87.75 |

**TOTAL AMOUNT DUE THIS INVOICE:** $1,062.75

Please pay from this invoice - no statement rendered.

Terms - upon receipt of invoice:

A finance charge of 1 1/2% per month is assessed on all invoice amounts not paid by the end of the second month following the billing. This is equivalent to an annual percentage rate of eighteen percent (18%).
DATE: 2/23/2022
NAME: PHILLIPS INDUSTRIAL
ADDRESS: PO BOX 37
GOOSE CREEK, SC 29445

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<td>$975.00</td>
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*NEXT RENTAL PERIOD 3/24/22 - 4/21/22

PRE-TAX AMOUNT: $975.00
STATE: SC
TAX RATE: 9%
COUNTY: Charleston
TAX AMOUNT: $87.75

TOTAL AMOUNT DUE THIS INVOICE: $1,062.75

ap@phillipsindsvc.com

PLEASE PAY FROM THIS INVOICE - NO STATEMENT RENDERED

TERMS - UPON RECEIPT OF INVOICE

A FINANCE CHARGE OF 1.75% PER MONTH IS ASSESSED ON ALL INVOICE AMOUNTS NOT PAID BY THE END OF THE SECOND MONTH FOLLOWING THE BILLING, THIS IS EQUIVALENT TO AN ANNUAL PERCENTAGE RATE OF EIGHTEEN PERCENT (18%).
**SALES NUMBER** | **SIZE** | **PRODUCT** | **DESCRIPTION** | **FILL UNITS** | **WORKING GALLONS** | **WRK GAL PRICE** | **QTY** | **PRICE** | **VALUE**  
--- | --- | --- | --- | --- | --- | --- | --- | --- | ---  
5802-09888 | 1.25QT | 1BT204 | HSPOLYUDEPT426 | 2.69 | 60.28 | 2 | 76.31 | 180.62 | 
5802-09889 | QUART | G60V600350 | HS POLY ACTVRTT | 2 |  
5877-98931 | GALLON | G85T00204 | HS POLY ULTOP PT S | 2 |  

**Customs: MANUAL 1ST BASE LINE**  
GIC Global Industr | OZ. 32 | 64 | 128  
WHT White | 4 | - | -  
BLK Black | 6 | 46 | -  
TGR Green | 4 | 37 | -  
YGR Yellow Ox | - | 45 | -  

**Custom Manual Match**  
1ST BASE LINE  
5802-09986 | 1.25QT | 1T220S | DP235 MILLWHT 1.25G | 2.69 | 40.24 | 2 | 50.67 | 101.34 | 
6403-21723 | GALLON | G67V00235 | DRA PLT 235 MILLWH | 2 |  
6403-21724 | QUART | G67V00235 | DRA PLT 235 HARD B | 2 |  
6402-09972 | 1.25QT | 1T220S | DP235Z GRAY 1.25G | 2.69 | 40.24 | 4 | 50.67 | 202.68 | 
6403-21691 | GALLON | G87A00235 | DRA-PLT 235 HZ GYA | 4 |  
6403-21734 | QUART | G87V00235 | DRA PLT 235 HARD B | 4 |  
5508-46935 | EACH | S683 | S.S. MINI BRUSH 3PK | 2 | 3.20 |  

**Thank You**  
**SUBTOTAL BEFORE TAX** | **466.22**  
9.000% SALES TAX: | **41.61**  
**AMOUNT DUE** | **$507.83**

**MERCHANDISE RECEIVED IN GOOD ORDER BY:**  
JAMES  
**STORE HOURS**  
SUNDAY: CLOSED  
MONDAY - FRIDAY: 7:00 AM - 5:30 PM  
SATURDAY: 7:30 AM - 12:30 PM  

---

**Visit www.sherwin-williams.com**  
**STORE 702391**  
**PHONE: (843) 740-1363**  
**FAX: (843) 740-5450**  
**JOB 1 PHILLIPS IN SVCE CORP/CHAS**  
**SHIPPED TO:**  
**PHILLIPS IND.**  
**1841 BUSHY PARK ROAD**  
**GOOSE CREEK SC 29445**  
**PAGE 1 OF 1**  
**ORDER: 0202585745G702391**  
**DATE: 03/07/2023**  
**TIME: 04:35 PM**  
**2-8821**  
**EQ014213**  

*INDICATES SALE PRICE*  
**TERMS: 2% 10 DAYS, NET PAYMENT DUE ON APR. 20**

---

**Thank You**
receipt required for refund
# Invoice

**RAM TOOL**  
CONSTRUCTION SUPPLY CO.  
4500 5th Avenue South, Building A  
Birmingham, AL 35222

**Bill To:** 135318

**PHILIPS INDUSTRIAL SERVICES CORP**  
PO BOX 57  
GOOSE CREEK, SC 29445

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<td>1.85667</td>
<td>11.14</td>
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For general inquiries:  
ancustrsem@ramtool.com  
(205) 599-7061/(800) 890-1898

For lien waivers:  
lienwaiver@ramtool.com

Your AR account rep:  
Kayla DOWNEY  
kayla.downey@ramtool.com  
(205) 599-7096

---

**SAVE TIME AND MONEY WITH OUR NEW PORTAL!**  
Choose from two easy ways to receive your invoices: email, or our secure online site, elinvoice Connect. With elinvoice Connect, you can be notified by email when new invoices are posted and search, download, print, and pay your bills online.  
Visit http://ramtool.billtrust.com to enroll.

---

**TOTAL AMOUNT IN USD:** 148.84

---

**PLEASE REMIT PAYMENT ONLY TO:**  
Ram Tool Construction Supply Co  
P O Box 743487  
Atlanta, GA 30374-3487

---

**Enrollment Token:** VMP HRW ZMK

---

**To view and pay your bills online go to:**  
https://ramtool.billtrust.com

---

**Document Date:** 03/07/2022  
**Due Date:** 04/06/2022  
**Payment Terms:** Net 30  
**Purchase Order #:** 572-6143-MV

---

**Document #:** 9503322775
THE SHERWIN WILLIAMS CO.
5350 RIVERS AVE
N CHARLESTON SC 29406 6280

ACCOUNT: 5752-3945-3

PHILLIPS IN SVCE CORPICHAS
PO BOX 37
GOOSE CREEK SC 29445 0037

(843) 664-8566
* INDICATES SALE PRICE

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Thank You
receipt required for refund

MERCHANDISE RECEIVED IN GOOD ORDER BY:
DELIVERED

STORE HOURS
SUNDAY: CLOSED
MONDAY - FRIDAY: 7:00 AM - 5:00 PM
SATURDAY: 7:30 AM - 12:30 PM

Visit www.sherwin-williams.com
Store 702391
(843) 740-1363
Fax: (843) 740-5451
JOB 1 PHILLIPS IN SVCE CORPICHAS
SHIPPED TO:
PHILLIPS IND.
1841 BUSHY PARK ROAD
GOOSE CREEK SC 29445

CHARGE INVOICE
No. 41244500
PAGE 1 OF 1
POF-672-6444MV
ORDER: DH066234A702391
DATE: 03/03/2022
TIME: 01:32 PM
2-6921
E33/14299

TERMS: 2% 10 DAYS, NET PAYMENT DUE ON APR. 20

SUBTOTAL BEFORE TAX          177.77
9.000% SALES TAX:1-412444500  16.00
CHARGE                      193.77
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January 13, 2022

Via email: chappellw@charleston-sc.gov

Wes Chappell
City of Charleston, Dept of Parks
823 Meeting Street
Charleston, SC 29403

RE: Joe Riley Stadium Suite Deck
360 Fishburne Street
Charleston, SC 29403
ABS Project No. 660.22001

Dear Mr. Chappell:

Pursuant to your request, ABS personnel performed a site visit to Joe Riley Stadium on January 7, 2022. The purpose of the site visit was to make a preliminary structural assessment of the structural steel members and slab supporting a portion of the suite seating area behind the home plate. The following report and attached photos summarize our findings with preliminary recommendations.

BACKGROUND

ABS received the request for assistance on January 7, 2022 and performed the initial visual inspection the same day. At the time of the site visit a contractor was shot-blasting steel in preparation for painting. The corrosion was discovered during the shot-blasting.

PRELIMINARY OBSERVATIONS

1. The portion of the suite deck in question is highlighted with the yellow strip in Figure 1 and Figure 2, and is also depicted in Photo 1. Access was limited due to the shot blasting work, but this portion of the suite deck is believed to be approximately 4-ft wide x 135-ft long (the length is estimated), and contains a row of outdoor seating.

2. The suite deck consists of what appears to be a concrete slab on a 1-inch corrugated steel deck (possibly a 1.0E or 1.0C non-composite deck). The gage thickness of the steel deck is presently unverified. The concrete slab depth is presently unverified but is assumed to be between 2-1/2-inches to 5-1/2-inches in depth. The outboard end of the slab is supported by a W12 steel beam with a bent plate. A C10 is intermittently welded to the top flange of the W12 and the guardrail posts are welded to the C10 top flange.
Figure 1 – The portion of the suite deck in question is highlighted by the yellow strip. Annotation by ABS. Original drawing provided by the City of Charleston.

Figure 2 – The portion of the suite deck in question is indicated. Annotation by ABS. Original drawing provided by the City of Charleston.
Photo 1 – The area in question is behind the protective plastic sheeting.

3. The C10 was measured to be out of plumb in some locations. The guardrail post appeared, generally, to be plumb. It was unclear if the C10 was originally installed out of plumb.

4. The C10 is intermittently welded with 2-inch welds at 8-inch to 20-inch spacing. Numerous welds have failed due to corrosion. These welds appear to be the only connection of the C10 to the W12, which also supports the guards.

5. The C10 bottom flange exhibited areas of section loss due to corrosion.

6. Web stiffeners are tack welded at the guard attachment locations on the C10 web. Several web stiffeners exhibited failed welds and displaced with hand pressure.

7. The W12 beam top flange and web exhibited areas of section loss due to corrosion.

8. The 1-inch corrugated steel deck exhibited corrosion and section loss near the outer edge. The bottom of the concrete slab is exposed in several locations.

9. The exposed concrete slab exhibited cracks near the W12 support.

10. The condition of the slab reinforcement was concealed and therefore, not observed. Reinforcement in the slab is unverified.

11. Structural drawings have not been provided or reviewed. All information herein is preliminary and is based on a single cursory visual survey with review of two (2) architectural sheets of drawings that were provided to ABS. Detailed structural
analysis and design has not yet been conducted nor requested. Photos of interest with annotations are attached to this letter.

PRELIMINARY CONCLUSIONS

The structural steel and slab supporting the suite decks exhibited corrosion and damage sufficient to necessitate repairs. The support of the guard system due the weld failures between the C10 and W12 is compromised. Portions of the C10, W12, and metal deck exhibit sufficient section loss to necessitate repairs. This portion of the suite decks should be off limits to occupancy until structural mitigation can be performed.

The cause of the damage appears to be long-term moisture exposure and poor drainage and waterproofing conditions. As built, water that accumulates on the slab is directed into the C10 and W12 beams that support the guard rail and the slab at the edge. The long-term exposure to moisture resulted in corrosion and section loss to the steel members.

PRELIMINARY RECOMMENDATIONS

The repair solution will involve relatively comprehensive structural design and construction. Replacement or strengthening of several structural steel members, the concrete slab and deck, guards, a row of seating, and waterproofing elements will be involved in the structural repair. Presently, ABS does not believe it is feasible to accomplish the analysis, design, procurement, and construction within a relatively short period of time (i.e., within several months or before baseball season).

If appropriate temporary repairs can be implemented, then it is possible this portion of the deck suite may remain safely in-service for occupancy in the short-term. For purposes of the conceptual recommendations provided below, short-term is considered a period of one-year and temporary repairs should focus on gravity loads.

Conceptually, temporary repairs should consist of: confirming and/or strengthening the attachment of the guardrail to the C10; strengthening or re-welding the attachment of the existing C10 to the W12; additional analysis to determine effects of section loss on strength to the C10 and W12; possible strengthening of the C10 and W12 due to section loss; and provisions for additional localized support for the slab where steel deck section loss has occurred and/or the slab is cracked. Additional analysis should occur prior to implementing the temporary repair plan, such as verifications for: slab thickness and reinforcement; overall dimensions; better understanding of load paths and connections within the area of concern; additional review of the original plans and available original construction/maintenance documents; and dead and live load (gravity load) calculations.

LIMITATIONS

This report is preliminary and is based on a limited scope of assignment. The entire structure was not evaluated. All findings and opinions herein are preliminary and are based on the available information at the time of writing. Should additional information become available later, ABS reserves the right to supplement or amend this report. This document is intended to advise the client and to aid the client with decision-making. This document is not considered a design or construction document. This report is for the sole use of the client for its intended purpose and is not transferable to other projects, entities, or persons.
We appreciate the opportunity to provide engineering consultation to the City of Charleston. If you have any questions regarding this report, feel free to contact us.

Sincerely,

APPLIED BUILDING SCIENCES, INC.

Jason Gregorie, PE, CFM, REWC, RRC

Attachment – Annotated Photos of Interest
Preliminary: Photos of Interest

January 13, 2022

ABS Project Number: 650.22001

Prepared for: Wes Chappell, City of Charleston – Department of Parks
Prepared by: Jason Gregorie, PE and Mike McLean, PE
Seating area affected by corrosion (highlighted)
Seating area affected by corrosion (highlighted)

Area of concern
Corrugated steel deck (Section loss). Bottom of slab exposed.

Cracked slab
W12 top flange (Section loss)
Guardrail attachment overview

Guardrail

C10

Web stiffener

W12

Failed welds
C10 out of plumb (86.6 degrees)

Web stiffener (weld failure)
ALL INFORMATION HERIN IS PRELIMINARY AND IS SUBJECT TO CHANGE UPON ADDITIONAL ANALYSIS OR REVIEW OF NEW INFORMATION.
DESIGN CHANGE 1 - 6-INCH EMBEDMENT OF ANCHORS W/ 18" SPACING.

5/8" THREADED ROD, 6" EMBEDMENT INTO SLAB W/ SET 3G. PRE-DRILL HOLES.

(4) W/ 1/2" SHAVING REAM

4 x 4 x 1/2 x 6" EACH SIDE

GALV (3 EACH SIDE)

W30 x 99
TO:  John J. Tecklenburg, Mayor
FROM:  Rick Jerue DEPT. Executive
SUBJECT:  DEPT. OF TRANSPORTATION RAISE PLANNING GRANT SUBMISSION FY2022
REQUEST:  To submit the DOT RAISE Planning Grant application in support of the Lowcountry Lowline, a proposed 1.7 mile bicycle/pedestrian trail located in downtown Charleston. The grant requires an 80/20 cost share. The required City match is $1,750,000 and the DOT funding request is $7,000,000.

COMMITTEE OF COUNCIL:  W&M DATE:  April 12th, 2022

COORDINATION:  This request has been coordinated with:  

<table>
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<th>Signature of Individual Contacted</th>
<th>Attachment</th>
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<td>Executive Department</td>
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FUNDING:  Was funding previously approved?  Yes No N/A

If yes, provide the following:  Dept./Div.:  Account #:  

Balance in Account  Amount needed for this item  

Does this document need to be recorded at the RMC’s Office?  Yes No

NEED:  Identify any critical time constraint(s).  
The application is due by April 14th, 2022.

CFO’s Signature:  

FISCAL IMPACT:

The required City match is $1,750,000. The City of Charleston, as the grant applicant, will be responsible for the match. It was previously discussed in 2021 to allocate City TIF funding towards the project. The attached Lowline & City TIF Districts Overlay Map illustrates which TIF districts are included in the project area. In addition, the Friends of the Lowline have included a letter explaining their intent to raise funds to help fund the match.

Mayor’s Signature:  

ORIGINATING OFFICE PLEASE NOTE:  A FULLY STAFFED/APPROVED (except Mayor’s Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK’S AGENDA MEETING.
MEMORANDUM

To: John J. Tecklenburg, Mayor
    Members of City Council
From: Rick Jerue, Senior Advisor to the Mayor
Subject: U.S. Department of Transportation Lowcountry Lowline RAISE Planning Grant Submission
Date: 12 April 2022

The purpose of this memorandum is to request permission to submit the City of Charleston’s Lowcountry Lowline planning grant application to the USDOT RAISE grant program. The application is submitted in partnership with the Friends of Lowcountry Lowline, an advocacy nonprofit organization. The application is due by Thursday, April 14th, 2022.

The City is requesting $7,000,000 in DOT funding to support the Planning Phase of the Lowcountry Lowline, a proposed 1.7 mile bicycle/pedestrian trail located in downtown Charleston. If awarded, grant funding would support various planning activities such as community engagement, design & engineering, permitting, and environmental remediation.

The grant program requires an 80/20 cost share, thus requiring a City match of $1,750,000. Last summer, City Council approved matching funds to be allocated from TIF funding for a previously submitted DOT RAISE Lowline grant application. (See attached the Lowline & City TIF Districts Overlay Map.) Although this application was not awarded, the City received feedback from DOT staff that the project made it to the Secretary’s Desk and was considered a finalist in the review process. The City has heeded the advice from DOT to submit an application in 2022 to the planning grant category.

The Friends of the Lowline have included a letter explaining their intent to raise funds to help fund the required match.

If awarded, the Project will be managed by the Capital Projects Division of the Parks Department. Please do not hesitate to contact me should you have any questions or concerns at <jerue@charleston-sc.gov> or (843) 724-3735.
## Lowline & City TIF Districts Overlay Map

The map illustrates the geographic areas covered by the Lowline Boundary and City TIF Districts.

### City TIF Areas
- Magnolia
- Cooper River Bridge Redevelopment Area
- Morison Drive Redevelopment Area
- King Street Gateway
- Waterfront Park
- Human Redevelopment Area

### Table

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COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Amber Johnson DEPT. Executive
SUBJECT: NLC EQUITABLE ECONOMIC MOBILITY INITIATIVE
REQUEST: Approval of additional $70,250 grant from NLC Equitable Economic Mobility Initiative. Total received from initiative is $95,250.00

COMMITTEE OF COUNCIL: W&M DATE: 4/12/2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

Corporate Counsel [ ] N/A [ ]
Cap. Proj. Cmte. Chair [ ] [ ] [ ]
Equity, Inclusion, and Racial Conciliation Manager [ ] [ ] [ ]
Grants Manager [ ] [ ] [ ]

Signature of Individual Contacted [ ]
Attachment [ ]

FUNDING: Was funding previously approved? Yes [ ] No [ ] N/A [ ]

If yes, provide the following:
Dept./Div.: [ ]
Account #: [ ]
Balance in Account [ ]
Amount needed for this item [ ]

Does this document need to be recorded at the RMC's Office? Yes [ ] No [ ]

NEED: Identify any critical time constraint(s).

CFO's Signature:

FISCAL IMPACT:
There is no match required for the City.

Mayor's Signature: John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
March 14, 2022

The Honorable John Tecklenburg
Mayor, City of Charleston
80 Broad Street
Charleston, SC 29401

Dear Mayor Tecklenburg:

I am pleased to inform you that the National League of Cities’ (NLC) Institute for Youth, Education and Families is awarding the City of Charleston a grant of $70,250. This grant is a supplement to funding your city received in 2021 through NLC's Equitable Economic Mobility Initiative (EEMI), bringing NLC's total EEMI investment in your city to $95,250. The supplemental grant enables the city to implement the data-driven plans developed throughout the Initiative to equitably expand economic mobility for residents and their families now and in the future.

Through EEMI, NLC supports your efforts to increase economic mobility for families most impacted by the pandemic through actions that are grounded in racial equity. NLC staff will continue to provide your city with technical assistance through strategic guidance, a city visit, access to national experts, two peer-learning convenings, and monthly cohort conference calls.

Other cities selected to participate in the Initiative include Akron, OH; Denver, CO; Fresno, CA; Orlando, FL; Roanoke, VA; Sacramento, CA; and Tucson, AZ.

NLC sent instructions to your city project team lead on next steps, including executing an Addendum to the EEMI Memorandum of Understanding.

Congratulations on receiving supplemental grant funding for the EEMI initiative and thank you for your commitment to improving equity and economic mobility for your city's residents. We look forward to continuing to assist you and your team. If you have any questions or would like more information, please contact Patrick Hain via email at seofe@nlc.org.

Sincerely,

Robert J. Blaine, III

Senior Executive and Director
Institute for Youth, Education and Families
National League of Cities

Cc: Amber Johnson
Equitable Economic Mobility Initiative  
Addendum to Memorandum of Understanding  
Between  
National League of Cities Institute  
and  
City of Charleston, South Carolina  

PURPOSE  
This is an Addendum to the Memorandum of Understanding (MOU) between the National League of Cities Institute (NLCI) and the City of Charleston, South Carolina (City) as part of NLCI’s Equitable Economic Mobility Initiative (EEM Initiative). This Addendum sets forth the terms of participation and understanding regarding the second round of grant funding to support the implementation of the City’s EEMI work. This Addendum to the MOU defines the supplemental responsibilities for the implementation grant period through December 31, 2022.  

BACKGROUND  
NLCI’s EEM Initiative provides cities with technical assistance and grant funding to help them make innovative changes that will boost economic mobility of residents, especially those most impacted by the pandemic’s economic consequences. Participating cities will gain a greater understanding of the economic realities facing their residents and the root causes of economic inequities. The EEM Initiative has provided two opportunities for participating cities to apply for grant funds — a planning grant in June of 2021 and an implementation grant in January of 2022.  

EFFECTIVE DATE AND TERMINATION RIGHTS  
This Addendum to the MOU will take effect upon the last party’s signature and shall remain in effect until December 31, 2022. Either party may terminate the collective MOU and Addendum agreements upon delivery of written notice to the other party. Upon termination, the City must promptly refund any unused grant funds to NLCI within 30 days of termination.  

GRANT AWARD AND USE OF FUNDS  
NLCI will provide the City with a supplemental grant in the amount of $70,250 to support costs associated with the implementation phase of the work as outlined in the City’s EEM Initiative Second Grant Funding Application as accepted by NLCI. Funds shall be used solely for the purpose and goals stated herein and in accordance with the budget submitted by the City and approved by NLCI for activities for the term of the collective MOU and Addendum. Allowable uses of funds include but are not limited to expenses associated with core personnel costs; stakeholder engagement with community organizations, residents and other partners; payments to partner organizations; incentives for resident engagement and participation in programing; and other uses as approved by NLCI.
DISTRIBUTION OF FUNDS

NLCI shall distribute the total supplemental grant funds to the City upon the receipt of a completed and updated W-9 form, completed ACH form, and a signed copy of this Addendum to the MOU.

SUMMARY OF ROLES AND RESPONSIBILITIES

By accepting this supplemental grant and signing this Addendum, City agrees to uphold the previous roles and responsibilities from the original MOU in addition to the following:

- Build out city data profile through the mySidewalk data platform (provided by NLCI) to increase impact of EEMI project;
- Execute action plan as accepted by NLCI;
- Complete NLCI’s EEMI survey capturing the status of partnerships, public statements on racial equity and economic mobility as well as visibility with city leaders; and
- Submit a final grant report to NLCI by December 30, 2022, which includes a narrative description of all work conducted under the grant, outcomes achieved, lessons learned, impact data and a sustainability plan as well as a financial report that shows how the cumulative awarded funds were used.
Equitable Economic Mobility Initiative

Grant Receipt Statement

By signing this document, I acknowledge that I have read and agree to the grant provisions set forth in this Addendum to the MOU for the National League of Cities Institute's Equitable Economic Mobility Initiative (EEMI).

City of Charleston, South Carolina

____________________________________  __________________________
Signature                                Date

____________________________________
Name – Authorized Signature

____________________________________
Title

____________________________________
City

National League of Cities Institute

____________________________________  __________________________
Signature                                Date

Clarence E. Anthony
Executive Director
National League of Cities Institute

Please email this completed page to Patrick Hain at eofe@nlc.org.
TO: John J. Tecklenburg, Mayor  
FROM: Chase Anderson / Andrew Jones  
DEPT. Parks – Capital Projects  
SUBJECT: MUNICIPAL OPERATIONS COMPLEX PROFESSIONAL SERVICES CONTRACT

REQUEST: Approval of a Professional Services contract with Edifice, LLC, in the amount of $59,500.00 for construction manager services for the replacement of the current City operational facilities located at Milford St. The current contract includes services for Phase I of the project including pre-construction services, pricing of existing complex to establish a baseline replacement cost, pricing of conceptual building program with material and structural alternates, pricing of site development, site analysis and conceptual master plan.

COMMITTEE OF COUNCIL: Ways & Means  
DATE: April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

CPR Committee Chair
Corporate Counsel [x]
Capital Projects Director
MBE Manager

FUNDING: Was funding previously approved? Yes [x] No [ ] N/A [ ]
If yes, provide the following: Dept/Div Parks-Capital Projects  
Acct # 051630-58238  
Balance in Account $59,500.00  
Amount needed for this item $59,500.00  
Project Number CP2109

NEED: Identify any critical time constraint(s).

CFO's Signature: [Signature]  
FISCAL IMPACT: Approval of the professional services contract will obligate $59,500.00 of the $600,000.00 project budget. Funding sources for this project are 2019 General Fund Reserves ($600,000.00).

Mayor's Signature: [Signature]  
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00 A.M THE DAY OF THE CLERK'S AGENDA MEETING.
Memorandum

To: Mayor John J. Tecklenburg
From: Chase Anderson, Senior Construction Project Manager
Date: March 23, 2022
Re: CP 2109 City Operations Facilities Complex – Site Statistics

Milford Street: TMS 4660000046 12.23 ac., TMS 4660000017 4.12 ac.
Total usable acres = 16.35

Harmon Street: TMS 4640200051 16.46 ac., Railway taking 2.53 ac. (preliminary exhibit)
Total usable acres = 13.93

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</tr>
<tr>
<td>Police</td>
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<tr>
<td>Parks</td>
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</table>
Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the day of in the year
(In words, indicate day, month, and year.)

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

City of Charleston
Department of Parks
823 Meeting Street
Charleston, SC 29403

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

Edifice, LLC
716 Meeting Street
Charleston, SC 29403

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

CP 2109 City Operations Facilities Complex

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

SMHa Architecture
400 Hibben Street
Mt. Pleasant, SC 29464

The Owner and Construction Manager agree as follows.

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

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

AIA Document A201™–2017,
General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.
TABLE OF ARTICLES

1 INITIAL INFORMATION
2 GENERAL PROVISIONS
3 CONSTRUCTION MANAGER’S RESPONSIBILITIES
4 OWNER’S RESPONSIBILITIES
5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7 COST OF THE WORK FOR CONSTRUCTION PHASE
8 DISCOUNTS, REBATES, AND REFUNDS
9 SUBCONTRACTS AND OTHER AGREEMENTS
10 ACCOUNTING RECORDS
11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12 DISPUTE RESOLUTION
13 TERMINATION OR SUSPENSION
14 MISCELLANEOUS PROVISIONS
15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT
EXHIBIT B INSURANCE AND BONDS

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, as described in Section 4.1.1:
(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)

Scope of Work is divided into two (2) phases.
Phase I design is to include those services required to inventory existing conditions at the Milford Street site, inventory existing spaces and equipment, assess the City’s programmatic needs, and determine appropriateness of one or more sites to provide for those programmatic needs. Through drawings and narratives, the Architect will provide a level of conceptual design, to include site plans, floor plans, building massing, materiality, and systems, to convey design intent to the Construction Manager. The Construction Manager will develop a Preliminary Guaranteed Maximum Price (pGMP), consulting with the Architect as required. The professional fees for Phase I design are incorporated into this Agreement.

Phase II design will be contingent upon the City’s approval of the Preliminary Guaranteed Maximum Price (pGMP) and the acquisition of the viable site(s) identified, developed in Phase I. Phase II design will be comprised of the Basic Services included in this Agreement, Civil Engineering and Landscape Architecture,
and any Additional Services negotiated at that time. Due to the uncertainty of funding and site acquisition schedules, the pGMP will be adjusted and professional fees for Phase II will be negotiated at that future date to be established.

§ 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.)
Phase I services will include site analysis and design of the City-owned property (PID 464020005). Additional sites may be added for analysis and design through the 6.3 Changes in the Work subsection of this contract.

§ 1.1.3 The Owner’s budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)
The development of the pGMP in Phase I will inform the owner’s budgeting process for Phase II of the project.

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

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

.4 Other milestone dates:

§ 1.1.5 The Owner’s requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)
Any requirements to accelerate the schedule will be negotiated for Phase II.

§ 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.)
The Architect will convey sustainable objectives as determined during programming of Phase I, and the Construction Manager will consider the implications of those objectives in the development of the pGMP. More formalized Sustainable Objectives and any required certifications will be identified prior to the negotiation of design services for Phase II.

(Paragraphs deleted)
§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Chase Anderson, Sr. Construction Project Manager, 823 Meeting Street, Charleston, SC 29403
Edmund Most, Deputy Director Capital Projects, 823 Meeting Street, Charleston, SC 29403

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

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

.1 Environmental Engineer:

   Derrick Myers
   Newkirk Environmental
   1887 Clemens Ferry Road
   Charleston, SC
   Office: 843.388-6585

.2 Surveyor:

   Joe McIntyre
   GEL Engineering
   2040 Savage Road
   Charleston, SC 29407
   Office: 843.300.4251

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect’s representative:
(List name, address, and other contact information.)

Billy Connell
SMHa Architecture Planning Interiors
400 Hibernian Street, Suite 100
Mt. Pleasant, SC 29464
Office: 843.881.7642
Email: b.connell@smha.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Josh Spencer
Edifice, LLC
Senior Preconstruction Manager
716 Meeting Street, Charleston, SC 29403
§ 1.1.13 The Owner’s requirements for the Construction Manager’s staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

See Preconstruction Services Fee Breakdown, Exhibit C

§ 1.1.14 The Owner’s requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager’s services, and the Construction Manager’s compensation. The Owner shall adjust the Owner’s budget for the Guaranteed Maximum Price and the Owner’s anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner’s nor the Construction Manager’s representative shall be changed without ten days’ prior notice to the other party.

ARTICLE 2. GENERAL PROVISIONS
§ 2.1 The Contract Documents
The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties
The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager’s skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. In addition to the foregoing, the Construction Manager warrants and represents to the Owner that the Construction Manager is currently: (1) financially solvent, (2) able to pay its debts as they mature, (3) possessed of sufficient working capital to complete this Agreement pursuant to its terms and conditions, (4) able to furnish the equipment, materials, supplies, tools and labor necessary to complete the Work pursuant to this Agreement, (5) experienced in and competent to perform the Work necessary to fulfill this Agreement, (6) qualified to perform the duties of the Construction Manager pursuant to this Agreement, (7) authorized to do business in the State of South Carolina and the City and County of Charleston, and (8) holds the necessary licenses, permits and other special licenses to perform the Work, as and if required by law. The Owner agrees to furnish or approve, in a timely
manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions
§ 2.3.1 For the Preconstruction Phase, the Modified AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.3, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in the Modified A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in the Modified A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in the Modified A201-2017 shall mean the Construction Manager.

§ 2.3.3 The general conditions applicable to this Project are set forth in the Modified A201-2017 for this Project. If this Agreement or any other Contract Document references the A201-2017, and excludes a "modified" description, the Modified A201-2017 shall still govern.

ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES
The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of the Modified A201-2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase
§ 3.1.1 Extent of Responsibility
The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and 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 Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for Information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other. The Construction Manager shall prepare a preliminary GMP based on the Phase I Architectural Documents. The Construction Manager shall prepare a final GMP based on the Phase II Construction Documents.

§ 3.1.3 Consultation
§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement; installation and construction; preconstruction and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, to establish the protocols for the development, use, transmission, and exchange of digital data.

Init.

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User Notes: (880687572)
§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update, at least monthly, a Project schedule for the Architect’s review and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; date of substantial completion and the occupancy requirements of the Owner. If an unforeseen condition occurs affecting the critical path, the Construction Manager shall report the occurrence within 48 hours and revise the project schedule within 5 calendar days.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect’s review and the Owner’s approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect’s review and the Owner’s approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager’s cost estimates and the Architect’s cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect’s review and the Owner’s approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner’s review and approval.

(Paragraph deleted)

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner’s requirements, for the Owner’s review and approval.
§ 3.1.11.2 The Construction Manager shall develop bidders’ interest in the Project and timely report that interest to the Owner and Architect.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement
The Construction Manager shall prepare, for the Architect’s review and the Owner’s acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws
The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services
Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document
(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Guaranteed Maximum Price Proposal
§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner’s and Architect’s review, and the Owner’s acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager’s estimate of the Cost of the Work, the Construction Manager’s contingency described in Section 3.2.4, and the Construction Manager’s Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:
1. A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
2. A list of the clarifications, qualifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
3. A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager’s contingency set forth in Section 3.2.4; and the Construction Manager’s Fee;
4. The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
5. A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager’s Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager’s exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. Any unused contingency shall be retained by or returned to the Owner. The contingency shall be itemized separately in each pay application.
§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase
§ 3.3.1 General
§ 3.3.1.1 For purposes of Section 8.1.2 of the Modified A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase and the date shall be mutually agreed upon by the Owner and Construction Manager. The parties shall agree on a completion date when the GMP is set.

§ 3.3.1.2 The Construction Phase shall commence upon issuance of the written Notice to Proceed by the Owner. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration
§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of the Modified A201–2017.

§ 3.3.2.3 Monthly Report
The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs
The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.
§ 3.3.2.5 Cost Control
The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER’S RESPONSIBILITIES
§ 4.1 Information and Services Required of the Owner
§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in the Modified A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner’s other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project’s scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Construction Manager’s performance of the Work with reasonable promptness after receiving the Construction Manager’s written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing 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 invert and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, water table elevations, 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.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Construction Manager’s performance of the Work with reasonable promptness after receiving the Construction Manager’s written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner’s Designated Representative
The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner’s representative shall render decisions promptly and furnish information expeditiously, so as to avoid
unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of the Modified A201—2017, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests.

§ 4.3 Architect
The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™—2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation
§ 5.1.1 For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation and include a list of reimbursable costs items, as applicable.)

Phase 1 includes Preconstruction Costs and shall be compensated as shown in Exhibit X “Scope and Fee Services.” Phase 2 Preconstruction costs shall be included in the GMP. If the parties are unable to agree on a GMP, then the Construction Manager shall be paid for reasonable preconstruction service costs only and Owner shall have no further obligations to the Construction Manager,

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below. Reference Exhibit C
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See the Preconstruction Services Fee Breakdown

<table>
<thead>
<tr>
<th>Individual or Position</th>
<th>Rate</th>
</tr>
</thead>
</table>

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services may be equitably adjusted.

§ 5.2 Payments
§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid thirty (30) 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 Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

Zero (0) %
ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
§ 6.1 Contract Sum
§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(States a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

To be determined.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

10%

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed fifty percent (50%) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

For each calendar day that substantial completion exceeds the Contract Time, the Construction Manager shall be liable to Owner for one thousand two hundred dollars ($1,200.00) per calendar day as liquidated damages. Such liquidated damages are agreed by Owner and Construction Manager to be a reasonable estimate of the Owner's damages, and not penalties, for Construction Manager's delayed completion of the Work. The Owner may deduct liquidated damages from any unpaid amounts due the Construction Manager under this Agreement. If there are no unpaid amounts that the Owner may deduct from, Construction Manager shall still be liable to compensate the Owner for the liquidated damages. Liquidated damages shall not accrue after substantial completion provided that the Construction Manager completes all punch list work within the time limit set forth in this Agreement. If the Construction Manager fails to complete the punch list work within the stated time limit, Owner shall be entitled to recover liquidated damages per calendar day, in the amount stated above, until the Construction Manager completes the punch list work. Termination of this Agreement for any reason or cause shall not relieve Construction Manager's liability for liquidated damages, including those liquidated damages that may have accrued prior to the date of termination.

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None.

§ 6.2 Guaranteed Maximum Price
The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. Such change to be agreed to in writing upon acceptance of change by Owner.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document the Modified A201–2017, General Conditions of the Contract for Construction.
§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document the Modified A201-2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of the Modified A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts. Construction Manager shall ensure that all subcontractor agreements limit the "allowance for overhead and profit" to ten percent (10%) on change order work.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document the Modified A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work)

Personnel rates to be spelled out in subsequent phases of the project or with the GMP Amendment for Construction Services

The following personnel's cost shall be included in the Cost of the Work at the following rates:

- Project Executive $4,871/week (this will be prorated per time spent on project)
- Project Manager $4,298/week
- Assistant Project Manager $2,865/week
- Superintendent $4,012/week
- Assistant Superintendent $2,865/week
- Quality Control Manager $2,579/week
- Project Assistant $1,862/week
§ 7.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3 Costs of this Article 7.2.4 for those personnel identified in Article 7.2.2 are included in the stated rates. Costs as noted in this Article 7.2.4 for those personnel associated with Article 7.2.1 are to be considered actual Cost of the Work at the reimbursable rate of 49%.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs
Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement, except that a subcontractor’s overhead and profit on change orders shall not exceed ten percent (10%).

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction
§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner’s property at the completion of the Work or, at the Owner’s option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items
§ 7.5.1 Costs of transportation, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner’s prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager’s site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner’s prior approval.

§ 7.6 Miscellaneous Costs
§ 7.6.1 Premiums for all bonds which the Construction Manager is required by the Contract Documents to purchase and maintain will be billed to the Project at the actual cost. General Liability Insurance purchased and maintained by the Construction Manager will be billed to the Project at the prorated actual cost.
§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner’s prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner’s prior approval.

§ 7.8.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.8.3 Fees and assessments for the building permit, and for other permits, licenses, including a City of Charleston business license for Construction Manager and any of its subcontractors, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.8.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document Modified 2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.8.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.8.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner’s consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document Modified 2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager’s Fee or subject to the Guaranteed Maximum Price.

§ 7.8.6 Pro-rated costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner’s prior written approval.

§ 7.8.7 Costs of document reproductions and delivery charges.

§ 7.8.8 Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.8.9 Legal, mediation and arbitration costs, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner’s prior approval, which shall not be unreasonably withheld.

§ 7.8.10 Expenses incurred in accordance with the Construction Manager’s standard written personnel policy for relocation and temporary living allowances of the Construction Manager’s personnel required for the Work, with the Owner’s prior approval.

§ 7.8.11 That portion of the reasonable expenses of the Construction Manager’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner’s prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document the Modified 2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.
§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document the Modified A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.7.5 If the Owner supplements the Construction Manager's forces, such reasonable costs incurred by the Owner shall be considered a Cost of the Work and included in the GMP.

§ 7.8 Related Party Transactions
§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed
§ 7.9.1 The Cost of the Work shall not include the items listed below:

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2;

.2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

.3 Expenses of the Construction Manager's principal office and offices other than the site office;

.4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

.5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;

.9 Costs for services incurred during the Preconstruction Phase;

.10 Late Payment charges, interest charges, or penalties of any kind; and

.11 Any cost not supported by invoices or other evidence demonstrating payment.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS
§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.
ARTICLE 9  SUBCONTACTS AND OTHER AGREEMENTS
§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10  ACCOUNTING RECORDS
The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11  PAYMENTS FOR CONSTRUCTION PHASE SERVICES
§ 11.1 Progress Payments
§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 25th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)
§ 11.1.4 With each Application for Payment, the Construction Manager shall submit AIA Documents G702GMP-2021 and G703CW-2021 for Construction Manager and SubContractors. The Construction Manager shall have available upon request payrolls, petty cash accounts, receipts of invoices or bills with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager’s Fee. Construction Manager shall submit Conditional Waiver and Release of Mechanic’s Lien in a form satisfactory to the Owner, from all subcontractors and vendors whose work is included in the payment applications.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager’s Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require and approved by the Owner. The schedule of values shall be used as a basis for reviewing the Construction Manager’s Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect and approved by the Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document the Modified A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

1. That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

2. That portion of the Guaranteed Maximum Price properly allocable to insured materials and equipment delivered and suitably stored in bonded warehouse or at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

3. That portion of Construction Change Directives that the Architect determines, in the Architect’s professional judgment, to be reasonably justified; and

4. The Construction Manager’s Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

1. The aggregate of any amounts previously paid by the Owner;

2. The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document the Modified A201–2017;
Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay; for Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document the Modified A201-2017;

The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and

Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage
§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten Percent (10%)

§ 11.1.8.2 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8 and reduction of cost for incompleteness or deficient work. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of
the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner’s auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment
§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager within thirty (30) days after the following acts have been performed:
.1 the Construction Manager has fully performed the Contract, except for the Construction Manager’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment;
.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2; and
.4 all closeout documents and requirements are completed, as set forth in Modified A210–2017.

§ 11.2.2 Within 30 days of the Owner’s receipt of the Construction Manager’s final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors’ findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect’s reasons for withholding a certificate as provided in Article 9 of AIA Document the Modified A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document the Modified A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 11.2.2.3 If the Owner’s auditors’ report concludes that the Cost of the Work, as substantiated by the Construction Manager’s final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document the Modified A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager’s receipt of a copy of the Architect’s final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner’s auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect’s final Certificate for Payment.

(Paragraphs deleted)
§ 11.2.4 If, subsequent to final payment, and at the Owner’s request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager’s Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest
Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Zero percent (0%)
ARTICLE 12 DISPUTE RESOLUTION

§ 12.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document the Modified A201–2017, the method of binding dispute resolution shall be as follows:

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017
[X ] Litigation in the Court of Common Pleas for Charleston County.
[ ] Other: (Specify)

If the Owner and Construction Manager 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, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION
§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment
§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of the Modified A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such
steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated and if the Construction Manager has not previously been paid for such costs by the Owner. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the reasonable costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment
§ 13.2.1 Termination
The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document the Modified A201–2017.

§ 13.2.2 Termination by the Owner for Cause
§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document the Modified A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document the Modified A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
.2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
.3 Subtract the aggregate of previous payments made by the Owner; and
.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document the Modified A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience
The Owner may terminate this Agreement for Convenience in accordance with Article 14 of (Paragraphs deleted) the AIA Document A201–2017, as modified for this Project.

§ 13.3 Suspension
The Work may be suspended by the Owner as provided in Article 14 of AIA Document the Modified A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document the Modified A201–2017, except that the term "profit" shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS
§ 14.1 Terms in this Agreement shall have the same meaning as those in the Modified A201–2017. Where reference is made in this Agreement to a provision of AIA Document the Modified A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.
§ 14.2 Successors and Assigns
§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of the Modified A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds
§ 14.3.1 Preconstruction Phase
The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than those specified in Article 11 of the AIA A201-2017, as modified for this Project.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than those specified in Article 11 of the AIA A201-2017, as modified for this Project.

§ 14.3.1.3 Umbrella coverage of not less than five-million ($5,000,000) dollars. The umbrella policy shall be a “follow form” and shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than those specified in Article 11 of the AIA A201-2017, as modified for this Project.

§ 14.3.1.5 Professional Liability, if required, covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than those specified in Article 11 of the AIA A201-2017, as modified for this Project.

§ 14.3.1.6 Other Insurance
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limits</th>
</tr>
</thead>
</table>

See Article 11 of the AIA A201-2017, as modified for this Project, for any other insurance requirements for this Project.

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and 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 Construction Manager’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.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase
After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133TM-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, AIA Document A201-2017, as modified for this Project, and elsewhere in the Contract Documents.
§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in modified AIA document A201-2017 and elsewhere in the contract documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document the Modified A201–2017, may be given in accordance with method for electronic transmission as set forth in the Agreement.

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5 Other provisions:

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

1. AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
2. AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
3. AIA Document the Modified A201™-2017, General Conditions of the Contract for Construction
4. Minority-Owned and Women-Owned Business Enterprises Form, Exhibit B
5. Preconstruction Services Fee Breakdown, Exhibit C

6. Other Exhibits:
   (Check all boxes that apply.)

   [ ]

   [ ] Supplementary and other Conditions of the Contract:

   Document Title Date Pages

7. Other documents, if any, listed below:

   (List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)
This Agreement is entered into as of the day and year first written above.

OWNER (Signature) ________________________________________
(Printed name and title) ____________________________________________________________________

CONSTRUCTION MANAGER (Signature) ________________________________________
(Printed name and title) ____________________________________________________________________

Michael A. Carlisto, Vice President - Project Executive
AIA® Document A133® - 2019

Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the « » day of « » in the year « » is incorporated into the accompanying AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work plus a Fee with a Guaranteed Maximum Price dated the « » day of « » in the year « » (the "Agreement")
(In words, indicate day, month, and year.)

for the following PROJECT:
(Name and address or location)
« » « »

THE OWNER:
(Name, legal status, and address)
« » « » « » « » « »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)
« » « » « » « »

TABLE OF ARTICLES

A.1 GUARANTEED MAXIMUM PRICE
A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price
Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » ($ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.


ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:
including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.  
(Provide itemized statement below or reference an attachment.)

»

§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates
§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
</table>

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
<th>Conditions for Acceptance</th>
</tr>
</thead>
</table>

§ A.1.1.6 Unit prices, if any:  
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price per Unit ($0.00)</th>
</tr>
</thead>
</table>

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ A.2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ « » ] The date of execution of this Amendment.

[ « » ] Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion
§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:  
(Check one of the following boxes and complete the necessary information.)

[ « » ] Not later than « » (« ») calendar days from the date of commencement of the Work.

[ « » ] By the following date: « »
§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

<table>
<thead>
<tr>
<th>Portion of Work</th>
<th>Substantial Completion Date</th>
</tr>
</thead>
</table>

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« »

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« »

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner’s Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner’s and Construction Manager’s roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

<table>
<thead>
<tr>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
</table>

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

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User Notes:
§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS
§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

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

OWNER (Signature)
(Printed name and title)

CONSTRUCTION MANAGER (Signature)
(Printed name and title)
for the following PROJECT:
(Name and location or address)

CP 2109 City Operations Facilities Complex

THE OWNER:
(Name, legal status and address)

City of Charleston
Department of Parks
823 Meeting Street
Charleston, SC 29403

THE ARCHITECT:
(Name, legal status and address)

SMH Architecture
400 Hibben Street
Mt. Pleasant, SC 29464

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13 MISCELLANEOUS PROVISIONS

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

Owner: City of Charleston, SC

Signature: ____________________________

Printed Name & Title: TBD or City Administrator

Date: ________________________________

Contractor: Edifice, LLC

Signature: __________________________

Printed Name & Title: Michael A. Carlsto, Vice President, Project Executive

Date: 3/15/2022

South Carolina General Contracting License #: G11206

South Carolina General Construction Manage License #: 557
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement titled “AIA Document A133-2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor” as revised (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor’s bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor except as provided in Paragraph 5.4 of this document, (3) between the Owner and the Architect or the Architect’s consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties.

§ 1.1.3 The Work

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services. If there is a conflict between the specifications and the drawings, then the specifications shall govern.

§ 1.1.7 Contractor’s use of Instruments of Service in Electronic Form

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§

§ 1.1.7.1

The Architect may, with the concurrence of the Owner, furnish to the Contractor versions of Instruments of Service in electronic form. The executed Contract Documents shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers.
§ 1.1.7.2 The Contractor shall not transfer to any parties other than sub-contractors or reuse Instruments of Service in electronic or machine-readable form without the prior written consent of the Architect. All such documents shall be used for the sole and limited purpose of shop drawing preparation, all other purposes being expressly prohibited without prior written consent of the Architect.

§ 1.1.9 “Knowledge” or “knows” as used in references to the Contractor shall include that which the Contractor knows or should know in the exercise of the care, skill and diligence required by the Contract Documents and that of a competent contractor.

§ 1.2 Correlation and Intent of the Contract Documents
§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. If there is any inconsistency in the Contract Documents, the Contractor shall provide the better quality or greater quantity of work or comply with the more stringent requirements.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents 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 Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation
In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities: (1) The agreement; (2) Addenda with those of later date having precedence over those of earlier date; (3) Supplementary Conditions; (4) The General Conditions of the Contract for Construction; (5) Specifications; and (6) Drawings.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service
§ 1.5.1 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 retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may
not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice
§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

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

§ 1.8 Building Information Models Use and Reliance
Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having the protocols set forth, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER
§ 2.1 General
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization.
Exception as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

(Paragraph Deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements
§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time may be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements for the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within thirty (30) days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time may be extended appropriately and the Contract Sum may be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.
§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator's order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the work or occupancy of permanent structures or for permanent changes in existing facilities. Contractor shall notify Owner in writing of all approvals, easements, assessments, and charges required for construction or occupancy of permanent structures of which the Contractor has knowledge. Written notice to Owner is a condition precedent to Contractor's right to costs or time extensions for Owner's failure to meet this obligation.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may correct or have such default or neglect corrected. The Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses, including attorney fees, and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.
If the Contractor disagrees with the actions of the Owner, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.5.1 If, after achieving Substantial Completion, the Contractor then defaults, or neglects to complete or fails to provide resources adequate to complete the Project within the adjusted Contract Time for Final Completion, Owner may carry out the work seven days after giving the Contractor written notice of the Contractor’s default or neglect. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner’s expenses, including attorneys’ fees, and compensation for the A/E’s additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor or its Surety shall pay the difference to Owner.

§ 2.5.2 The Owner reserves the right to perform any work on the site, whether within or without the scope of this Contract, necessary to correct any conditions which at the sole discretion of the Owner pose a hazard to the health or safety of an occupant or general public. Such work will only be done on an emergency basis. If practical under the circumstances, the Contractor shall be given notice of any such conditions and given a reasonable opportunity to correct them. If work is done by the Owner pursuant to this subparagraph which is necessitated by any act or failure to act of the Contractor, the costs associated with such work, including attorneys’ fees, shall be deducted from any sums due to Contractor and a written Change Order adjusting the Contract Sum will be issued.

ARTICLE 3 CONTRACTOR
§ 3.1 General
§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor
§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, but not limited to, climate conditions and costs and availability of labor, materials and equipment and correlated personal observations with requirements of the Contract Documents. Claims for additional time or additional compensation as a result of the Contractor’s failure to follow the foregoing procedure or failure to familiarize itself with local conditions or the Contract Documents will not be permitted.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. The primary purposes of these obligations are to facilitate construction and identify constructability issues. While the Architect is primarily responsible for the discovery of errors, omissions, plan coordination issues or inconsistencies in the Contract Documents, a secondary purpose of these obligations is to identify errors, omissions, or inconsistencies that would reasonably be discovered by an experienced and prudent contractor in its review of the Contract Documents. Any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

§ 3.2.3 Any inconsistencies, errors or omissions noted by the Contractor during the 3.2.2 study of the Contract Documents shall be reported promptly to the Architect, but it is recognized that the Contractor’s review is made in
the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents; however, the Contractor shall identify and report items they may see that are not in conformance with applicable laws, statutes, ordinances, building codes, and rules and regulations to the extent that an experienced and prudent Contractor would reasonably have discovered the nonconformance in its review of the Contract Documents.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor reasonably should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the job site safety thereof and shall be solely responsible for the job site safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give advance written notice to the Owner and Architect, informing the Owner and the Architect of the alternate means, methods, techniques, sequences or procedures the Contractor intends to utilize in the performance of the Work, and, unless the Owner or the Architect gives exception to the proposed means, methods, techniques, sequences or procedures, the Contractor shall proceed with the Work with a written directive from the Owner.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.1.1 The Contractor shall not allow the use of asbestos containing products, whether temporary or permanent and whether or not incorporated or to be incorporated in the work, even if the products are non-friable and/or contain minimal amounts of asbestos, and even though such products may still be legally installed. If the project uses existing buildings or structures, the contractor expects the Owner to vet these buildings or structures for these types of materials before construction begins.

§ 3.4.1.2 The Contractor shall not allow the use of lead materials in public water applications. Lead free solder, flux and pipe must be used in public drinking water and waste water applications. Lead free solder and flux are defined as containing less than 0.2% lead, while valves, pipes and appurtenances must contain less than 8.0% lead. If the project uses existing buildings or structures, the contractor expects the Owner to vet these buildings or structures for these types of materials before construction begins.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the
consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty
§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. All warranties from subcontractors, suppliers and manufacturers shall be assigned to the Owner or have the Owner named as an additional obligee on the warranty.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes
The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Contractor's attention is directed to Title 12, Chapter 8, Code of Laws of South Carolina 1976, as amended, concerning withholding tax for non-residents, employees, contractors and subcontractors.

§ 3.7 Permits, Fees, Notices and Compliance with Laws
§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Owner shall pay fees for public or private water, gas, electrical, and other utility extensions at the site. The Contractor shall secure and arrange for all necessary utility connections. The Owner and the Contractor shall coordinate and determine who pays for Tap or Impact Fees that may be a part of the construction process. If this is not determined prior to the start of construction, then it is assumed that the Owner will pay for these fees.

§ 3.7.1.1 Upon final completion of the Work, and as a condition to final payment, the Contractor shall where applicable assign and deliver all original permits, licenses and certificates to the Owner and shall deliver photocopies of the same to the Architect (to the extent the same were obtained by the Contractor, or if not obtained by the Contractor then to the extent the same are in the Contractor's possession).

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders and all other requirements, to the best of their knowledge, of public authorities applicable to performance of the Work.

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations; however, the Contractor is responsible for identifying and reporting nonconformance with applicable laws, statutes, ordinances, building codes, and rules and regulations to the extent that an experienced and prudent Contractor would reasonably have discovered the nonconformance in its review of the Contract Documents. If the Contractor performs Work that an experienced and prudent Contractor should have known to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.
§ 3.7.4 Concealed or Unknown Conditions
If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observation of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect’s determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances
§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,
   .1 allowances shall cover the cost of the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
   .2 Contractor’s costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
   .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor’s costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid unreasonable delay in the Work.

§ 3.9 Superintendent
§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor shall submit to the Architect for Owner and Architect review and prior to commencement of the Work the names and resumes of the Contractor’s proposed Project Manager, Quality Control Manager and Field Superintendent. The resumes shall state their number of years of experience in the industry and indicate their extent of experience in projects of similar scope. Provide three owner and three architect/engineer references for each proposed individual. Should the Owner or the Architect express a reasonable objection to the individual proposed by the Contractor, the Contractor shall withdraw a proposed individual from consideration and submit for approval a substitute. Upon written assurances from the Contractor that performance will not suffer and with the written consent of the Owner, the Contractor’s Project Manager may perform some Project-related work away from the
Project site. Upon consent of the Owner, Work performed by the Project Manager off-site shall be a reimbursable cost.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner’s written consent, which shall not unreasonably be withheld or delayed.

§ 3.9.3.1 The Superintendent shall maintain a written daily log of the process of the work. This log shall be kept at the job site, made available for inspection upon request by the Architect or Owner, and faxed or e-mailed weekly. The reports shall contain as a minimum: Date, Day, Low & High Temperatures, Record of Precipitation, Quantity of Contractor and Subcontractor Personnel on Site, General Description of Work Activities Performed. List of Items Needed from Contractor’s Office and from the Architect (that are currently schedule sensitive), any other comments that pertain to job progress and quality, and a record of verbal instruction/interpretations given to the Contractor.

§ 3.9.4 The Contractor shall maintain the same approved Project Manager and Field Superintendent from the time of issuance of the Notice to Proceed until the Date of Substantial Completion, or shall submit proposed changes in personnel to the Architect in accordance with 3.9.2 for the Owner’s consent. Should the Contractor remove from or fail to maintain on the Project the approved Project Manager or Field Superintendent without the Owner’s consent, Contractor’s fee shall be deducted by $50,000, provided, however, that such deduction shall not be applicable if such removal or failure to maintain is beyond the Contractor’s control, is necessary to preserve safety in and around the Project, or is necessary to comply with applicable law.

§ 3.9.5 The Contractor shall employ a superintendent or an assistant to the superintendent who will perform as a coordinator for mechanical and electrical Work. The coordinator shall be knowledgeable in mechanical and electrical systems and capable of reading interpreting and coordinating Drawings, Specifications, and shop drawings pertaining to such systems. The coordinator shall assist the Subcontractors in arranging space conditions to eliminate interference between the mechanical and electrical systems and other Work and shall supervise the preparation of coordination drawings documenting and spatial arrangements for such systems within restricted spaces. The coordinator shall assist in planning and expediting the proper sequence of delivery of mechanical and electrical equipment to the site.

§ 3.10 Contractor’s Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The date for a construction start will be tied to completed set of contract documents, necessary permits, the Owner’s approval of the GMP, funding is in place and confirmed, and a Notice To Proceed has been issued.

§ 3.10.1.1 This schedule shall indicate the dates for the starting and completion of various stages of construction and shall be revised monthly as required by the conditions of the work. This schedule shall be broken down into work items as the Owner may require for proper review.

§ 3.10.1.2 The Contractor shall prepare a time sealed Critical Path Method (“CPM”) schedule within thirty (30) calendar days after Notice to Proceed, and shall update this schedule monthly. Copies of the original schedule and all updates shall be provided to the Architect. A copy shall be maintained at the job site office. Additionally, a two-week look ahead or similar schedule shall be used and maintained at the job site office.

§ 3.10.1.3 The Contractor shall submit, along with the initial progress schedule, a shop drawing schedule within thirty (30) calendar days after Notice to Proceed, showing items requiring review or approval by the Architect. The shop drawing schedule shall allow ten (10) working days for Architect’s review and shall show the date of receipt and approval.
§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule within thirty (30) calendar days after Notice to Proceed, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site
The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. Prompt delivery to the A/E of the materials and items specified above, in good order, shall be a condition precedent to the Contractor receiving a Certificate of Final Completion.

§ 3.12 Shop Drawings, Product Data and Samples
§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, training and operation manuals, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.5.1 If applicable, sprinkler shop drawings shall be prepared by the licensed sprinkler Contractor. The sprinkler shop drawings shall be reviewed and approved by the A/E's engineer of record before MEF rough-in and submittal to the appropriate Fire Official or other authorities having jurisdiction.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect’s approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect’s approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect’s approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor’s responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional’s written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor’s design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 The Architect’s review of Contractor’s submittals will be limited to examination of an initial submittal and one (1) resubmittal. The Architect’s review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional resubmittals.

§ 3.12.12 At completion of construction, the Contractor shall furnish Owner with two (2) hard copies and an electronic version of all final field use shop drawings, manufacture’s diagrams, literature, etc. for his permanent files.

§ 3.12.13 At the completion of construction, the Contractor shall furnish the Owner with two (2) sets of Maintenance Instructions for all items including name and address of supplier and name, address, and telephone number of individual to contact for service, all compiled in indexed hard cover binders. Contractor to also provide Owner with electronic versions of these sets of documents.
§ 3.13 Use of Site
The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching
§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents. Photos showing existing conditions shall be taken to verify conditions prior to work and provided to Owner.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up
§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. The site shall be cleaned as necessary and no less than daily. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor’s tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work
The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturer is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification
§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, its agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees (Claims), arising out of or resulting, in whole or in part, from performance of the Work, or by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such Claims are caused in part by the Owner, Architect, its subconsultants or a party indemnified hereunder. Contractor is not obligated to indemnify or defend Owner for claims arising out of Owner’s sole negligence. Contractor is obligated to indemnify and defend Owner for claims arising in part out of Owner’s actions. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Owner shall be entitled to recover attorney fees and costs incurred in pursuing or enforcing these indemnity obligations.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages.
compensation, or benefits payable by or for the Contractor or a Subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT
§ 4.1 General
§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 In the Specifications or on the Drawings, where the words "as directed," "as required," "as approved," as permitted" or words of like effect are used, Contractor shall understand that direction, requirement, approval, or permission of the Architect is intended. Similar words "approved," or "acceptable," "satisfactory," or words of like import mean approved by accepted or satisfactory to the Architect.

§ 4.2 Administration of the Contract
§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's representative during construction until the date the Architect issues the final Certificate for Payment and from time to time during the one-year period for correction of the Work and any warranty periods. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1. Inspections or observations by the Architect or the Owner are for the Owner's benefit and do not relieve the Contractor from any of its obligations.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) deviations from the Contract Documents, (2) deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications
The Owner's designated representative shall have the right to communicate directly with the Contractor. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, 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.

§ 4.2.7 The Architect will 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. The Architect’s action will be taken in accordance with the submittal schedule approved by the Architect 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. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect’s review of the Contractor’s submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect’s review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect’s responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will 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 will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.11.2 An instruction that the Architect may issue to the Contractor shall constitute an interpretation of the Contract Documents and shall not be construed as an act of supervision.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either.

§ 4.2.13 The Architect’s decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect’s response to such requests will be made in writing within ten (10) days. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.15 During the tenth (10th) month of the one (1) year construction warranty the Architect, Contractor, and the Owner will conduct a full and final inspection. The Architect will coordinate with the Contractor and the Owner to set a date for this inspection. The Architect shall prepare a list of all discrepancies and send a copy to the Owner and the party responsible for correcting the discrepancies. The Architect shall notify the Owner in writing when all repairs have been accomplished.
ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.1.1 Not later than thirty (30) days following the date of commencement of the Work, the Contractor shall furnish in writing to the Owner through the Architect the Manufacturer/Subcontractor List consisting of a complete list of names of persons or entities proposed as manufacturers, fabricators or material suppliers for the products, equipment and systems proposed for the Work and, where applicable, the name of the installing Subcontractor. Where the Contractor intends to self-perform a particular portion of the Work, the Contractor will include a description of such intended self-performed Work on the Manufacturer/Subcontractor List.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor met the specified qualifications and was demonstrably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsibly in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all remedies and reversion against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. The Contractor shall assure the Owner, by affidavit or in such other manner as the Owner may approve, that all agreements between the Contractor and his Subcontractors incorporate the
provisions of subparagraph 5.3 as necessary to preserve and protect the rights of the Owner and the Architect under the Contract Documents with respect to the work to be performed by Subcontractors so that the subcontracting thereof will not prejudice such rights.

§ 5.4 Contingent Assignment of Subcontracts
§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

(Paragraph Deleted)

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor’s compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

§ 5.5.1 The Contractor shall promptly advise Owner of any claim or demand by a Subcontractor claiming that any amount is due to such Subcontractor or claiming any default by the Contractor in any of its obligations to such Subcontractor.

§ 5.5.2 Notwithstanding the foregoing, in the event of any default hereunder by the Contractor, or in the event the Owner or Architect fails to approve any Application for Payment that is not the fault of a Subcontractor, the Owner may, but is not obligated to, make direct payment to the Subcontractor, less appropriate retainage. In that event, the amounts paid the Subcontractor shall be deducted from the payment to the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
§ 6.1 Owner’s Right to Perform Construction and to Award Separate Contracts
§ 6.1.1 The term “Separate Contractor(s)” shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.
§ 6.2 Mutual Responsibility
§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.2.5.1 If such separate Contractor sues or initiates a legal proceeding against the Owner on account of any damage alleged to have been solely caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Owner arises therefrom the Contractor shall pay or satisfy it.

§ 6.3 Owner's Right to Clean Up
If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7  CHANGES IN THE WORK
§ 7.1 General
§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone. Change Order and Construction Change Directives are effective only after written approval by the Owner.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Any Contractor/Subcontractor performing work under a change order must be able to segment and monitor material and labor costs for Change Orders separately from the work performed under the original contract and deemed part of the Cost of the Work.

§ 7.2 Change Orders
§ 7.2.1 A Change Order is a written instrument signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:
.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Unless specifically reserved, Contractor’s signature on a change order is a full, final and complete waiver of any and all claims, demands, impact costs, damages or causes of action arising out of or related to the change orders.

Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3

§ 7.3 Construction Change Directives
§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; 
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

Owner shall have the right to audit all records of Contractor and Subcontractors to verify costs for Construction Change Directive work.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:
.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers’ compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar direct taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor’s agreement or disagreement with the method, if any,
provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be accounted for as a Change Order. When both aiding and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

(Paragraph Deleted)

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.10.1 Unless specifically reserved, the Contractor agrees that when it executes a Change Order, it waives any and all further claims for damages or time extensions for the matters contained in the Change Order and that certifies it has been fully compensated for all aspects of the Change Order.

§ 7.4 Minor Changes in the Work
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. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8  TIME
§ 8.1 Definitions
§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion
§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.
§ 8.2.4 Failure by the Contractor to commence actual physical work on the Project within twenty-one (21) days from the date of Commencement, as established in the Agreement, will entitle the Owner to consider the Contractor in substantial breach of its obligations under this Contract. In this event, the Owner may terminate the Contract in accordance with the Contract documents.

§ 8.3 Delays and Extensions of Time
§ 8.3.1 Delays and Extensions of Time shall be documented and submitted to the Architect and Owner in writing no later than twenty-one (21) calendar days after the first observance or encounter of the condition. Completion time stipulated under other sections of the Contract Documents may be extended by Change Order or Construction Change Directive to provide one (1) additional work day for each full work day that the Contractor is prevented from working by reason of one or more of the following causes:

1. Unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not limited to catastrophes, acts of God, changes ordered in the Work, act or neglect of Owner or Architect or a Separate Contractor, unusual delay in deliveries, unavoidable casualties, epidemics, quarantine restrictions, strikes, or freight embargoes;

2. An unusual amount of severe weather to such an extent as to be definitely abnormal and beyond conditions that may be reasonably anticipated. For the purpose of this Contract, a total of five (5) working days per calendar month shall be anticipated as "normally bad or severe weather," and such time will not be considered justification for an extension of time. Weather related time extensions shall be determined on a monthly basis upon proper notification. The five (5) days each month shall not be aggregated for the entire project for the purpose of determining weather related time extensions.

3. Stoppage of work ordered by Owner or Architect for reasons over which Contractor has no control.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.2.1 Claims for extensions of construction time due to adverse weather conditions shall include the U.S. Weather Bureau Climatological Reports for the months involved plus a report indicating the average precipitation, temperature, etc., for the past 5 years from the nearest reporting station. The 5-year average will determine the number of adverse weather days which the Contractor would normally expect to encounter. Extensions of time may be requested for any month of construction for days lost, which affects the critical path of construction, due to adverse weather in excess of the expected lost time. It is responsibility of the Contractor to maintain a Project daily weather log and to obtain the verification and initials of the Architect's representative on a monthly basis. The Contractor shall transmit these logs and 5-year weather data averages to the Architect monthly. All claims for weather delay shall be reported within 30 days of the incident which affected the critical path. The Architect will make weather delay determinations by comparing verified Contractor's logs with the 5-year averages over the duration of the Project. All approved weather delays will be reported to the Contractor and to the Owner and shall be accumulated and granted in 1 or more Change Order. Contract time shall not be shortened by weather conditions which are more advantageous than had been predicted.

§ 8.3.2.2 Extension of time shall be Contractor's sole remedy for delay unless the same shall have been caused by acts constituting intentional interference by the Owner with Contractor's performance of the work and where to the extent that such acts continue after Contractor's notice to Owner of such interference. Owner's exercise of any of its rights under Article 12 CORRECTION OF WORK regardless of the extent of number of such changes, or Owner's exercise of any correction or re-execution of any defective work, shall not under any circumstances by construed as intentional interference with Contractor's performance of the Work.

§ 8.3.2.3 Extensions of Contract Time due to unusual adverse weather conditions may, at the sole discretion of the Owner, entitle the Contractor to claims for cost due to extended project overhead.

§ 8.3.2.4 No claims for extension of time will be considered when based on delays caused by conditions existing at the time bids or proposals were received, and of which the Contractor might be reasonably expected to have
knowledge at the time of bidding or proposing, or upon delays caused by failure on the part of the Contractor to anticipate properly the reasonable requirements of the Work contracted for as to materials, labor and equipment. The parties acknowledge that the Contractor has performed no invasive or destructive testing of the conditions existing at the time bids or proposals were received, the Contractor has made a visual inspection of the existing conditions, and the Contractor acknowledges that it knows of no claims for extension of time, delay or additional costs that are due or pending as a result of any concealed or other site conditions existing as of the date of this Agreement.

§ 8.3.3 The Contractor shall, within twenty-one (21) days after the beginning of such delay notify the Owner and Architect, in writing, of the causes of the delay. The Architect will then ascertain the facts and extent of delay, and notify the Contractor within twenty-one (21) days of the Owner's decision in this matter. Notice of delay and requests for extension of time shall set forth the cause, and number of additional working days Contractor desires Contract extended.

§ 8.3.4 No claims for extension of time will be considered when based on delays caused by conditions existing at the time bids were received, and of which the Contractor might be reasonably expected to have full knowledge of the time of bidding, or upon delays caused by failure on the part of the Contractor to anticipate properly the requirements of the Work contracted for as to materials, labor and equipment. All claims for extension of time shall be made in writing to the Architect with the next application for payment or within twenty-one (21) calendar days; otherwise, they shall be waived.

§ 8.3.5 Completion date stipulated under other sections of the Contract Documents may be extended by Change Order to compensate for additional work that may be ordered by Owner, provided such work is over and beyond scope of work covered by original Contract and is of such nature as to materially affect date of completion.

§ 8.3.6 Damages for time extensions caused by additional work or the Owner's failure to perform its obligations shall be limited to a pro-rata portion of the Contractor's average Monthly General Conditions Costs. Under no circumstances shall Contractor be entitled to recover delay damages for weather or force majeure events.

ARTICLE 9 PAYMENTS AND COMPLETION
§ 9.1 Contract Sum
§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable to the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values
Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared within thirty (30) calendar days in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s subsequent Applications for Payment. Any schedule of values that fails to include sufficient detail, is unbalanced, or exhibits “front-loading” of the value of the Work, shall be rejected. If either the schedule of value had been initially approved and subsequently used, but later was found to be improper for any reason, then sufficient funds shall be withheld from future Pay Applications to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.

§ 9.3 Applications for Payment
§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under
Section 9.2, for completed portions of the Work. The application shall be notarized and supported by all data substantiating the Contractor’s right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

(Paragraph Deleted)

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Until the Work is fifty percent (50%) complete, the Architect shall authorize, with Concurrence of the Owner, ninety percent (90%) of the amount due to the Contractor on account of progress payments. At the time the Work is fifty percent (50%) complete and thereafter, the Architect with the Concurrence of the Owner, may authorize ninety-five percent (95%) of the amount due to the Contractor on account of progress payments. Retainage shall continue until Final Completion and Final Payment.

§ 9.3.1.4 The Owner may elect to reinstate the full Contract retainage if the manner of completion of the Work and its progress do not remain satisfactory to the Architect or if the Surety withholds or revokes its consent, or for other good and sufficient reasons.

§ 9.3.1.5 The Owner will not consider a reduction of retainage below five percent (5%) of the total contract amount until all record drawings, guarantees, and operation and maintenance manuals have been submitted to the Architect as required by the specifications and are found to be acceptable by the Architect.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor’s knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.3.4 In addition to requirements stated elsewhere, each Application for Payment shall be accompanied with the following:

§ 9.3.4.2 Schedule of the utilization of Minority-Owned and Women-Owned Business Enterprises as provided in Attachment No. 1.

§ 8.4 Certificates for Payment

§ 8.4.1 The Architect will, within seven days after receipt of the Contractor’s Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect’s reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect’s reason for withholding certification in whole as provided in Section 9.5.1.
§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the 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 an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will 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) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect’s opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect’s opinion to protect the Owner from loss for which the Contractor may be responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner, a Separate Contractor, visitor or any other person or entity on the project limits;
.6 reasonable evidence that the Work may not be completed within the Contract Time, and that the unpaid balance may not be adequate to cover actual or liquidated damages for the anticipated delay;
.7 failure to carry out the Work in accordance with the Contract Documents;
.8 a lien of attachment is filed;
.9 failure of mechanical trade or electrical trade subcontractors to comply with mandatory requirements for maintaining record drawings. The Contractor shall check record drawings each month. Written confirmation by the Contractor that the record drawings are current will be required by the Architect before approval of the Contractor's monthly payment application; or
.10 any breach of this agreement that may cause the Owner to incur damages.

9.5.2 When either party disputes the Architect’s decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment. The Owner's decision on whether to issue joint checks is solely for its benefit and the Owner is under no obligation to issue joint checks. If the Owner decides to issue joint checks, then all costs, including attorney fees, incurred by the Owner shall be deducted from the Contract Sum.
§ 9.5.5 Nonresidents Contractor's attention is directed to Title 12, Chapter 8, Code of Laws of South Carolina 1976, as amended, concerning withholding tax on nonresident employees, contractors and subcontractors.

§ 9.6 Progress Payments
§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.1 Contractor shall properly disburse money received from all payments to laborers, subcontractors or materialmen in accordance with Title 29, Chapters 6 and 7 of the S.C. Code of Laws, as amended.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 After substantial completion, Contractor may submit progress pay applications at 30, 60, and 90 days after substantial completion. After 90 days, no other progress pay applications will be accepted and no further payment will be made until Final Payment.

§ 9.7 Failure of Payment
If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within thirty(30) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty
(30) days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion
§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use and all certificates of occupancy and all other permits or approvals necessary for the Owner to occupy and utilize the Project have been issued.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit the “Contractors Request for Certificate of Substantial Completion” to the Architect and attach a comprehensive list of items to be completed or corrected prior to final payment. The list shall be submitted to the Owner through the Architect at least ten (10) days prior to the proposed inspection date. The Architect shall attach its written endorsement as to whether or not it concurs with the Contractor's statement that the Work is ready for inspection. The Architect's endorsement is merely for the convenience of the Owner and shall not relieve the Contractor of its responsibilities, nor shall the Architect's endorsement be deemed to be evidence that the Work is substantially complete and ready for inspection and testing. In the event the Architect does not concur with Contractor's request and list, the Architect shall inform the Contractor and the Contractor may then, at its sole option, (1) defer the inspection, or (2) proceed with the inspection in accordance with Section 9.8.3. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.3.1 Except with the consent of the Owner, the Architect will perform no more than two (2) inspections and then a final reinspection to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum amount paid to the Architect for any additional inspections required by or because of Contractor's failure to obtain Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance of Substantial Completion of the work and consent of surety, if any, the Owner shall make payment sufficient to increase the total payments, inclusive of retainage, to ninety-five percent (95%) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims, costs to complete or correct Uncompleted or Defective Work and the full amount of Liquidated Damages. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents. Retainage shall continue until Final Completion and final Payment, subject to Section 9.8.6 of this document.

§ 9.8.6 When the Architect deems the project substantially complete, it shall prepare a comprehensive list of items (punch list) to be completed or corrected prior to final payment. The Architect shall provide the punch
list to the Contractor and Owner. The Architect shall estimate the cost to perform each punch list item and shall withhold three times the cost to perform the punch list work. If three times the cost to perform this work is less than current retainerage, the Architect shall release the difference, assuming Contractor has fulfilled all other obligations required for release of retainerage, including those identified in Section 9.3.1.5.

§ 9.8.7 Delivery of the following items to the Owner in both hard copy and electronic format are conditions precedent to a finding that the project is substantially complete:

1. Occupancy permits and approvals by authorities having jurisdiction;
2. Acceptance by Owner safety representative and engineering representative;
3. Final “As-Built” drawings in PDF format provided to the Owner as provided by the Architect;
4. Complete set of specifications including all addendums in PDF format;
5. All final field use shop drawings on material, equipment, etc. in PDF format;
6. Maintenance instructions for all items, name and address for supplier, name, address, and telephone number of persons of contact for service, all compiled and indexed in PDF format;
7. Two (2) copies of final “As-Built” drawings provided to the Owner as provided by the Architect, size of drawings to be either 24 x 36 or 30 x 42 provided to the Owner as provided by the Architect;
8. Two (2) copies of all final field use shop drawings on material, equipment, etc.;
9. Two (2) sets of maintenance instructions for all items, name and address of supplier, name, address, and telephone number of persons to contact for service, all compiled in indexed hard cover binders.

All hard copies will be submitted to the Architect who will forward them to the Owner. All electronic copies shall be delivered to Owner and Architect, in a format acceptable to both.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainerage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.1.1 Except with the consent of the Owner, the Architect will perform no more than one (1) inspections to
determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for any additional inspections required by or because of Contractor's failure to obtain Final Completion.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 Final payment including retainages shall not be due until the following has been submitted and approved by the Architect. These requirements are conditions precedent to final payment:

1. the final punch list has been completed and a copy of the list submitted showing the disposition of each item,
2. a final inspection has been conducted and all items are completed,
3. a Certificate of Substantial Completion has been properly approved and filed,
4. an affidavit has been provided that all payrolls, bills for materials and equipment, and other indebtedness conducted with the Work for which the Owner or its property might in any way be responsible, have been paid for otherwise satisfied,
5. the consent of the Surety, if any, to final payment is provided, and
6. Completion of Owner's audit rights. Owner's audit, if the Owner chooses to conduct one, must be completed within 30 days after all required documentation is received by Owner.

§ 9.10.4 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY
§ 10.1 Safety Precautions and Programs
The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property
§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:
1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.2.1 In the event that review, inspection or other action by regulatory agencies or other parties results in the imposition of fines, fees, or other costs due to the failure of the Contractor to comply with said applicable laws, ordinances, rules, regulations and lawful orders, the Contractor shall hold harmless the Owner, the Architect, and Owner's separate contractors, if any, from all consequences arising from the Contractor's noncompliance.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of
persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 Contractor, Subcontractors, and their respective agents and employees shall not be liable for any claims, damages, losses and expenses arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, except to the extent that such damage, loss or expense is due to the fault or negligence of Contractor, Subcontractors, or their respective agents or employees.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, because of negligence solely on the part of the Owner, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 Contractor's Insurance and Bonds
§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies acceptable to the Owner and lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. The insurance shall protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
1. Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

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User Notes:
.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;

.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

.6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of any motor vehicle;

.7 Claims for bodily injury or property damage arising out of completed operations; and

.8 Claims involving contractual liability insurance applicable to the Contractor’s indemnity obligations under Section 3.18;

.9 Claims or loss excluded under a prior work endorsement or other similar exclusionary language;

.10 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language;

.11 Claims related to roofing, if the Work involves roofing;

.12 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces;

.13 Claims related to earth subsidence or movement, where the Work involves such hazards; and

.14 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ 11.1.1.1 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work through substantial completion and for a period of eight (8) years after substantial completion of the Project. The minimum limits of liability for the following types of insurance are:

<table>
<thead>
<tr>
<th>1. Workers’ Compensation, including:</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Workers’ Compensation Insurance-</td>
<td>$100,000</td>
</tr>
<tr>
<td>b. Employers’ Liability-Each Accident-Disease-</td>
<td>$500,000</td>
</tr>
<tr>
<td>Disease-Each Employee-</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Commercial General Liability, including,</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. General Aggregate</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>b. Products-Completed Operations-Aggregate</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>c. Personal and Advertising Injury</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>d. Each Occurrence</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>e. Fire Damage (any one fire)</td>
<td>$50,000</td>
</tr>
<tr>
<td>f. Medical Expense (any one person)</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>3. Business Automobile Liability, including all Owner, Non-Owned and Hired:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Combined Single Limit:</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>OR</td>
<td></td>
</tr>
<tr>
<td>b. Bodily Injury &amp; Property Damage (each)</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

| 4. Umbrella coverage (follow form) | $5,000,000 |

<table>
<thead>
<tr>
<th>5. Contractor’s Professional and Pollution Indemnity and Liability, incl.,</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Contractor’s Professional Liability Coverage Limit (Parts A and B)</td>
<td>$ to be determined at start of Phase 2.</td>
</tr>
<tr>
<td>b. Contractor’s Pollution Liability - $ to be determined at start of Phase 2 each claim or loss (Part C, including Contractual Liability)</td>
<td></td>
</tr>
<tr>
<td>c. Coverage Parts A, B and C - Aggregate limit to be determined at start of Phase 2.</td>
<td></td>
</tr>
</tbody>
</table>
§11.1.1.2 In addition to Contractual Liability including the indemnification provision, Bodily Injury, and Property Damage coverage under both Comprehensive General and Comprehensive Automobile forms, shall include "occurrence" basis wording, which means an event, or continuous or repeated exposure to condition which unexpectedly causes injury or damage during the policy period. The Owner shall be an additional insured on the Contractor’s comprehensive general liability policy. Additional insured endorsements CG 20 10 07 04 and CG 20 37 07 04 or endorsements providing the same coverage shall be obtained to satisfy the additional insured requirements. The additional insured coverage shall be a Primary and Non-Contributory policy. Contractor shall maintain all required coverages for at least 8 years after substantial completion of the Project.

§11.1.1.3 Contractor shall either (a) require each of its Sub contractors to procure and maintain during the life of its Subcontract, Subcontractor Comprehensive General Liability, Automobile Liability, and Property Damage Liability Insurance of the type and in the same amounts as specified in this Subparagraph, or (b) insure the activities of its Subcontractors in its own policy.

§11.1.1.4 Certificates of insurance or AIA Document G705, latest edition, shall be filed with the Architect and Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days’ prior written notice has been given to the Owner. Certificates must be fully completed. Incomplete certificates shall not be accepted and commencement of work shall not start until a fully completed certificate is provided. Any delays due to incomplete certificates shall not warrant an extension of Contract Time. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the time required by the Contract Documents Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§11.1.1.5 If excavation is required, Contractor shall obtain underground hazard coverage in addition to other coverages required.

§ 11.1.2 Performance and Payment Bonds The Contractor shall provide Performance and Labor and Material Payment Bonds, each in the amount of 100% of the Contract Sum.

1. The Surety shall have, at a minimum, a “Best Rating” of “A” as stated in the most current publication of “Best’s Key Rating Guide, Property-Casualty”. In addition, the Surety shall have a minimum “Best Financial Strength Category” of “Class V” and in no case less than five (5) times the contract amount.

2. The Performance Bond and the Payment Bond shall be made payable to the Owner.

3. The Performance and Labor Material Payment Bonds shall:

1. be issued by a surety company licensed to do business in South Carolina; and

2. be accompanied by a current power of attorney and certified by the attorney-in-fact who executes the bond on the behalf of the surety company; and

3. remain in effect for a period of time not less than one (1) year following the date of Substantial Completion; and

4. display the Surety’s Bond Number. A rider including the following provisions shall be attached to each Bond stating that:

1. The Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change, or other modification of the Contract Documents. Any addition, alteration, change, extension of time, or other modification of the Contract Documents, or a forbearance on the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder, and notice to the Surety of such matters is hereby waived.

2. The Surety agrees that it is obligated under the bonds to any successor, grantee, or assignee of the Owner.

5. Notwithstanding the foregoing, any bonds required by this Contract shall meet the requirements of the SC Code of Laws, as amended.

§ 11.1.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.
§ 11.1.2.2 The Contractor shall furnish the required bonds to the Owner before execution of the Contract.

§ 11.1.2.3 The Contractor shall keep the Surety informed of the progress of the Work, and, where necessary, obtain the Surety’s consent to, or waiver of:

1. notice of changes in the Work;
2. request for reduction or release of retention;
3. request for final payment; and
4. any other item required by the Surety.

The Owner may, in the Owner’s sole discretion, inform the Surety of the progress of the Work and obtain consents as necessary to protect the Owner’s rights, interest, privileges, and benefits under and pursuant to any bond issued in connection with the Work.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor’s Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Property Insurance

§ 11.2.1 Owner shall purchase and maintain property insurance upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the work and shall insure against “All Risk” and “Special Perils” including Flood and Earthquake. The deductible shall be borne by the Contractor. This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging, towers, and forms owned or rented by the Contractor which are not intended to become part of the project. The interest of the Owner, the Contractor, Subcontractors and Sub-subcontractors in this insurance shall only be effective during the construction of the project and all rights and interest of the Contractor, Subcontractors and Sub-subcontractors in this insurance shall end upon the acceptance of the project by the Owner. The Contractor, Subcontractors and Sub-subcontractors shall be named additional insured and the policy shall contain waivers of subrogation for the insureds.

§ 11.2.2 Any insured loss is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause.

§ 11.2.3 If the Contractor requests in writing that insurance for special hazards be included in the Property Insurance clause, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.2.4 If the Owner finds it necessary to occupy or use a portion or portions of the work prior to substantial completion thereof, such occupancy shall not commence prior to a time mutually agreed to by the (Paragraph Deleted)

Owner and Contractor and to which the insurance company or companies providing the Property Insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance
The Owner, at the Owner’s option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner’s property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner’s property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss
§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is reached, the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK
§ 12.1 Uncovering of Work
§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work
§ 12.2.1 Before Substantial Completion
The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion
§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any part of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the
condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor’s correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work
If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS
§ 13.1 Governing Law
This agreement is executed in the State of South Carolina and shall be construed in accordance with the laws of the State of South Carolina. Both parties submit their persons to the jurisdiction of the Courts for South Carolina. Exclusive venue for any action or other dispute resolution procedure brought in connection with this agreement shall be in the Court of Common Pleas for Charleston County, South Carolina.

§ 13.2 Successors and Assigns
§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies
§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.
§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections
§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner’s expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect’s services and expenses, shall be at the Contractor’s expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest
Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT
§ 14.1 Termination by the Contractor
§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:
. 1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
. 2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
. 3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
. 4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work,
repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days’ notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner’s obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days’ notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause
§ 14.2.1 The Owner may terminate the Contract if the Contractor
 .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
 .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
 .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
 .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor’s surety, if any, seven days’ notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
 .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 .2 Accept assignment of subcontracts pursuant to Section 5.4; and
 .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.2.1 The Owner shall not be required to proceed in completing the work at the lowest, possible cost.

§ 14.2.2.2 The cost of finishing the work may include, but not limited to: (1) cost of labor and material, (2) additional Architectural services, (3) costs of advertising or bidding, (4) attorneys’ fees, (5) administrative costs, and (6) all other costs or expenses directly or indirectly relating to the termination.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract. In exercising Owner’s right to secure completion of the Work under any of the provisions hereof, the Owner shall have the right to exercise Owner’s sole discretion as to the manner, methods and reasonableness of costs of completing the Work. However the Owner is under a continuing obligation when exercising its rights to secure completion of the Work to mitigate its damages, and this provision in no way is intended to alter that obligation.
§ 14.3 Suspension by the Owner for Convenience
§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent
   .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
   .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience
§ 14.4.1 The performance of Work under this contract may be terminated by the Owner in whole, or from time to time in part, whenever the Owner shall determine that such termination is in the best interest of the Owner. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of Work under the contract is terminated, and the date upon which such termination becomes effective.

§ 14.4.2 After receipt of Notice of Termination, the Contractor shall stop Work under the Contract on the date and to the extent specified in the Notice of Termination. After receipt of Notice of Termination the Contractor shall stop Work under the contract on the date and to the extent specified in the Notice of Termination.

§ 14.4.3 The Contractor and the Owner shall agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of the Work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on Work performed, but in no event shall Contractor be allowed payment or recovery of any kind for overhead, profit or damages connected to or arising out of Work not performed; Provided, that such agreed amount or amounts exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

§ 14.4.4 Termination by the Owner for convenience does not relieve the Contractor from responsibility for liquidated damages that may have accrued prior to the date of termination.

§ 14.5 Other
§ 14.5.1 Termination of the Agreement by either party for any reason, whether for cause or for convenience, shall not relieve the parties of any obligation theretofore accorded under this Agreement. Without limiting the foregoing sentence, the following provisions (as amended, if amended) of the Contract Documents shall survive termination for whatever reason, expiration of the Agreement or completion of the Agreement:

1. 1.5 Ownership and Use of Drawings, Specifications and Other Instruments of Service;
2. 3.5 Warranty
3. 3.17 Royalties, Patents and Copyrights
4. 3.18 Indemnification
5. 11.0 Insurance and Bonds
6. 12.0 Correction of Work
7. 13.1 Governing Law
8. 13.3 Rights and Remedies
9. 6.1.6 of A133 - 2019, Liquidated Damages
10. Contractor’s obligation to furnish Owner with OEM Manuals, Warranties, Closeout Documents, As-Builts, etc. related to work completed by Contractor at the time of termination, expiration or completion of the Agreement.
11. Owner’s right to Audit Contractor’s records.

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User Notes:
The foregoing provisions are listed for reference purposes and are not intended to be a complete listing of all provisions and terms that shall survive termination, expiration or completion of the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES
§ 15.1 Claims
§ 15.1.1 Definition
A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims
The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the 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 Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims
§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party with a copy sent to the Architect. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party.

§ 15.1.4 Continuing Contract Performance
§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.5 The Contract Sum and Contract Time shall be adjusted in accordance with any agreement on a claim. The Architect will issue Certificates for Payment in accordance with the agreement.

§ 15.1.5 Claims for Additional Cost
If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time
§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor’s Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claims shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.6.3 Claims for increases in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which
each cause of delay ceased to affect the progress of the Work and the number of days’ increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction scheduled indicating all the activities affected by the circumstances forming the basis of the Claim.

§ 15.1.6.4 The Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due solely to the fault of the Contractor.

§ 15.1.7 Waiver of Claims for Consequential Damages
The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

(Paragraph Deleted)

§15.2 Claim Notice to Surety

(Paragraphs Deleted)

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor’s default, the Owner may, but is not obligated to, notify the surety and request the surety’s assistance in resolving the controversy.

(Paragraph Deleted)

§ 15.3 Mediation
§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, and 15.1.7, may be resolved by mediation between the parties. A request for mediation shall be made in writing, delivered to the other party to the Contract, and submitted to the person or entity administering the mediation.

(Paragraph Deleted)

§ 15.3.4 The parties shall share the mediator’s fee and any filing fees, if any, equally. The mediation shall be held in the County in which 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.
MWBE Compliance Provisions and Instructions Minority/Women Business Enterprise Program Forms

This Project is covered under the City of Charleston’s Minority/Women Business Enterprise (MWBE) Program, administered by Ruth Jordan, MBE Manager, 145 King Street, Suite 104, Charleston SC, 29401, (843) 973-7247.

The City has established goals for both Minority Business Enterprises (MBE) and Women Business Enterprises (WBE). An MBE is a small business owned and controlled by a minority. A WBE is a small business owned and controlled by a woman. The minority or woman must own fifty-one percent (51%) of the business and they must control the management and daily operations of the business in order to qualify.

Charleston City Council has adopted a policy setting 20% as the guidelines for combined minority-owned and women-owned business enterprise participation for this project. This MWBE requirement for participation in this Contract for services shall be made a part of any contract resulting from this solicitation. These requirements shall also apply to all subcontracts issued by the successful bidder(s).

Bidder’s MBE/WBE Participation: All bidders must document the extent of their MWBE participation by completing the MWBE Compliance Provision Forms. Bidders must complete Affidavits A and B or Affidavit C and attach the entire package to the Bid Form. Bidders who fail to submit these documents as required by the Procurement Office shall be deemed non-responsive and will be ineligible for award of the Contract.

All MBE/WBE subcontractors must have a Certificate of Eligibility on file with the City’s Minority Business Enterprise Office. A list of certified minority and women-owned firms can be found on the City of Charleston’s web site www.charleston-sc.gov under “BIDLINE” link or by contacting Ruth Jordan, MBE Manager, 2 George Street, Charleston, SC 29403, (843) 724-7434, jordnr@charleston-sc.gov.

COMPLIANCE REQUIREMENTS:

1. The Bidder shall provide, with their bid form submittal, the following Affidavits properly executed which signify that the Bidder understands and agrees to abide by the City’s MWBE Compliance Provisions.


AND

Affidavit B – Work to be Performed by Minority and/or Women-owned Firms

OR

Affidavit C – Intent to Perform Contract with Own Workforce, in making this certification the Bidder states that the Bidder does not customarily subcontract elements of this type of Project and will perform all elements of the work with his/her own current work forces.

2. All affidavits supplied by the Bidder shall become a part of any resulting Contract between the Bidder and the City of Charleston. Failure to comply with any of the statements, certifications, or intentions stated in the affidavits, or the MBE/WBE compliance provisions shall constitute a breach of the Contract. Any such breach may result in termination of the Contract in accordance with the termination provisions contained in the Contract. It shall be solely at the option of the City of Charleston whether to terminate the contract for breach. In addition to terminating the Contract, the bidder may be prohibited from participation in future solicitations as determined by the City of Charleston.

MWBE COMPLIANCE PROVISIONS
Revision 07-20-2011
Page 1 of 2
Name of Company: **Edifice, LLC**

Signature

Michael A. Carlisto
Print Name

Tim Bender
Witness

March 15, 2022
Date

Vice President - Project Executive
Title
City of Charleston  
City Operations Facilities Complex  
February 3, 2022

Chase Anderson, PLA, AICP  
Senior Construction Project Manager  
City of Charleston | Department of Parks  
823 Meeting Street  
Charleston, SC 29403

Re: Proposal: City Operations Facilities Complex: Phase 1  
City of Charleston, SC

Dear Mr. Anderson:

Edifice, Inc. (the Construction Manager at Risk) would propose the following scope of work, as Defined in Exhibit D below, and fee for Phase 1 of the proposed City Operations Facilities Complex. The scope of Preconstruction Services is anticipated to occur between January 2022 and June 2022. The scope of services will include but not be limited to the following activities:

Field Trips, Case Studies and Needs Assessment:
- Assist SMHa and the City with various site visits to understand current facility operations.
- Host and organize a physical trip to one or more completed facilities constructed by Edifice and/or SMHa.
- Assist in pricing and constructability exercises related to the needs assessment and understanding of existing structures.
- Participate in interviews with end users as requested by SMHa and City and provide replacement cost of existing complex.

Site Selection and Programming:
- Assist the City with site analysis:
  - Perform Site Ops exercises for site grading assessments. This initial study incorporates GIS data to provide existing contours to aid in early site moving estimates.
  - Perform high-level quantity and estimate surveys on proposed site, programming, and building concepts.
  - Put together comparisons with Pro's and Con's, advantages, and disadvantages, of site, building concepts, layouts and programming.
- Update and coordination meetings with owner and design team – Bi-Weekly or as needed
- Develop a project schedule with design milestones, budget milestones, authorities having jurisdiction review and approvals, owner activities, and high-level construction activities and milestones.
- It is understood that Surveying and/or Phase 1 investigations will be contracted by the City. Edifice will work in kind with these vendors to address items related to cost and constructability.
Conceptual and Master Planning:
- Update and coordination meetings with owner and design team – Bi-Weekly or as needed
- Programming review and verification
- Perform schedule updates and continue to analyze permitting, bidding, and construction timeframes
- Quantity take off and unit cost pricing analysis
- Conceptual and Master Plan design estimate
- Clarifications to estimate
- Value engineering review and workshop with owner and designer
- Reconcile estimate with independent professional construction cost estimator hired by others
- High level constructability review
- Facilitate estimate review meeting and refine the estimate based on team comments
- Establish Project Collaborative website for the project team to utilize and share information
- Edifice will engage key subcontractors including, but not limited to, building envelope, MEP, life safety to provide reports for discussion with team regarding cost, maintainability, operability and life cycle analysis.

Contract
- The AIA A133 – 2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor along with the AIA A701 – 2017 General Conditions of the Contract for Construction are being utilized.
- The value of Preconstruction Services will be the initial contract value. Construction services will be added when the Guaranteed Maximum Price is determined through an Amendment to the contract

Sincerely,

Michael A. Carlisto
Vice President - Project Executive
### Personnel Activities

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### Services Cost Recap

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TO:     John J. Tecklenburg, Mayor
FROM:   Ed Boinest / Andrew Jones            DEPT.   Parks – Capital Projects
SUBJECT: PARKING GARAGES STRUCTURAL REPAIRS PROFESSIONAL SERVICES CONTRACT
REQUEST: Approval of a Professional Services Contract with ADC Engineering in the amount of $929,344.10 for the preparation of construction documents for short-term, intermediate and long-term repairs for 12 City garages as well as construction administration services.

__________________________
COMMITTEE OF COUNCIL: Ways & Means        DATE:       April 12, 2022

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

CPR Committee Chair   [ ]   [ ]   [ ]   Signature of Individual Contacted   [ ]
Corporate Counsel     [x]   [ ]   [ ]   [ ]   Attachment   [ ]
Capital Projects Director [ ]   [ ]   [ ]
MBE Manager          [ ]   [ ]   [ ]

FUNDING: Was funding previously approved? Yes  [x]  No  [ ]  N/A  [ ]
If yes, provide the following. Dept/Div  [ ]
Parks-Capital Projects     [ ]
Acct #  022016-52238
Balance in Account  $929,344.10
Amount needed for this item  $929,344.10
Project Number   CP1913

NEED: Identify any critical time constraint(s).

__________________________
CFO’s Signature:   [ ]

FISCAL IMPACT: Approval of this professional services contract will obligate $929,344.10 of the $4,451,300.00 project budget. The funding source for this project is the Parking Fund.

__________________________
Mayor’s Signature:    John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor’s Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00 A.M. THE DAY OF THE CLERK’S AGENDA MEETING.
AGREEMENT made as of the day of in the year 2022
(In words, indicate day, month and year.)

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

City of Charleston
Department of Parks
Capital Projects Division
823 Meeting St.
Charleston, SC 29403
Phone: 843-724-7191
Fax: 843-724-7300

and the Engineer
(Name, legal status, address and other information)

ADC Engineering
Christopher Gilger
Mark Dillon
ADC Engineering
1226 Yeamans Hall Road
Hanahan, South Carolina 29410

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

City of Charleston Parking Garages
City of Charleston
Design Services for the repairs to twelve City of Charleston parking garages.
ADC Engineering will provide design services for the repairs to the twelve City of Charleston Parking Garages listed below. The design team will produce construction documents based on the approved scope of services outlined in the services 1 description of the attached proposal. Construction Administration services will be provided based on the scope outlined in service 3 of the attached contract.

• Aquarium 24 Calhoun Street
• Camden/Exchange 35 John Street
• Charleston Place 85 Hasell Street
• Concord/Cumberland 1 Cumberland Street
• East Pay/Pro leveu 25 Pro leveu Street
• Gaillard Auditorium 32 Alexander Street
• Majestic 211 King Street
• Marion Square 399 King Street
• Midtown 558 King Street
• 93 Queen 93 Queen Street
• 34 Saint Philip 34 St. Philip
Visitor Center
63 Ann Street

The Owner and Engineer agree as follows.

TABLE OF ARTICLES

1 INITIAL INFORMATION
2 ENGINEER'S RESPONSIBILITIES
3 SCOPE OF ENGINEER'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.")

All references to "Architect" shall mean "Engineer"

§ 1.1.1 The Owner's program for the Project:
(Inset the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed)

ADC Engineering along with consultants will provide construction documents and specifications for the repairs to the parking garages, previously listed. The repairs are based on a report provided to ADC by the owner.
ADC's Report – 7/05/2018

The service scope of work is based on a report prepared by ADC Engineering dated 07/05/2018.

§ 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.)
ADC Engineering will provide design services for the repairs to the twelve City of Charleston Parking Garages listed below. The design team will produce construction documents based on the approved scope of services outlined in the services description of the attached proposal. Construction Administration services will be provided based on the scope outlined in service 3 of the attached contract.

- Aquarium 24 Calhoun Street
- Camden/Exchange 35 John Street
- Charleston Place 85 Hasell Street
- Concord/Cumberland 1 Cumberland Street
- East Bay/Prioleau 23 Prioleau Street
- Gaillard Auditorium 32 Alexander Street
- Majestic 211 King Street
- Marion Square 399 King Street
- Midtown 558 King Street
- 93 Queen 93 Queen Street
- 34 Saint Philip 34 St. Philip
- Visitor Center 63 Ann Street

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

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

Approximately 4.4 million dollars.

Unknown at the time of execution.

§ 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:

To be determined.

.4 Other milestone dates:

To be determined.

§ 1.1.5 The Owner intends the following 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.)

Competitive bid, possible multiple bid packages and phased construction.

§ 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.)

unknown at the time of this execution.
§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Engineer shall complete and incorporate AIA
Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and
services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner
and Engineer shall incorporate the completed E204–2017 into the agreements with the consultants and contractors
performing services or Work in any way associated with the Sustainable Objective.

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

   Ed Boinest – Project Manager.

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

   unknown at the time of this execution.

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

   .1 Geotechnical Engineer:

      NA

   .2 Civil Engineer:

      NA

   .3 Other, if any:
   (List any other consultants and contractors retained by the Owner.)

      NA

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

   Christopher Gilger – ADC Engineering Inc.
   Mark Dillon – ADC Engineering Inc.
   ADC Engineering
   1226 Yeamans Hall Rd.
   Hanahan, SC 29410

§ 1.1.11 The Engineer 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 Structural Engineer:

      Christopher Gilger,
      ADC Engineering
      1226 Yeamans Hall Rd.
      Hanahan, SC 29410

   .2 Mechanical Engineer:

   (List contact information.)
Don Zimmerman
RMF Engineering
194 Seven Farms Drive
Charleston, SC. 29492

Electrical Engineer:

Dennis Sepavich
RMF Engineering
194 Seven Farms Drive
Charleston, SC. 29492

Architect

Emma Souder
Red Iron Architects
4591 Dunant Avenue
North Charleston, SC. 29405

Architect

Steve Coe
Rosenblum Coe Architects
1645 means Street
Charleston, SC. 29412

Cost consultant

Matthew DeSilver
MBP
3200 Becchulee Ct #910
Raleigh, NC 27604

§ 1.1.11.2 Consultants retained under Supplemental Services:

Unknown at the time of this execution.

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

On the written report.

§ 1.2 The Owner and Engineer 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 Engineer shall appropriately adjust the Engineer’s services, schedule for the Engineer’s services, and the Engineer’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. The parties will use AIA Document E203™–2013, Building
Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document B203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.4 Any reference to the AIA Document A201 – 2017 herein, shall refer to the AIA Document A201 – 2017, as modified for this Project.

ARTICLE 2 ENGINEER'S RESPONSIBILITIES

§ 2.1 The Engineer shall provide professional services as set forth in this Agreement. The Engineer 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 Engineer shall perform its services consistent with the professional skill and care ordinarily provided by Engineers practicing in the same or similar locality under the same or similar circumstances. The Engineer 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 Engineer shall identify a representative authorized to act on behalf of the Engineer with respect to the Project.

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

(Paragraph deleted)

§ 2.5.1 Commercial General Liability with policy limits of not less than ($1 Million) for each occurrence and ($2 million) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Engineer with policy limits of not less than ($500,000) 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.

(Paragraph deleted)

§ 2.5.3. Umbrella coverage of not less than $5 million. The umbrella policy shall be a "follow form" and 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 $1,000,000 each accident, $1,000,000 each employee, and $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 One Million ($1,000,000.00) per claim and Two Million ($2,000,000.00) in the aggregate. The coverage must be maintained for a minimum of three (3) years after final completion.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Engineer 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 Engineer'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 Engineer shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. The Engineer shall maintain all forms of insurance required by the State of South Carolina. The Engineer shall ensure that all Consultants engaged or employed by the Architect carry and maintain similar insurance. The Engineer and its Consultants shall submit proof of such insurance to the Owner at time of Contract Award and at any time when a change in amount of coverage or carriers occurs. The maintenance of such coverage shall be a condition precedent to Owner's obligation to pay under this Agreement. The Engineer shall provide to the Owner a certificate(s) of insurance demonstrating that its policy(s) is properly endorsed so that written notice will be provided by the Engineer's insurer(s) to the Owner in the event of a cancellation, non-renewal, or change in policy limits at least thirty (30) days prior to any cancellation, or non-renewal, of coverage of the policies.

§ 2.5.9 To the fullest extent permitted by law, the Engineer shall indemnify and hold harmless the Owner, its agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, but only to the extent caused by the negligent acts or omissions of the Engineer, a Subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section. The Engineer shall not be required to indemnify the Owner for the Owner's negligence. The Owner shall be entitled to recover reasonable attorney fees and costs incurred in pursuing or enforcing these indemnity obligations.

§ 2.6 The Architect shall provide a list of Consultants by Discipline and Name.

§ 2.7 The Architect shall provide a list of Key Project Team members assigned to Project by Name, Discipline, and Firm.

§ 2.8 Neither Consultants nor Key Project Team members shall be changed without Owner's written consent.

ARTICLE 3 SCOPE OF ENGINEER BASIC SERVICES

§ 3.1 The Engineer's Basic Services consist of those described in this Article 3 and include usual and customary civil, plumbing, structural, mechanical, fire protection, and electrical engineering services. For the purposes of this Agreement "usual and customary" shall be those services reasonably required to provide complete design and construction administration services. The following services are also considered to be part of the Architect's Basic Services.

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

§ 3.1.2 The Engineer shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Engineer 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 Engineer shall provide prompt written notice to the Owner if the Engineer becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 Prior to submitting an invoice for services, 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 coordination and completion of pre-construction services, the commencement of construction and for 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 performance of pre-construction services by the Contractor, 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 Engineer 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 Engineer's written approval.

§ 3.1.5 The Architect shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect represents that it is familiar with and experienced in the interpretation and implementation of, laws, codes and regulations applicable to the Architect's services and the Project in general. The Architect shall respond to the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in order to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect's expertise in laws, codes, and regulations concerning projects of this type. The Architect's work shall comply with such laws, codes and regulations.

§ 3.1.6 The Engineer 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.

§ 3.2 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. The Architect shall report to the Owner the results of this review, specifying the scope thereof. The Architect's performance and design, and those of his Consultants, shall conform to all applicable requirements imposed by governmental authorities having jurisdiction over the Project.

§ 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 Engineer shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Engineer 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. The Architect shall report in writing to the Owner any deviations between Owner-provided information or programs and the design presented.

§ 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 Engineer 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 Engineer shall submit to the Owner an estimate of the 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. The Architect shall report in writing to the Owner any deviations between Owner-provided information or programs and the design presented.

§ 3.2.8 The Engineer shall submit to the Owner for review and approval two (2) completed sets of Schematic Design Documents, and the Estimate of Construction Cost.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, 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 Engineer shall update the estimate of the 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 estimate of the Cost of the Work, and request the Owner’s approval. The Architect shall report in writing to the Owner any deviations between Owner-provided information or programs and the design presented.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner’s approval of the Design Development Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner’s approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications, setting forth in detail the quality levels 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 Engineer shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 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 Engineer shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

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

§ 3.4.6 The Architect shall be responsible for the coordination of all drawings and design documents relating to the Architect’s design and used on the Project, regardless of whether such drawings and documents are prepared or performed by the Architect or Architect’s consultants. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through the Architect and for their compliance with current applicable codes, ordinances, regulations, laws and statutes. The Architect shall be responsible for coordination and internal checking of all such documents and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by the Architect.

§ 3.5 Procurement Phase Services
§ 3.5.1 General
Upon request, 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.

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

§ 3.5.2.2 Upon request, the Architect shall assist the Owner in bidding the Project by:
   .1 facilitating the distribution of Bidding Documents to prospective bidders;
   .2 organizing and conducting a pre-bid conference for prospective bidders;
   .3 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 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 Engineer shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals
§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:
   .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
   .2 organizing and participating in selection interviews with prospective contractors;
   .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
   .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.
§ 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 the modified AIA Document A201™-2017, General Conditions of the Contract for Construction.

§ 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 Subject to Section 4.2 and except as provided in Section 3.6.6.5, 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 report for the 1 year warranty inspection.

§ 3.6.2 Evaluations of the Work
§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) deviations from the Contract Documents, (2) deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies in the Work.

§ 3.6.2.2 The Architect 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, 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.

(Paragraph deleted)
§ 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 evaluation of the Work 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

Init. /

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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 Engineer 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 Engineer shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals
§ 3.6.4.1 The Engineer shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Engineer'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 Engineer's professional judgment, to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Contractor's 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 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Engineer 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 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 Engineer shall maintain records relative to changes in the Work.
§ 3.6.6 Project Completion

§ 3.6.6.1 The Engineer shall:

1. conduct inspections to determine the date or dates of Substantial Completion and the date of final completion.
2. issue Certificates of Substantial Completion.
3. 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,
4. issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Engineer's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Engineer'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 Engineer shall inform the Owner of the balance of the Contract Sum remaining to be paid to 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 Engineer 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 of Substantial Completion, the Engineer shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 The Architect shall prepare, from Contractor supplied-information, and provide to Owner a set of reproducible Record Plans showing all significant changes in the work made during construction as required by the Manual. Plans shall be stamped as "Record Plans". This set of reproducible documents shall be in addition to electronic documents that are required by the Agreement.

§ 3.6.6.7 As part of the Architect's Basic Services during the tenth (10th) month after the Date(s) of Substantial Completion, the Architect shall visit the Project to review the Work and shall prepare a report to be issued to Owner and, at Owner's direction, to the Contractor, indicating outstanding work to be corrected and warranty issues to be addressed by the Contractor.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Additional Services listed below are not included in Basic Services unless specifically designated as such. The Architect shall provide the listed Additional Services only if specifically requested in writing by the Owner.

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<td>Supplemental Services</td>
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<td>$ 4.1.1.30 Other Supplemental Services</td>
<td>Np</td>
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</tbody>
</table>

(Paragraphs deleted)

§ 4.2 Engineer’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Written approval from the Owner of additional services is a condition precedent to Architect’s right to be paid for any additional service.

§ 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 any Additional Services until the Architect receives the Owner’s written (Paragraphs deleted) authorization.

(Paragraphs deleted)
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.

§ 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.

§ 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 invert and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall pay for 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. The Architect shall determine what tests are necessary and procure same.

(Paragraph deleted)

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated 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. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall pay for 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. The Architect shall determine what tests are necessary and procure same.

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

§ 5.11 The Owner has no duty of observation, inspection or investigation; however, 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 but the Owner's failure to do so shall not relieve the Architect of its responsibilities.
§ 5.12 No later than upon completion of the Construction Documents the Architect shall provide to the Owner for the Owner's approval a list of all geotechnical services, tests, inspections, or reports that are required by the Contract Documents, including but not limited to those provided by the Architect as a Basic Service. The Architect shall solicit competitive proposals for the services, tests, inspections or reports from reputable and licensed providers and obtain Owner approval before procuring the services.

§ 5.13
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.

(Paragraphs deleted)

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 Engineer 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 Engineer; 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.

§ 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 estimate of the Cost of the Work and updated estimates of the 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 estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Engineer shall be permitted to include 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 alternatives as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Engineer's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Engineer shall provide such an estimate, if identified as the Engineer'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 Engineer's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Engineer shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Engineer in making such adjustments.

§ 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 or negotiated proposal, the Owner shall:
.1 give written approval of an increase in the budget for the Cost of the Work.
.2 authorize rebidding or renegotiating of the Project within a reasonable time.
.3 terminate in accordance with Section 9.5.
.4 in consultation with the Engineer, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
.5 implement any other mutually acceptable alternative.

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§ 6.7
If the Owner chooses to proceed under Section 6.6.4, the Architect 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. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Engineer 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 Engineer and the Engineer'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 Engineer and the Engineer's consultants.

§ 7.3 The Architect grants to the Owner a noneexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar noneexclusive 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, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

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

§ 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 Engineer shall commence all claims and causes of action against the other 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. The Owner
and Engineer waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Engineer 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 A201–2017, General Conditions of
the Contract for Construction, as modified for this Project. The Owner or the Engineer, 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 and Owner waive consequential damages for claims, disputes, or other matters in question,
 arising out of or relating to late completion of the project. This mutual waiver is applicable to all consequential
damages due to either party’s termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation
§ 8.2.1 The Owner and Engineer may endeavor to resolve any claim, dispute or other matter in question arising out of
or related to this Agreement through mediation. If such matter relates to or is the subject of a lien arising out of the
Engineer’s services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or
filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Any request for mediation shall be made in writing and delivered to the other party to this Agreement.

§ 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.)

[ ]

[Paragraphs deleted]
X ] Litigation in the Court of Common Pleas in the County where the Project is located.
If the Owner and Engineer 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 Arbitration
§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any
claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by,
mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by
the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the
date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this
Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation,
but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim,
dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations
purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall
constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly
consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any
court having jurisdiction thereof.
§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder
§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Engineer grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Engineer under this Agreement.

§ 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 Engineer in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Engineer’s option, cause for suspension of performance of services under this Agreement. If the Engineer elects to suspend services, the Engineer shall give fourteen (14) days’ written notice to the Owner before suspending services. In the event of a suspension of services, the Engineer 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 Engineer all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Engineer’s services. The Engineer’s fees for the remaining services and the time schedules shall be equitably adjusted.

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

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than fourteen (14) days’ written notice.

§ 9.4 Either party may terminate this Agreement upon not less than fourteen (14) days’ written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than fourteen (14) 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 and Reimbursable Expenses incurred...
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.

§ 10.2 Terms in this Agreement shall have the same meaning as those in the modified AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Engineer, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Engineer 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 Engineer by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Engineer to execute certificates, the proposed language of such certificates shall be submitted to the Engineer for review at least 14 days prior to the requested dates of execution. If the Owner requests the Engineer to execute consents reasonably required to facilitate assignment to a lender, the Engineer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Engineer for review at least 14 days prior to execution. The Engineer 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 Engineer.

§ 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.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Engineer 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.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' 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.

§ 10.9 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 Engineer's Basic Services described under Article 3, the Owner shall compensate the Engineer as follows:

.1 Stipulated Sum

(Paragraphs deleted)
See Exhibit A Revised Proposal Dated 8/12/2021

§ 11.2 For the Engineer’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Engineer as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

To Be Negotiated with the Owner

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Engineer as follows:
To Be Negotiated with the Owner

(Paragraphs deleted)

§ 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: See Exhibit A

Schematic Design Phase
Design Development Phase
Construction Documents
Phase
Bidding/Procurement Phase
Construction Phase

Total Basic Compensation

§ 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.

(Table deleted)

(Paragraphs deleted)

§ 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 Engineer and the Engineer’s consultants directly related to the Project, as 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 Permitting and other fees required by authorities having jurisdiction over the Project.
.4 Printing, reproductions, plots, and standard form documents.
.5 Postage, handling, and delivery.
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner.
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project.

.8 If required by the Owner, and with the Owner’s prior written approval, the Engineer’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Engineer’s consultants;

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

.10 Site office expenses.

.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.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Engineer and the Engineer’s consultants plus 10% (ten percent) of the expenses incurred. Reimbursable Expenses shall not exceed twelve thousand dollars ($12,000.00) without prior written approval of the Owner.

§ 11.9 Engineer’s insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Engineer normally maintains, the Owner shall pay the Engineer for the additional costs incurred by the Engineer for the additional coverages as set forth below:

(Insert the additional coverages the Engineer is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Engineer.)

§ 11.10 Payments to the Engineer
(Paragraphs deleted)
§ 11.10.2 Progress Payments
§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable thirty (30) days after receipt and approval of the Engineer’s invoice by the Owner. Engineer shall not be entitled to any interest for late payments.
(Insert rate of monthly or annual interest agreed upon.)
(Paragraphs deleted)
§ 11.10.2.2 The Owner shall not withhold amounts from the Engineer’s compensation to impose a penalty or liquidated damages on the Engineer, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Engineer may be liable for the amounts withheld.

§ 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.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS
(Paragraphs deleted)
§ 12.1 Contract Schedule and Time Limitations:
Once determined and agreed upon by the owner and the design team

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 Owner and Architect.
§ 13.2 This Agreement is comprised of the following documents listed below:
1. AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
2. Other documents:
   Exhibit A: Engineers’ proposal letter dated August 12, 2021
   AIA Document A201 – 2017, as modified for this Project (General Conditions to the Contract).

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

OWNER (Signature)
(Printed name and title)

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

(Table deleted) (Paragraphs deleted)
EXHIBIT A

August 12, 2021

Edmund Most
City of Charleston
823 Meeting Street
Charleston, SC 29403

Subject: Proposal for Project CP1913
City of Charleston Parking Garages
Charleston, SC
ADC Project No. 20003

Dear Edmund:

ADC Engineering, Inc. appreciates the opportunity to submit the following proposal for your consideration for the City of Charleston project CP1913. ADC and our consultants will provide construction documents for the repairs to 12 City of Charleston parking garages.

ADC has been asked to provide a breakout of services for preparing the construction documents.

- **Service 1:**
  The preparation of construction documents for the immediate and short-term repairs to the twelve City of Charleston parking garages listed below. The repairs are based on the items included in ADC’s report.

- **Service 2:**
  The preparation of construction documents for the intermediate and long-term repairs to the twelve City of Charleston parking garages listed below. These repairs are based on the items included in ADC’s report.

- **Service 3:**
  Construction administration services for the construction documents associated with service 1, the immediate and short-term repairs. Additional construction administration services associated with the repair documents for service 2 are not included at this time and will be an additional service.

A report outlining the repairs was previously prepared and provided by ADC Dated 05-21-2018. Construction documents for the repairs needed for the Wentworth garage are not included in this scope of work. ADC will provide the following services: project management during design, structural design services, and construction administration services. Architectural services will be provided by Red Iron, Revit Modeling by RCA, mechanical/electrical, and plumbing services will be provided by RMF. Cost estimate services will be provided by MBP. Construction documents will be provided for the service level negotiated with the City of Charleston. The packaging of the construction documents will be coordinated with the City. ADC will prepare documents for 12 separate garages. This will allow flexibility for packaging different garages together. ADC anticipates construction to be a 6-9-month duration per construction package. ADC will provide construction administration services for a six—nine-month period for this work.
City of Charleston Garages to be inspected:

- Aquarium ..................24 Calhoun Street
- Camden/Exchange ..........35 John Street
- Charleston Place ..........85 Hasell Street
- Concord/Cumberland ......1 Cumberland Street
- East Pay/Prioleau ........25 Prioleau Street
- Gaillard Auditorium ......32 Alexander Street
- Majestic ........................211 King Street
- Marion Square ..............399 King Street
- Midtown ........................558 King Street
- 93 Queen .....................93 Queen Street
- 34 Saint Philip ..............34 St. Philip
- Visitor Center ..............63 Ann Street

GENERAL DESCRIPTION OF PROJECT SCOPE:
A. ADC Engineering will provide design services, permitting assistance and bidding assistance associated with a general project scope that includes:
   1. Providing construction documents for the service level selected by the owner.
   2. The garage construction documents will be provided per garage so garages may be packaged in multiple ways

DESIGN CRITERIA AND REQUIREMENTS:
A. All design will be in accordance with the following codes:
   1. IBC 2018 and IEBC 2018 and all referenced codes

DESIGN SERVICES:
A. Project Administration and Coordination
   1. ADC will prepare AIA contracts for professional design services
   2. ADC will prepare AIA contracts for Construction Services
   3. Administration of the prime agreement
   4. Administration of sub-consultant agreements
   5. General coordination with client, tenants, and other interested stakeholders.
   6. Quality Control Administration
   7. Design team to submit for review and staff level and provide presentation drawings, material selections and forms.

B. Field Investigations/Data Collection
   1. Field Investigation
   2. The Consultants will compile and review existing project documentation and a conduct site investigations to assess existing conditions. Existing surveys and existing as-built records will be reviewed. This task will also include scanning the existing buildings and creating Revit files for them.

C. Drawings and Project Manual
   1. General
a. Consultants will prepare drawings, specifications, and cost estimates. Submittals will be as follows:

2. Submittals & Meetings
   a. Design Kick-off Meeting
   b. 35% Design Development + Review Meeting
   c. 90% Preliminary Construction Documents + Review Meeting
   d. 100% Construction Documents / Bid Documents

3. Construction Drawings
   a. The drawing package will include such drawings as Consultants deems appropriate and necessary for the project.

   a. Consultants will prepare the Project Manual for review and approval by Client. The Project Manual will include the “front-end” bidding and contract documents (including the bid schedule), general provisions, special provisions, and technical specifications. The front-end specifications will be provided by the City of Charleston to the consultants.

5. Estimates of Probable Construction Costs
   a. The Consultants will prepare an opinion of probable construction cost. This task will include a discussion of any significant increase or decrease in quantities and/or costs.
   b. The Consultants will determine the appropriate bid items, methods of measurement and payment for the construction contract. The Consultants will perform quantity take-offs commensurate with the design stage and will prepare and submit to Client an opinion of probable estimated construction cost at each design milestone.

BIDDING SERVICES
A. The Consultant will assist Client with the advertisement of the project for construction including:
   1. Solicitation for Bids
   2. Pre-Bid Meeting Administration
   3. Addendum Preparation and Assistance
   4. Request for Information Response
   5. Bid Opening Assistance
   6. AIA contract preparation
   7. Contract Execution Assistance

CONSTRUCTION ADMINISTRATION SERVICES
A. The Consultant will provide client assistance with construction administration as follows:
   1. General Consultation / Construction Administration
   2. Review of Bonds / Insurance Certificates / Construction Schedules
   3. Conduct Pre-Construction Conference
   4. Administration of Quality Assurance inspections and testing
   5. Review Construction Submittals
   6. Review RFI’s
   7. Inspections
a. Weekly, for twenty-six weeks 
b. Site Visits with Field Observation Reports
8. Prepare Supplemental Instructions / Requests for Information / Change Orders
9. Review Pay Applications and Quantities
10. Conduct Substantial Completion Inspection and Report
11. Conduct Final Inspection and Report
12. Review Contractor Redline Record Drawings; (As-Built)
13. Prepare Electronic Record Drawings Based on Contractor Redline Record Drawings 
   (As-Built)
14. Perform Permit Close-out Activities

COMPENSATION
A. Consultant fees will be billed monthly in accordance with the prime agreement for actual 
time incurred and will not exceed the work authorization without client approval.
B. Expenses will be billed monthly in accordance with the prime agreement for actual 
amounts and will not exceed the work authorization without client approval.
C. Subconsultant fees will be billed monthly based on a percentage of completion and will not  
   exceed the work authorization without client approval.
D. Other Fees such as but not limited to, Permit Fees / Review Fees, etc., will be paid  
   separately by owner.

ASSUMPTIONS / EXCLUSIONS
A. General
1. Services are limited to those identified herein.
FEES:
The Total Fee for services 1 and 3 is $929,344.10. Below is a detailed fee summary of our services and deliverables. The average fee per garage is $77,445.35

<table>
<thead>
<tr>
<th>Service and Service 3 Totals by Discipline</th>
<th>ADC STRUCTURAL</th>
<th>Red Iron ARCHITECTURE</th>
<th>RCA MODELING</th>
<th>RMF MEP</th>
<th>MBP COST EST</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Garages (1-12)</td>
<td>$ -</td>
<td>$ 185,000.00</td>
<td>$ 126,627.00</td>
<td>$ 101,700.00</td>
<td>$ 66,260.00</td>
<td>$ 16,280.00</td>
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<tr>
<td>Schematic Design</td>
<td>$ -</td>
<td>$ 37,000.00</td>
<td>$ 25,725.40</td>
<td>$ 20,340.00</td>
<td>$ 13,272.00</td>
<td>$ 3,256.00</td>
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<tr>
<td>Design Development</td>
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<td>$ 27,750.00</td>
<td>$ 17,294.05</td>
<td>$ 15,265.00</td>
<td>$ 9,954.00</td>
<td>$ 2,442.00</td>
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<tr>
<td>Construction Documents</td>
<td>$ -</td>
<td>$ 111,000.00</td>
<td>$ 77,178.20</td>
<td>$ 81,020.00</td>
<td>$ 39,816.00</td>
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<td>$ -</td>
<td>$ 9,250.00</td>
<td>$ 6,431.35</td>
<td>$ 5,085.00</td>
<td>$ 3,318.00</td>
<td>$ 814.00</td>
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<tr>
<td>Construction Administration</td>
<td>$ -</td>
<td>$ 125,000.00</td>
<td>$ 91,980.00</td>
<td>$ -</td>
<td>$ 41,184.00</td>
<td>$ -</td>
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<tr>
<td>BAR SUBMISSIONS</td>
<td>$ -</td>
<td>$ 20,000.00</td>
<td>$ 57,800.00</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<tr>
<td>Overhead on subconsultants</td>
<td>$ -</td>
<td>$ 330,000.00</td>
<td>$ 288,407.00</td>
<td>$ 101,700.00</td>
<td>$ 107,544.00</td>
<td>$ 16,280.00</td>
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<tr>
<td>Overhead on expenses</td>
<td>$ -</td>
<td>$ 26,041.00</td>
<td>$ 20,170.00</td>
<td>$ 10,754.00</td>
<td>$ 1,028.00</td>
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<tr>
<td>Overhead on expenses</td>
<td>$ -</td>
<td>$ 317,247.70</td>
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<td>$ 5,300.00</td>
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<td>TOTALS</td>
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<td>$ 355,000.00</td>
<td>$ 316,897.70</td>
<td>$ 117,280.00</td>
<td>$ 116,178.40</td>
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FEE SUMMARY SERVICES 1 AND 3

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
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<tbody>
<tr>
<td>ADC Structural</td>
<td>$ 330,000.00</td>
</tr>
<tr>
<td>Red Iron Architecture</td>
<td>$ 288,407.00</td>
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<tr>
<td>RCA Modeling</td>
<td>$ 101,700.00</td>
</tr>
<tr>
<td>RMF Engineering MEP</td>
<td>$ 107,544.00</td>
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<td>MBP Cost Estimate</td>
<td>$ 16,280.00</td>
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<tr>
<td>Basic Expenses</td>
<td>$ 34,020.00</td>
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<td>Consultant Overhead</td>
<td>$ 51,393.10</td>
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<tr>
<td>Total</td>
<td>$ 929,344.10</td>
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</tbody>
</table>
The Total Fee for services, 1, 2, and 3 is $1,228,797.80. Below is a detailed fee summary of our services and deliverables. The average fee per garage is $102,399.82

<table>
<thead>
<tr>
<th>Tasks</th>
<th>ADC STRUCTURAL</th>
<th>Red Iron ARCHITECTURE</th>
<th>RCA MODELING</th>
<th>RMF MEP</th>
<th>MBP COST EST</th>
<th>TOTALS</th>
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</thead>
<tbody>
<tr>
<td>Parking Garages (1-12)</td>
<td>$225,000.00</td>
<td>$277,794.00</td>
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<td>Schematic Design</td>
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<td>$26,544.00</td>
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<tr>
<td>Design Development</td>
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<td>$41,669.10</td>
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<td>$19,908.00</td>
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<td>$121,604.10</td>
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<td>Construction Documents</td>
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<td>Bidding</td>
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<td>Construction Administration</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

| Subtotal                   | $437,574.00    | $101,700.00            | $175,904.00  | $29,120.00 | $ -           | $74,129.80  |
| Overhead on subconsultants | $43,767.00     | $10,170.00             | $17,396.40   | $2,812.00  | $ -           | $74,129.80  |

| Subtotal                   | $481,341.40    | $191,294.40            | $263,300.40  | $31,932.00 | $ -           | $1,185,427.80 |
| Basic Expenses             | $26,000.00     | $10,000.00             | $4,900.00    | $80,00.00  | $1,000.00    | $1,185,427.80 |
| Overhead on expenses       | $25,000.00     | $9,000.00              | $4,900.00    | $1,000.00  | $1,000.00    | $1,185,427.80 |

| Subtotal                   | $50,000.00     | $19,900.00             | $5,900.00    | $2,000.00  | $1,000.00    | $1,185,427.80 |

**FEE SUMMARY SERVICES 1, 2, AND 3**

- ADC Structural: $370,000.00
- Red Iron Architecture: $437,574.00
- RCA Modeling: $101,700.00
- RMF Engineering MEP: $173,904.00
- MBP Costs Estimate: $28,120.00
- Basic Expenses: $43,370.00
- Consultant Overhead: $74,129.80

**TOTAL**

$1,228,797.80

Additional service fee for additional CA Services: TBD
CONSULTANT SCOPE INCLUSIONS AND EXCLUSIONS:

SERVICE 1 CONSULTANT SCOPE DESCRIPTION

PG-1 Aquarium – 24 Calhoun:
1. Repair/replace metal pan stair.
2. Exterior: Replace sealant joints, paint generator gates, paint metal gates at entry level.
3. Provide new finishes for the interior of elevator cabs and repair cracks in concrete elevator shaft.
4. Restripe parking space/analyze handicap spaces.
5. Provide new traffic coating to roof level parking.
6. Replace Bus canopy.
7. Replace exit signs at roof level.
8. Structural repairs outlined in the report prepared by ADC for immediate and short term.
9. The existing MEP systems modifications will be limited to those which affect the design.
10. Replace all elevator CAB surfaces in kind, (railing, wall, floors, ceiling trim, jams, panels).

PG-2 Camden/Exchange – 35 John Street:
1. Exterior: Remove and replace sealant joints.
2. Signage: replace missing signage at stair landings. Provide “no Exit” sign above Hudson Street.
3. Toilet rooms: Renovate toilet rooms to met current code and City of Charleston standards.
4. Elevators: Replace all elevator CAB surfaces in kind, (railing, wall, floors, ceiling trims, jams, panels)
5. Exterior stairs: Replace missing rails and replace non-compliant rail. Clean and repair exterior cheek walls and step lights.
6. Interior Stairs: replace missing rail. Clean and repaint railings at the roof level.
7. Roof: Replace missing hip-ridge caps. Repaint underside of metal roof and screen support.
8. Structural repairs outlined in the report prepared by ADC for immediate and short term.
9. The existing MEP systems modifications will be limited to those which affect the design.

PG-3 Charleston Place – 85 Hasell Street:
1. Replace expansion joint material and cover.
2. Replace expansion joint at steps.
3. Replace failed sealant joints.
4. Remove graffiti.
5. Signage: Provide signage study by a signage consultant.
6. Toilets: Renovate toilet rooms to mete current code and City of Charleston standards. Relocate water heater and replace hardware and lighting.
7. Elevator: Replace all elevator CAB surfaces in kind, (railing, wall,
8. Stairs: Repair concrete to support rails, repair damaged rails
9. Roof: Replace metal coping, repair masonry and sealant joint, replace roof on elevator shaft, replace missing expansion joint cover.
10. Structural repairs outlined in the report prepared by ADC for immediate and short term.
11. The existing MEP systems modifications will be limited to those which affect the design.

PG-4 Concord/Cumberland – 1 Cumberland Street:
2. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards.
4. Structural repairs outlined in the report prepared by ADC for immediate and short term.
5. The existing MEP systems modifications will be limited to those which affect the design.
6. Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).

PG-5 East Bay/Prioleau – 25 Prioleau Street:
2. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards.
3. Signage: Provide signage study by a signage consultant.
4. Elevators: Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
5. Stairs: clean stairs, repaint rails, repaint and clean walls, and replace rails with vehicular impact rails.
7. Lighting: Replace missing fixtures and clean/repair fixtures.
8. Structural repairs outlined in the report prepared by ADC for immediate and short term.
9. The existing MEP systems modifications will be limited to those which affect the design.

PG-6 Gaillard Auditorium – 32 Alexander Street:
1. Exterior: Replace sealant joints between panels, repair damaged corner, replace glazing at office curtainwall/storefront where seal has failed.
2. Signage: Provide signage study by a signage consultant.
3. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards. Replace water heater with an instantaneous water heater.
4. Elevator: Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
5. Stairs: Replace all broken or damaged cast nosings. Repair spalled risers and treads.
7. Structural repairs outlined in the report prepared by ADC for immediate and short term.
8. The existing MEP systems modifications will be limited to those which affect the design.

PG-7 Majestic - 211 King Street:
1. Exterior: Repair stucco on South façade.
2. Signage: Provide signage study by a signage consultant.
3. Repaint hollow metal door and frame at stairwell.
4. Repaint elevator lobby door.
5. Repaint stair wells.
7. Lighting: replace lights at top of stairwell. Add lighting at pedestrian entrance to office building.
8. Parking: Assess and confirm van spaces. Locate 1 additional accessible space at each office entrance (2 total).
10. The existing MEP systems modifications will be limited to those which affect the design.
11. Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).

PG-8 Marion Square – 399 King Street:
1. Exterior: Clean precast concrete and remove graffiti. In Light well, remove remaining coating and install new coating material.
2. Signage: Provide signage study by a signage consultant.
3. Components and Cladding: Repair and repaint decorative metal work. Remove rust and refinish rails at south side of building.
4. Elevators: Apply a water resistive coating above the elevator lobby and toilet area. Repaint the CMU walls at elevator shaft. Repair the spalled concrete at the third floor in front of elevator. Replace the cab wall panels. Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
5. Stairs: Repaint the rail sections where paint has not adhered to the metal or where the rail is damaged.
6. Roof: Re-roof the small BUR (or Mod. Bit. Roof) at the southeast corner to provide proper slope to drain. Replace/repair metal roof at cornice and metal copings. Replace failed sealants at perimeter.
Refinish all railings at roof over stairs and elevator.
7. Structural repairs outlined in the report prepared by ADC for immediate and short term.
8. The existing MEP systems modifications will be limited to those which affect the design.

PG-9 Midtown – 58 King Street:
1. Exterior: Touch up paint. Repair the screen at the generator.
2. Signage: Provide signage study by a signage consultant.
3. Elevators: Clean and repaint elevator lobbies with epoxy paint.
   Provide new trash cans. Paint rails where paint is damaged or missing. Provide a new bollard with reflective paint at the end of rails. Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
4. Stairs: Close the 3 ½” gap at the stair to grade. Install contrasting nosing at all stairs. Determine cause of water damage to plaster, correct the problem, and refinish/repaint. Clean all rails and pickets.
5. Roof: Install backer rod and sealant.
7. The existing MEP systems modifications will be limited to those which affect the design.
8. Toilets: Repaint doors and install kick plates.

PG-10 King/Queen Street – 93 Queen Street:
1. Signage: Provide signage study by a signage consultant.
2. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards.
3. Elevators: Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
5. The existing MEP systems modifications will be limited to those which affect the design.

PG-11 Saint Phillip - 34 Saint Phillip Street:
1. Exterior: clean and remove stains from exterior. Replace failed sealant at window opening.
2. Signage: Provide signage study by a signage consultant.
3. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards. Provide water resistant traffic coating to level above office and toilet.
5. Elevators: Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels). Repaint elevator shaft enclosure at all levels.
treads (adhered or traffic rated special coating.)
8. Structural repairs outlined in the report prepared by ADC for immediate and short term.
9. The existing MEP systems modifications will be limited to those which affect the design.

**PG-12 Visitor Center – 63 Ann Street:**

2. Signage: Provide signage study by a signage consultant.
3. Toilets: Renovate toilet rooms to meet current code and City of Charleston standards.
5. Elevators: Replace all elevator CAB surfaces in kind, (railings, walls, floors, ceiling trim, jams, panels).
7. Roof: Clean (minimum) the panels over the stair/elevator or (preferred) replace the translucent panels. Repaint steel supporting the canopy. Clean parapets, removing graffiti and paint. Replace traffic coating at mechanical room. Consider applying a traffic coating over entire roof level to preserve concrete. Replace sealant joints. Replace damaged fire extinguisher cabinets.
8. Parking spaces: Confirm van accessible spaces. Repair charging stations and confirm stations are ADA accessible.
10. The existing MEP systems modifications will be limited to those which affect the design.

**SERVICE 2 CONSULTANT SCOPE DESCRIPTION**

**PG-1 Aquarium – 24 Calhoun:**

1. Exterior: Clean precast. Repaint wave pattern on elevation.
2. Stairs: Remove rust from enclosure and roof components.
3. Roof: Provide a protective traffic coating to the roof level parking deck.
4. Parking Spaces: Restripe garage and relocate ADA/HC parking spaces close to the elevators on multiple levels.
5. The existing MEP systems modifications will be limited to those which affect the design.
PG-2  Camden/Exchange - 35 John Street:
1. Exterior: Clean precast.
3. The existing MEP systems modifications will be limited to those which affect the design.
4. Structural repairs outlined in report for intermediate and long term repairs.

PG-3  Charleston Place – 85 Hasell Street:
1. Stairs: Replace stair railings and stair ramps at retail areas with code compliant landings, ramps, stairs, and rails
3. Parking spaces: Ground floor area near the storage area can be restriped as required to accommodate van accessible spaces. Confirm the number of ADA/HC spaces required.
4. The existing MEP systems modifications will be limited to those which affect the design.
5. Structural repairs outlined in report for intermediate and long term repairs.

PG-4  Concord/Cumberland – 1 Cumberland Street:
1. Signage: Provide signage as recommended by signage study and approved by owner.
3. Roof: Provide traffic coating and restripe entire garage.
4. The existing MEP systems modifications will be limited to those which affect the design.
5. Structural repairs outlined in report for intermediate and long term repairs.

PG-5  East Bay/Prioleau – 25 Prioleau Street:
1. Signage: Provide signage as recommended by signage study and approved by owner.
2. Repaint aluminum louvers.
3. Stairs: Replace rails. Close gap between runs at the floors and landing
4. Roof: Provide traffic coating and re-stripe entire garage.
5. Parking: Relocate handicap accessible parking to multiple levels. Add ramp/curb cut at elevators to make all floors accessible.
6. The existing MEP systems modifications will be limited to those which affect the design.
7. Structural repairs outlined in report for intermediate and long term repairs.

PG-6  Gaillard Auditorium – 32 Alexander Street:
1. Exterior: Clean/pressure wash precast. Correct
effervescence at underside of bridge and clean.

2. Signage: Provide signage as recommended by signage study in Service 1 and approved by owner.
3. Stairs: Replace rails.
4. Roof: Provide traffic coating and re-stripe entire garage.
5. The existing MEP systems modifications will be limited to those which affect the design.

PG-7 Majestic - 211 King Street:
2. Signage: Provide signage as recommended by signage study and approved by owner.
3. Roof: Clean the roof deck.
4. Parking: Confirm spaces at ground level are within acceptable limits for handicap parking on a slope (1:48). Restripe entire garage.
5. The existing MEP systems modifications will be limited to those which affect the design.

PG-8 Marion Square – 399 King Street:
1. Signage: Repaint markings. Provide signage as recommended by signage study and approved by owner.
2. Components and Cladding: Replace trellis.
4. Roof: Provide traffic coating and re-stripe entire garage.
5. Parking spaces: Verify number of handicap/van accessible spaces. Relocate HC parking at each level, adjacent to elevator.
6. The existing MEP systems modifications will be limited to those which affect the design.
7. Structural repairs outlined in report for intermediate and long-term repairs.

PG-9 Midtown – 58 King Street:
1. Signage: Provide signage as recommended by signage study and approved by owner.
2. Components: Clean trellis.
3. Roof: Provide traffic coating.
4. Parking Spaces: Re-stripe entire garage.
5. The existing MEP systems modifications will be limited to those which affect the design.
PG-10 King/Queen Street – 93 Queen Street:
2. Signage: Provide signage as recommended by signage study and approved by owner.
3. Components and Cladding: Clean/pressure wash louvers.
4. Stairs: Clean stairs and repaint rails.
5. Roof: Paint metal roofs. Provide traffic coating and re-stripe.
6. Parking spaces: Verify number of handicap/van accessible spaces. Relocate handicap parking at each level, adjacent to elevator. Restripe entire garage.
7. The existing MEP systems modifications will be limited to those which affect the design.
8. Structural repairs outlined in report for intermediate and long term repairs.

PG-11 Saint Phillip - 34 Saint Phillip Street:
1. Exterior: cut jasmine vines and remove from the interior of the garage.
2. Roof: Replace missing roof over northwest stair. Remove graffiti and painted over graffiti from non-painted surfaces. Provide traffic coating.
5. The existing MEP systems modifications will be limited to those which affect the design.

PG-12 Visitor Center – 63 Ann Street:
1. Signage: Provide signage as recommended by signage study and approved by owner.
2. Exterior: Replace broken canopy glass clean and repaint steel components of canopies. Paint touch up on all metal work.
3. Roof: Remove graffiti from parapets.
4. Parking Spaces: Restripe entire garage and repaint pavement markings
5. The existing MEP systems modifications will be limited to those which affect the design.

STANDARD EXCLUSIONS OR ADDITIONAL SERVICES
A. Revisions to scope.
B. Additional services made necessary due to contractor’s default or defects in the constructed work. This includes revisions, research, site visits, etc.
C. Property surveys.
D. Hazardous waste determinations, environmental analysis, or impact statements.
E. LEED, Green Globes, or other sustainable documentation or commissioning.
F. Furniture, Fixture, or Equipment selection or layouts.
G. Interaction, coordination, or management of consultants other than those identified.
H. Meeting with agency reviews, design review boards, or other authorities having jurisdiction.
I. Landscape Architecture, Interior Design services.
J. Permitting application, submittal, or fees.
K. Hard copy sets (City may choose option stated for BAR) unless noted as included. (BAR submittals and permitting included).
L. Provision or any other service not otherwise included in this agreement.
M. Providing as-built drawings beyond General Contractor's red-lined pdf's.
N. Signage fee on Service 2 is not included. Signage fee will be defined after the study from Service 1 is complete and the extent of work is known.
O. Automated parking systems
P. Construction Administration fee for Service 2 work.
Q. Correction of existing deficiencies or inadequacies of the existing HVAC or electrical systems outside the scope of work is not included but will be brought to the Owner's attention for further direction.
R. Civil / Site Services
S. Building Envelope and roof services other than those listed.
T. Toilet room renovation / repairs to Marion Square, Majestic Square, and Aquarium garages.

ADC ENGINEERING SERVICES

Services other than those outlined in the Basic Services Scope will be provided as requested as an additional service. Unless agreed upon otherwise, additional services will be billed as hourly services in accordance with ADC Engineering's hourly rate schedule plus 1.1 times actual expenses.

Thank you for considering ADC Engineering, Inc. If you have any questions or comments, please do not hesitate to call.

Sincerely,
ADC Engineering, Inc.

Chris Gilger, P.E.
Structural Project Manager
TO: John J. Tecklenburg, Mayor
FROM: Ed Boinest / Andrew Jones DEPT. Parks – Capital Projects
SUBJECT: JOHNS ISLAND FIRE STATION #23 PROFESSIONAL SERVICES CONTRACT

REQUEST: Approval of a professional services contract with Liollio Architecture in the amount of $855,732.00 for design, development of construction documents, bidding and construction administration for the construction of a 3-bay 12,000-14,000 ft fire station located on Johns Island.

COORDINATION: This request has been coordinated with:

- CPR Committee Chair
- Corporate Counsel
- Capital Projects Director
- MBE Manager

FUNDING: Was funding previously approved? Yes [X] No [ ] N/A [ ]

If yes, provide the following:
- Parks-Capital Projects Acct # 051624-58238
- Balance in Account $855,732.00
- Amount needed for this item $855,732.00
- Project Number CP2009

NEED: Identify any critical time constraint(s).

FISCAL IMPACT: Approval of the professional services contract will obligate $855,732.00 of the $8,951,156.00 project budget. The funding source for this project is the 2021 IPRB Bond.

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00 A.M THE DAY OF THE CLERK'S AGENDA MEETING.
AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

City of Charleston
Department of Parks
823 Meeting Street
Charleston, SC 29403

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

Liolio Architecture
1640 Meeting Street Road, suite 202
Charleston, SC 29405
T: 843-762-2222

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

Fire Station 23

The Construction Manager (if known):
(Name, legal status, address, and other information)

Unknown at time of execution

The Owner and Architect agree as follows.

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

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

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.
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**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.)*

Now three-bay fire station approximately 12,000 to 14,000 sf with a training room in the Johns Island area to address CFD needs.

§ 1.1.2 The Project’s physical characteristics:

*(Identify or describe pertinent information about the Project’s physical characteristics, such as site; 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.)*

Property located at the southwest corner of Maybank Hwy and Wilds Battery Blvd is approximately 3.3 acres of highland. TMS 313-00-00-337

§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:

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

Approximately $5.7 million

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

1. Design phase milestone dates, if any:

Unknown at time of execution
.2 Construction commencement date:
Unknown at time of Execution

.3 Substantial Completion date or dates:
Unknown at time of Execution

.4 Other milestone dates:
Unknown at time of Execution

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[X] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

[ ] AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

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

N/A

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

N/A

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E234-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

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

Edward H. Boinest, III
Senior Construction Project Manager
City of Charleston, Department of Parks, Capital Projects Division
823 Meeting Street
Charleston, SC 29403
T: 843-364-5913 or 843-670-5055
BoinestE@charleston-sc.gov

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

1. Construction Manager:
(The Construction Manager is identified on the cover page. If a Construction Manager has not been
retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist
the Owner in selecting the Construction Manager, complete Section 4.1.1.1)

Unknown at time of Execution

2. Land Surveyor:

Parker Land Surveying
5910 Griffin Street
Hanahan, SC 29410
T: 843-554-7777

3. Geotechnical Engineer:

Unknown at time of Execution

4. Civil Engineer:

N/A

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

Other consultants may be determined at a later date

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

Jennifer Charzewski, AIA
Liollio Architecture
1680 Meeting Street Road Suite 202
Charleston, SC 29405
T: 843-762-2222
F: 843-722-2300
Jennifer@liollio.com

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:
1 Structural Engineer:

E+M
Bill Ussery, PE
7 Radcliffe Street, Suite 301
Charleston, SC 29403
T: 843-722-1992

2 Mechanical Engineer:

RMF Engineering, Inc.
Raquel Deschler, PE
194 Seven Farms Drive
Charleston, SC 29492
T: 843-971-9639

3 Electrical Engineer:

RMF Engineering, Inc.
Dennis Sepavich, PE
194 Seven Farms Drive
Charleston, SC 29492
T: 843-971-9639

4 Civil Engineer:

ADC Engineering.
Chris Cook, PE
1226 Yeamans Hall Road
Hanahan, SC 29410
T: 843-735-5141

§ 1.1.12.2 Consultants retained under Supplemental Services:

Commissioning Services

Whole Building Systems, LLC.
PO Box 1845
Mount Pleasant, SC 29465
T: 843-437-3647

Building Envelope Review

REI Engineers, Inc.
2090 Executive Hall Road, Suite 115
Charleston, SC 29407
T: 843-225-6272

Landscape Architect:

EVC Companies / Front Street Design and Consulting, LLC.
Andy Smith, PLA, ASLA
§ 1.1.13 Other Initial Information on which the Agreement is based:

N/A

§ 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.

§ 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.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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 schedule and the professional skill and care ordinarily provided by architects practicing in the same locality under the same or similar circumstances. Time is of the essence in this Agreement. 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 provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The designated representative shall not be changed without Owner's written consent.

§ 2.5 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.

§ 2.6 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement. Changes to the insurance including the procurement of additional insurance may be required once the GMP is established and Phase II begins and will be negotiated at that time. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars ($1.0 million) for each occurrence and Two Million Dollars ($2.0 million) in the aggregate for bodily injury and property damage.
§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Five Hundred Thousand Dollars ($ 500,000.00) 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.

§ 2.6.3 Umbrella coverage of not less than $1.0 million. The umbrella policy shall be a “follow-form” and shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers’ Compensation at statutory limits.

§ 2.6.5 Employers’ Liability with policy limits not less than One Million Dollars ($ 1.0 million) each accident, One Million Dollars ($ 1.0 million) each employee, and One Million Dollars ($ 1.0 million) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars ($ 1.0 million) per claim and Two Million Dollars ($ 2.0 million) in the aggregate. This coverage must be maintained for a minimum of three (3) years after Substantial Completion of the Project.

§ 2.6.7 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.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6. The Architect shall maintain all forms of insurance required by the State of South Carolina. The Architect shall ensure that all Consultants engaged or employed by the Architect shall be contractually obligated to carry and maintain similar insurance. The Architect and its Consultants shall submit proof of such insurance to Owner at time of Contract Award and at any time when a change in amount of coverage or carriers occurs. The maintenance of such coverage shall be a condition precedent to Owner’s obligation to pay under this Agreement. The Architect shall provide to Owner a certificate(s) of insurance demonstrating that its policy(ies) is properly endorsed, and Architect will provide notice to the Owner in the event of a cancellation, non-renewal, or change to policy limits at least thirty (30) days prior to any cancellation, or non-renewal, of coverage of the policies.

§ 2.7 The Architect shall provide a list of Key Project Team members assigned to Project by Name, Discipline, and Firm.

§ 2.8 Neither Consultants nor Key Project Team members shall be changed without Owner’s written consent. Key Project Team member list is to be updated at the commencement of Phase II.

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 architectural, civil, plumbing, structural, mechanical, fire protection and electrical engineering services. For the purposes of Phase II of this Agreement, “usual and customary” shall be those services reasonably required to provide complete design and construction contract administration services. The following services are also considered to be part of the Architect’s Basic Services for Phase II, and where applicable to Phase I scope of work as set forth in this Agreement.

§ 3.1.1 The Architect shall manage the Architect’s services, review 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, the Construction Manager, 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, the Construction Manager, 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 Prior to submitting an invoice for services, the Architect shall submit, for the Construction Manager’s review and the Owner’s approval, a schedule for the performance of the Architect’s services. The schedule shall include design phase milestone dates, dates for coordination and completion of pre-construction services, as well as the anticipated dates for the

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User Notes:
commencement of construction and for 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 Construction Manager’s review, for the performance of the Construction Manager’s Preconstruction Phase services, 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 submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect’s services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect’s services.

§ 3.1.5 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.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect represents that it is familiar with and experienced in the interpretation and implementation of, laws, codes and regulations applicable to the Architect’s services for this project. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project in an effort to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect’s expertise in laws, codes, and regulations concerning projects of this type. In accordance with the applicable standard of care for an architect, the Architect will endeavor to perform its work in compliance with such laws, codes and regulations.

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

§ 3.1.8 Prior to the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal, or the Owner’s approval of the Construction Manager’s Control Estimate, as applicable, the Architect shall consider the Construction Manager’s requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.2 Review of the Construction Manager’s Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner’s acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager’s proposal or estimate. The Architect’s review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager’s proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager in writing.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services:

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect’s services. The Architect shall report to the Owner both the scope of the review and the results of the review. The Architect’s performance and design, and those of its
Consultants, shall, in accordance with the applicable standards of care, endeavor to conform to all applicable requirements imposed by governmental authorities having jurisdiction over the Project.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner’s program, schedule, budget for the Cost of the Work, Project site, 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.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present to the Owner and Construction Manager, for the Owner’s approval, a preliminary design illustrating the scale and relationship of the Project components. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the design presented.

§ 3.3.5 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager’s review and 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.

§ 3.3.5.1 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.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager 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.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents. The Architect shall report in writing to the Owner any observed deviations between Owner-provided information or programs and the design presented.

§ 3.3.7 Upon receipt of the Construction Manager’s review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner’s approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner’s budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager’s agreement with the Owner.

§ 3.4 Design Development Phase Services: Phase II

§ 3.4.1 Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager’s review and the Owner’s approval. The Design Development Documents shall be based upon information provided, and estimates prepared, by the Construction Manager and 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.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the design presented.

§ 3.4.3 Upon receipt of the Construction Manager’s information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner’s approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services:
§ 3.5.1 Based on the Owner’s approval of the Design Development Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager’s review and the Owner’s approval. The Construction Documents shall illustrate and describe the future 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 Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

§ 3.5.3 During the development of the Construction Documents, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the documents presented.

§ 3.5.5 Upon receipt of the Construction Manager’s information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner’s approval of the Construction Documents.

§ 3.5.6 The Architect shall be responsible for the coordination of all drawings and design documents relating to the Architect’s design and used on the Project, regardless of whether such drawings and documents are prepared or performed by the Architect or Architect’s consultants. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through the Architect and for their compliance with current applicable codes, ordinances, regulations, laws and statutes. The Architect shall be responsible for coordination and internal checking of all such documents and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by the Architect. Architect shall perform all services specified herein pursuant to and in accordance with the applicable standard of care for an Architect performing the same or similar services.

§ 3.6 Construction Phase Services:
§ 3.6.1 General
§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction as modified. If the Owner and Construction Manager 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 term "Contractor" as used in A201-2017 shall mean the Construction Manager. Any reference herein to the AIA Document A201-2017 shall refer to the A201-2017, as modified for this Project.
Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final report for the one (1) year warranty period.

The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work, except to the extent required in Section 2.5 and Article 8 of this Agreement.

Evaluations of the Work

The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) deviations from the Contract Documents, (2) deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies in the Work—such inspections and reporting to be performed by the Architect in accordance with the applicable standard of care for an architect.

The Architect 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 Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201—2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

Certificates for Payment to Construction Manager:

The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed.
to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager 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 Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

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

§ 3.6.4 Submittals:
§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval 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 when allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

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

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager'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 not 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 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work:
§ 3.6.5.1 The Architect may 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 inspections to determine the date or dates of Substantial Completion and the date of final completion;

2. issue Certificates of Substantial Completion;

3. 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 Construction Manager; and

4. 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 (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

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

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

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

§ 3.6.6. As part of the Architect’s Basic Services during the tenth (10th) month after the Date(s) of Substantial Completion, the Architect shall visit the Project to review the Work and shall prepare a report to be issued to Owner and, at Owner’s direction, to the Contractor, indicating outstanding work to be corrected and warranty issues to be addressed by the Contractor.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Additional Services listed below are not included in Basic Services unless specifically designated as such. The Architect shall provide the listed Additional Services only if specifically requested in writing by the Owner.
### Supplemental Services

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(Paragraphs deleted)

§ 4.2 Architect’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Written approval from the Owner of additional services is a condition precedent to Architect’s right to be paid for any additional service.

§ 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 any Additional Services until the Architect receives the Owner’s written authorization.

(Paragraphs deleted)
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.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 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 and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and 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 inverted and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall pay for services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests and seasonal water table levels, 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. The Architect shall consult with one or more entities with requisite experience in order to determine what tests are necessary and obtain proposals for the Owner's approval if requested.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect’s request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner’s consultants. The Owner shall furnish the services of consultants other than those designated 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. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall pay for 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. The Architect shall consult with one or more entities with requisite experience to determine what tests are necessary and obtain proposals for the Owner’s approval if requested.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests.
§ 5.12 The parties agree that the Owner has no duty of observation, inspection or investigation and nothing contained herein shall establish such a duty; however, Owner shall provide prompt written notice to the Architect and Construction Manager 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, but the Owner’s failure to do so shall not relieve the Architect of its responsibilities.

§ 5.13 No later than upon completion of the Construction Documents, the Architect shall provide to the Owner for the Owner’s approval a list of all Special Inspections that are required by the Contract Documents, including but not limited to those provided by the Architect as a Basic Service. The Architect shall solicit competitive proposals for Special Inspections from reputable and licensed providers and obtain for Owner approval and contract, before procuring the services. The Owner shall include the Architect in all substantive communications with the Construction Manager that relate to or affect the Architect’s services or professional responsibilities.

§ 5.14 The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction, as modified.

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

*(Paragraph deleted)*

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 the Construction Manager’s 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 compensation of the Construction Manager for Preconstruction Phase services; 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.

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

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager’s inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager’s estimates solely for the Architect’s guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager’s cost estimates and the Architect’s cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

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

§ 6.5 If the Construction Manager’s estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner’s budget for the Cost of the Work, the Owner shall:

1. give written approval of an increase in the budget for the Cost of the Work;
2. terminate in accordance with Section 9.5;
3. in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
4. implement any other mutually acceptable alternative.
§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner’s budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect’s revisions in the Construction Documents Phase shall be the limit of the Architect’s responsibility under this Article 6.

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

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 nonexclusive license to use the Architect’s Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. 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 Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner’s consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

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

§ 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. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.
§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction, as modified. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to late completion of the Project. This mutual waiver is applicable to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation
§ 8.2.1 The Owner and Architect may endeavor to resolve claims, disputes and other matters in question between them by mediation prior to commencing a binding dispute resolution proceeding. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and submitted to the person or entity administering the mediation.

(Paragraph deleted)
§ 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:
(Choose the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[ X ] Litigation in the Court of Common Pleas for Charleston County, SC.

[ ] 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.

(Paragraphs deleted)
§ 8.3.4 Consolidation or Joinder
§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party
sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 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 in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect’s option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give fourteen (14) 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 sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

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

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than fourteen (14) days’ written notice.

§ 9.4 Either party may terminate this Agreement upon not less than fourteen (14) days’ written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 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, and Reimbursable Expenses incurred.

(Paragraphs deleted)

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.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201—2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term “Contractor” as used in A201—2017 shall mean the Construction Manager.

§ 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 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 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.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 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.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' 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.

§ 10.9 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)

   eight hundred fifty-five thousand seven hundred thirty-two dollars and zero cents ($855,732.00)

   See Exhibit A

2. Percentage Basis
   
   (Insert percentage value)

   ( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

3. Other
   
   (Describe the method of compensation)
§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, 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.)

See Exhibit A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

See Exhibit A

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (10 %), or as follows:
(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

§ 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:

<table>
<thead>
<tr>
<th>Schematic Design Phase</th>
<th>$93,000</th>
<th>percent (</th>
<th></th>
<th>%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Development Phase</td>
<td>$155,000</td>
<td>percent (</td>
<td></td>
<td>%)</td>
</tr>
<tr>
<td>Construction Documents Phase</td>
<td>$217,000</td>
<td>percent (</td>
<td></td>
<td>%)</td>
</tr>
<tr>
<td>Construction Phase/Construction Administration</td>
<td>$165,332</td>
<td>percent (</td>
<td></td>
<td>%)</td>
</tr>
<tr>
<td>Bidding and Negotiation</td>
<td>$18,600</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closeout</td>
<td>$12,400</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Basic Compensation</td>
<td></td>
<td>one hundred percent (</td>
<td></td>
<td>100</td>
</tr>
</tbody>
</table>

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

§ 11.6 When compensation 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.

§ 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.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Employees or Category | Rate [$0.00]
§ 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, as 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 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
.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.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus Ten percent (10 %) of the expenses incurred.

§ 11.9 Architect’s Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments
§ 11.10.1.1 An initial payment of Zero Dollars ($0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

(Paragraph deleted)
§ 11.10.2 Progress Payments
§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable
(Paragraphs deleted)
within thirty (30) days upon receipt and approval of the Architect’s invoice by the Owner.

§ 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 Architect may be liable for the amounts withheld.

§ 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.

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.)

N/A
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 B133™—2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

(Paragraphs deleted)

.3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ X ] 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.)

Exhibit A – Scope and Fee Proposal dated March 9, 2022
Exhibit B – REI Engineering Proposal for Engineering Services, Fire Station 23

.4 Other documents:

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

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

OWNER (Signature)  
John J. Tecklenburg, Mayor
(Printed name and title)

ARCHITECT (Signature)  
Jennifer Charzewski, AIA, LEED AP, Principal
(Printed name, title, and license number, if required)

Init.

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User Notes: (2037269314)
Additions and Deletions Report for
AIA® Document B133™ – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:22:04 ET on 03/24/2022.

PAGE 1

City of Charleston
Department of Parks
823 Meeting Street
Charleston, SC 29403

...

Liiolio Architecture
1640 Meeting Street Road, suite 202
Charleston, SC 29405
T: 843-762-2222

...

Fire Station 23

...

Unknown at time of execution

PAGE 2

New three-bay fire station approximately 12,000 to 14,000 sf with a training room in the Johns Island area to address CFD needs.

...

Property located at the southwest corner of Maybank Hwy and Wilds Battery Blvd is approximately 3.3 acres of highland. TMS 313-00-00-337

...

Approximately $5.7 million

...

Unknown at time of Execution

PAGE 3

Unknown at time of Execution

...

Unknown at time of Execution
Unknown at time of Execution

Unknown at time of Execution

[X] AIA Document A133-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

N/A

N/A

Edward H. Boineau, III
Senior Construction Project Manager
City of Charleston, Department of Parks, Capital Projects Division
801 Meeting Street
Charleston, SC 29401
T: 843-564-5913 or 843-670-5055
PAGE 4

N/A

Unknown at time of Execution

Parker Land Surveying
5910 Griffin Street
Hanahan, SC 29410
T: 843-554-7777

Unknown at time of Execution

N/A

Other consultants may be determined at a later date
R.M.F. Engineering, Inc.
Raquel Deschler, PE
194 Seven Farms Drive
Charleston, SC 29492
T: 843-971-9639

3. Electrical Engineer:

R.M.F. Engineering, Inc.
Dennis Sepavich, PE
194 Seven Farms Drive
Charleston, SC 29492
T: 843-971-9639

4. Civil Engineer:

ADC Engineering,
Chris Cook, PE
1226 Yeamans Hall Road
Hanahan, SC 29410
T: 843-735-5141

5. 

Commissioning Services

Whole Building Systems, LLC.
P.O. Box 1845
Mount Pleasant, SC 29465
T: 843-437-3647

Building Envelope Review

REI Engineers, Inc.
2080 Executive Hall Road, Suite 115
Charleston, SC 29407
T: 843-225-6272
§ 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 Owner’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. The parties will use AIA Document E2013™, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™, 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™, 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The designated representative shall not be changed without Owner’s written consent.

§ 2.6 Insurance. The Architect shall maintain the following insurance until termination of this Agreement— for the duration of this Agreement— Changes to the insurance including the procurement of additional insurance may be required once the GMP is established and Phase II begins and will be negotiated at that time. If any of the requirements set forth below are in addition to or exceed the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.
§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars ($ 1.0 million) for each occurrence and Two Million Dollars ($ 2.0 million) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Five Hundred Thousand Dollars ($500,000.00) 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.

§ 2.6.3 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 coverage required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy Umbrella coverage of not less than $1.0 million. The umbrella policy shall be a "follow-form" and shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.5 Employers’ Liability with policy limits not less than One Million Dollars ($ 1.0 million) each accident, One Million Dollars ($ 1.0 million) each employee, and One Million Dollars ($ 1.0 million) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars ($1.0 million) per claim and Two Million Dollars ($2.0) in the aggregate. This coverage must be maintained for a minimum of three (3) years after Substantive Completion of the Project.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6. The Architect shall maintain all forms of insurance required by the State of South Carolina. The Architect shall ensure that all Consultants engaged or employed by the Architect shall be contractually obligated to carry and maintain similar insurance. The Architect and its Consultants shall submit proof of such insurance to Owner at time of Contract Award and at any time when a change in amount of coverage or carriers occurs. The maintenance of such coverage shall be a condition precedent to Owner’s obligation to pay under this Agreement. The Architect shall provide to Owner a certificate(s) of insurance demonstrating that its policy(s) is properly endorsed, and the Architect will provide notice to the Owner in the event of a cancellation, non-renewal, or change in policy limits at least thirty (30) days prior to any cancellation, or non-renewal, of coverage of the policies.

§ 2.7 The Architect shall provide a list of Key Project Team members assigned to Project by Name, Discipline, and Firm.

§ 2.8 Neither Consultants nor Key Project Team members shall be changed without Owner's written consent. Key Project Team member list is to be updated at the commencement of Phase II.

§ 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. Architectural, civil, plumbing, structural, mechanical, fire protection and electrical engineering services. For the purposes of Phase II of this Agreement, "usual and customary" shall be those services reasonably required to provide complete design and construction contract administration services. The following services are also considered to be part of the Architect’s Basic Services for Phase II, and where applicable to Phase I scope of work as set forth in this Agreement.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Prior to submitting an invoice for services, the Architect shall submit, for the Construction Manager’s review and the Owner’s approval, a schedule for the

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User Notes:
performance of the Architect’s services. The schedule shall include design phase milestone dates, dates for coordination and completion of pre-construction services, as well as the anticipated dates for the commencement of construction and for 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 Construction Manager’s review, for the performance of the Construction Manager’s Preconstruction Phase services, 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.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, 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 these authorities and entities, and present the design to them. The Architect represents that it is familiar with and experienced in the interpretation and implementation of laws, codes and regulations applicable to the Architect’s services for this Project. The Architect shall respond to the design of the Project by requirements imposed by governmental authorities having jurisdiction over the Project and shall comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specific laws of the Project in an effort to avoid any deviations from such laws, codes and regulations and in order to expedite all permitting procedures. The Architect acknowledges that Owner is relying on the Architect’s expertise in laws, codes, and regulations concerning projects of this type. In accordance with the applicable standard of care for an architect, the Architect will endeavor to perform its work in compliance with such laws, codes and regulations.

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner’s acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager’s proposal or estimate. The Architect’s review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager’s proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discards any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager in writing.

§ 3.3. Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review the laws, codes, and regulations applicable to the Architect’s services. The Architect shall report to the Owner both the scope of the review and the results of the review. The Architect’s performance and design, and those of its Consultants, shall, in accordance with the applicable standards of care, endeavor to conform to all applicable requirements imposed by governmental authorities having jurisdiction over the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner’s approval, a preliminary design illustrating the scale and relationship of the Project components. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the design presented.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents. The Architect shall
§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the design presented.

§ 3.5 Construction Documents-Phase-Services

§ 3.6.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents. The Architect shall report in writing to the Owner any known deviations between Owner-provided information or programs and the documents presented.

§ 3.6 Construction Phase Services

§ 3.6.6 The Architect shall be responsible for the coordination of all drawings and design documents relating to the Architect's design and used on the Project, regardless of whether such drawings and documents are prepared or performed by the Architect or Architect's consultants. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through the Architect and for their compliance with current applicable codes, ordinances, regulations, laws and statutes. The Architect shall be responsible for coordination and internal checking of all such documents and for the accuracy of all dimensional and layout information contained therein, as fully as if each were prepared by the Architect. Architect shall perform all services specified herein pursuant to and in accordance with the applicable standard of care for an Architect performing the same or similar services.

§ 3.6.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified. If the Owner and Construction Manager 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 term "Contractor" as used in A201-2017 shall mean the Construction Manager. Any reference herein to the AIA Document A201-2017 shall refer to the A201-2017, as modified for this Project.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment report for the one (1) year warranty period.
§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work. Work, except to the extent required in Section 2.6 and Article 8 of this Agreement.

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§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the 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 Construction Manager, and (3) defects and deficiencies observed in the Work. In the Work—such inspections and reporting to be performed by the Architect in accordance with the applicable standard of care for an architect.

...§ 3.6.3 Certificates for Payment to Construction Manager
§ 3.6.3 Certificates for Payment to Construction Manager,
PAGE 12

§ 3.6.4 Submittals
§ 3.6.4 Submittals:

§ 3.6.4.2 In accordance with the Architect Approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Construction Manager’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given in the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager’s responsibility. The Architect’s review shall not constitute approval of safety precautions or 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.

...

§ 3.6.5 Changes in the Work
§ 3.6.5 Changes in the Work:

§ 3.6.5.1 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 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

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§ 3.6.6 Project Completion
§ 3.6.6 Project Completion:

...
§ 3.6.6. As part of the Architect’s Basic Services during the tenth (10th) month after the Date(s) of Substantial Completion, the Architect shall visit the Project to review the Work and shall prepare a report to be issued to Owner and, at Owner’s direction, to the Contractor, indicating outstanding work to be corrected and warranty issues to be addressed by the Contractor.

...

§ 4.1.1 Additional Services listed below are not included in Basic Services but may be required for the Project unless specifically designated as such. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. 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.) Additional Services only if specifically requested in writing by the Owner.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 4.1.1.1</td>
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<td>Programming</td>
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<td>§ 4.1.1.3</td>
<td>Multiple Preliminary Designs</td>
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<td>§ 4.1.1.4</td>
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<td>§ 4.1.1.5</td>
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<td>§ 4.1.1.6</td>
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<td>Development of Building Information Models for post-construction use</td>
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<td>§ 4.1.1.9</td>
<td>Civil engineering</td>
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<td>§ 4.1.1.10</td>
<td>Landscape design</td>
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<td>§ 4.1.1.11</td>
<td>Architectural interior design</td>
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<td>§ 4.1.1.12</td>
<td>Value analysis</td>
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<td>§ 4.1.1.13</td>
<td>Cost estimating</td>
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<td>§ 4.1.1.14</td>
<td>On-site project representation</td>
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<td>§ 4.1.1.15</td>
<td>Conformed documents for construction</td>
</tr>
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<td>§ 4.1.1.16</td>
<td>As-designed record drawings</td>
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<tr>
<td>§ 4.1.1.17</td>
<td>As-constructed record drawings</td>
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<td>§ 4.1.1.18</td>
<td>Post-occupancy evaluation</td>
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<td>§ 4.1.1.19</td>
<td>Facility support services</td>
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<td>§ 4.1.1.20</td>
<td>Tenant-related services</td>
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<td>§ 4.1.1.21</td>
<td>Architect’s coordination of the Owner’s consultants</td>
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<td>§ 4.1.1.22</td>
<td>Telecommunications/data design</td>
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<td>§ 4.1.1.23</td>
<td>Security evaluation and planning</td>
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<td>§ 4.1.1.25</td>
<td>Sustainable Project Services pursuant to Section 4.1.3</td>
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<td>§ 4.1.1.26</td>
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<td>Furniture, furnishings, and equipment design</td>
</tr>
<tr>
<td>§ 4.1.1.28</td>
<td>Other services provided by specialty Consultants</td>
</tr>
</tbody>
</table>

§ 4.1.2 Description of Supplemental Services

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

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1.1 or, if set forth in an exhibit, identify the exhibit. The Exhibit form of Supplemental Services documents may be included as an exhibit to describe the Architect’s Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 is 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.)
§ 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 any Additional Services until the Architect receives the Owner's written authorization:

1. Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, 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 bid packages in addition to those listed in Section 1.1.6;

2. Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;

3. Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared documents;

4. Changing or editing previously prepared documents or service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the documents or service when those documents or services were prepared in accordance with the applicable standard of care;

5. Services necessitated by decisions of the Owner or Construction Manager 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;

6. Preparing digital models or other design documentation for transmission to the Owner's consultants or contractors, or to other Owner-authorized recipients;

7. Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;

8. Preparation for, and attendance at, a public presentation, meeting or hearing;

9. Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

10. Consultation concerning replacement of Work resulting from fire or other cause during construction;

11. Assistance to the Initial Decision Maker, if other than the Architect;

12. Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as contractor-project delivery method to an alternative project delivery method;

13. Services necessitated by the Owner's delay in engaging the Construction Manager;

14. Making revisions to the Drawings, Specifications, and other documents resulting from agreements or clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate, and

15. Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate authorization.

§ 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 Owner's notice, the Owner determines that all or part of the services are not required, the Owner shall
give prompt written notice to the Architect of the Owner’s determination. The Owner shall compensate the Architect for the services provided prior to the Architect’s receipt of the Owner’s notice:

1. Reviewing a Construction Manager’s submittal out of sequence from the submittal schedule approved by the Architect;
2. Responding to the Construction Manager’s requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
3. Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager’s proposals and supporting data, or the preparation or revision of Instruments of Service;
4. Evaluating an extensive number of Claims as the Initial Decision Maker, or
5. Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.

§ 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:

1. ( ) reviews of each Shop Drawing, Product Data Item, sample and similar submittals of the Construction Manager
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 earlier, shall be compensated 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.

§ 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 and criteria.

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§ 5.4 The Owner shall identify a representative authorized to act on the Owner’s behalf with respect to the Project. The Owner shall render decisions and approve the Architect’s submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect’s services.

...
§ 5.9 If the Owner identified a Sustainable Objective in Article 4, the Owner shall fulfill its responsibilities as required in AIA Document B234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.10 The Owner shall furnish pay for 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. The Architect shall consult with one or more entities with requisite experience to determine what tests are necessary and obtain proposals for the Owner’s approval if requested.

§ 5.12 The parties agree that the Owner has no duty of observation, inspection or investigation and nothing contained herein shall establish such a duty, however, Owner shall provide prompt written notice to the Architect and Construction Manager 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-of-Service, but the Owner’s failure to do so shall not relieve the Architect of its responsibilities.

§ 5.13 No later than upon completion of the Construction Documents, the Architect shall provide to the Owner for the Owner’s approval a list of all Special Inspections that are required by the Contract Documents, including but not limited to those provided by the Architect as a Basic Service. The Architect shall solicit competitive proposals for Special Inspections from reputable and licensed providers and obtain for Owner approval and contract, before procuring the services. The Owner shall include the Architect in all substantive communications with the Construction Manager that relate to or affect the Architect’s services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect’s consultants shall be through the Architect.

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

...  

§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

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§ 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.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance set forth in AIA Document A201-2017, General Conditions of the Contract for Construction, as modified. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement, late completion of the Project. This mutual waiver is applicable, without
§ 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. The Owner and Architect may endeavor to resolve claims, disputes and other matters in question between them by mediation prior to commencing a binding dispute resolution proceeding. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and submitted to the person or entity administering the mediation.

§ 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 claim 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.

... Litigation in a court of competent jurisdiction X 1 Litigation in the Court of Common Pleas for Charleston County, SC ...

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.2 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For purposes of this section, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.3 The proceeding to arbitrate, and all other agreements to arbitrate with an additional person or entity only consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect’s option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven-fourteen (14) 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 sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

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

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven-fourteen (14) days’ written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven-fourteen (14) days’ written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 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 cost attributable to suspension, excluding the costs attributable to the Architect’s termination of consultant agreements and Reimbursable Expenses incurred.

§ 9.7 In addition to any amounts paid under Section 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 pay to the Architect the following fees:

<table>
<thead>
<tr>
<th></th>
<th>Termination Fee</th>
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<tbody>
<tr>
<td></td>
<td>Licensing Fee if the Owner intends to continue using the Architect’s Instruments of Services</td>
</tr>
</tbody>
</table>

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner’s rights to use the Architect’s Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

§ 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 9.3.
eight hundred fifty-five thousand seven hundred thirty-two dollars and zero cents ($855,732.00)  
See Exhibit A

See Exhibit A

...  
See Exhibit A

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (10%), or as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
<th>Percentage</th>
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<tr>
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<td>Design Development Phase</td>
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<td>Construction Documents Phase</td>
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<td>Bidding and Negotiation</td>
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<td>Closeout</td>
<td>$12,400</td>
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N/A

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus Ten percent (10%) of the expenses incurred.

...  
N/A

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

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of ($13,000) 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.

§ 11.10.2.1 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 — (___) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. 
(Insert rate of monthly or annual interest agreed upon.)

—%— within thirty (30) days upon receipt and approval of the Architect’s invoice by the Owner.
§ 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 Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding—may be liable for the amounts withheld.

...

N/A

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2—AIA Document E203™, 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:

(Insert the date of the E203-2013 incorporated into this agreement.)

...

AIA Document E234™, 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below:

(Insert the date of the E234-2019 incorporated into this agreement.)

[X] Other Exhibits incorporated into this Agreement:

 ...

Exhibit A – Scope and Fee Proposal dated March 9, 2022
Exhibit B – Rej Engineering Proposal for Engineering Services, Fire Station23

...

John J. Tecklenburg, Mayor

Jennifer Charzewski, AIA, LEED AP, Principal
Certification of Document’s Authenticity
AIA® Document D401™ – 2003

I, Jared H. Garreau, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:22:04 ET on 03/24/2022 under Order No. 9139108706 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B133™ – 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Author)

(Title)

03/24/2022

(Dated)
March 9th, 2022

Edward H. Boinest, Ill., CSI
Senior Construction Project Manager
City of Charleston Department of Parks
Capital Projects Division
823 Meeting Street
Charleston, SC 29403

RE: City of Charleston Fire Station #23 – CP2009

Dear Ed,

I trust this letter finds you well. We are honored and excited to be working with the City of Charleston and Charleston Fire Department and to begin design of the new Fire Station #23. Based on our initial correspondence, we are pleased to submit our design team’s scope of professional services addressing the requirements of the AIA Document B133-2019 Modified Agreement between Owner and Architect. We would be ready to start within two weeks of a notice to proceed.

We recognize the importance of a clear delineation of these items; thus, we have endeavored to provide supporting information related to each item. We understand the following are the key components for Fire Station #23:

1. New 12,000-14,000 square foot, 3-bay fire station with a training room
2. The site is understood to be part of a development area, with design and aesthetic guidelines, on the Maybank Highway Corridor.
3. Construction budget for vertical and horizontal construction total costs on site is $5.7M. If the budget of the project increases by more than 10%, then additional services may be discussed.
4. Construction procurement will be Construction Manager at Risk delivery method.
5. The project will be reviewed by the City’s Design Review Committee (DRC), City’s Technical Review Committee (TRC) and fall within the jurisdiction of the City’s Design Review Board (DRB).
6. Surveying, FFE Coordination, Hazmat, Special Inspections and Geotechnical analysis to be provided by the City.
7. Recording of easements or plat revisions to be provided outside of this contract by others.

We are presenting the scope and fees in two categories: Basic Services and Supplemental Services, as noted. In addition, we are providing an estimate for Reimbursable Expenses. If accepted, this letter may serve as an exhibit to the AIA Document B133-2019 Modified Agreement between Owner and Architect.
1. BASIC SERVICES

Basic Services include architecture, civil / utility engineering (to the property line), structural engineering, and MEP/FP engineering developed in accordance with the submittal requirements.

Design Milestones and deliverables include:

- Civil, Architectural, Mechanical, Electrical, Plumbing, Fire Protection and Structural engineering basic services for design as outlined in the AIA Document B133 - 2019 Modified Agreement between Owner and Architect
- Development of design for review in 3D
- Completion of documents at SD, DD and CD phase to prepare for cost estimating
- Assistance with bidding phase, including responding to bidder questions and substitution requests
- CA services assuming a 16 month construction duration (monthly rate of $10,332)
- We understand there is a project requirement to have visible sustainability elements, include PV panels, included in the scope of work. This requirement will require some additional calculations, evaluation, documentation and coordination including coordinating photovoltaic system size with Dominion Energy and design for photovoltaic system to be integrated with the building’s electrical distribution system.
- For the purposes of a turnkey installation by the General Contractor, the design team can work with the City and CFD standards for IT, security, PURVIS, and Distributed Antenna System (DAS) to coordinate the following:
  - IT - cable tray or j-hook for cabling, with data drops terminated at both ends and IT racks with patch panels. The servers, switches, and UPS to be provided by City or its vendor.
  - Conduit from telecomm service point (handhole) to IT room
  - TV in dayroom, exercise room, all offices, and single occupant bunkrooms as needed: training classroom AV included (monitor with connections)
  - DAS - performance-based system with signal booster to be coordinated and installed by the Contractor. Conduit to be provided to the roof for antenna; quantity of antennae and mast mounts may change during construction due to performance-based design and pre-CA DAS signal test of the site. Signal booster provided by specifications, FCC registration by the City or Contractor.
  - Wall-mounted PURVIS system and accessories (bunk room lighting, rip-n-run printers, annunciators, etc) with final components and installation to be coordinated by the Contractor as a required submittal.
  - PURVIS and DAS wiring is required to be in conduit (no cable tray or hooks)
  - Security and Access Controls – coordinate with City’s vendor to include turnkey installation in Contract Documents.
  - 3 Coordination meetings with City IT Department representatives and their vendors for data locations, telephone, etc.
  - Cell booster that is multi-carrier compatible
  - Security in parking lots (coordination with owner’s vendor)
PHASE | Fee
--- | ---
Schematic Design | $93,000
Design Development | $155,000
Construction Documents | $217,000
Bidding & Negotiation | $18,600
Contract Administration | $165,332
Closeout | $12,400

**Total Basic Services Fee:** $661,332

In regard to B133-2019 regarding record drawings, the A/E shall require the Contractor to provide to the Owner a set of reproducible Record Plans showing all significant changes in the Work made during construction.

2. **SUPPLEMENTAL SERVICES**

2.1 Programming
This scope includes two (2) meetings with Capital Projects, City of Charleston IT vendors/providers, and the Charleston Fire Department to review and confirm the functional, quantitative, and qualitative program requirements prior to beginning design. This work may include tours of benchmark projects relative to successes and lessons learned, and a written final report will delineate space need requirements with associated square footage and adjacencies, flow requirements, and emergency event command post requirements. *This scope was reduced for efficiency of shared programming efforts between Station 20 and 23.*

Programming Fee: $5,000*

2.2 Board & Agency Review
Due to the project’s location, a multiple-stakeholder review process is anticipated. This scope includes:
- City of Charleston Site Plan Review – Technical Review Committee (TRC) – 3 meetings anticipated in addition to the permitting process included in Basic Services
- Courtesy project review meetings with City of Charleston Building Official and Fire Marshal for input and coordination prior to permitting submittals
- City of Charleston Design Review Committee (DRC) – Staff and Executive review with 2-3 meetings anticipated
- City of Charleston Design Review Board (DRB) – Board review with 2-3 meetings anticipated
- Developer review per aesthetic guidelines
- Two (2) building renderings
- Progress reviews with CFD and Capital Projects prior to the above and at regular intervals as necessary

**Board & Agency Review Fee:** $35,500

2.3 **Cost Estimating (Aiken Cost Consultants):**
Cost estimating services provided by an independent cost estimator (Aiken Cost Consultants) to track the construction budget at project milestones and reconcile with CMAR estimates.
- Develop itemized construction cost estimate for all relevant divisions of work and recommended Owner contingencies
• Estimates prepared with Schematic Design, Design Development, and Construction Documents (approximately 30%, 65%, and 95%)
• DD and CD estimate reconciliation & meeting with CMAR and design team (virtual)

Cost Estimating Fee: $18,750

2.4 Landscape Architecture (Front Street Design and Consulting)
Landscape architecture includes plantings, buffers, and development of site amenities within the project site. The intent is to use plants that are indigenous or well-adapted to the locale and that require minimal maintenance, with materials and vegetation appropriate to meet CFD and City requirements. Services include Schematic Design through Contract Administration, including regulatory coordination.

Landscape Architecture Fee: $29,800

2.5 Building Envelope Review (REI Engineering)
A 3rd party company to review the roofing and building envelope Construction Documents and providing a specification for envelope testing (water spray and air infiltration) to be included in the project manual bid documents. This scope also includes observation during construction. We have attached REI’s fee proposal as a reference on the full scope of services and deliverables provided.

- Review of roofing and building envelope drawings and specifications at the following milestones:
  100% DD, 50% CD, and 100% CD
- Attend 6 coordination meetings during design phase
- Development of exterior envelope testing requirements for project manual
- Attend and issue reports for the following on-site meetings during construction: pre-installation meeting for roofing and exterior envelope, mock up review meeting, 13 site visits†, substantial completion of roof, and final completion of roof
- Note that site visits are only charged per visit used – frequency and number can vary based on GC performance and schedule.

Building Envelope Fee: $59,600

2.6 Commissioning Services (Whole Building Systems)
We have attached Whole Building Systems fee proposal as a reference on the full scope of services and deliverables provided. The fee shown in this proposal also includes RMF and Liollio’s coordination on the project with commissioning services.

Commissioning Services Fee: $45,750

Other services that are not anticipated at this time but may be discussed if needed as the project progresses include but may not be limited to physical model(s), energy modeling, Charleston RISES, LEED or Green Globes certification, traffic analysis, offsite utilities, and furniture coordination.

3. REIMBURSABLE EXPENSES
Reimbursable expenses will be invoiced in accordance with the conditions delineated in AIA Document B133 Agreement between Owner and Architect. Submittal Exchange (est. $8,200) is anticipated to be included in the Contract for Construction to be paid by CMR. For budgeting purposes, we offer the following for your consideration:

Estimated Reimbursable Expenses (NTE): $20,000

1640 Meeting Street Road | Suite 202 | Charleston SC 29405 | 843.762.2222 | liollio.com
4. SUMMARY OF FEES

Total Basic Services: $661,332
Total Supplemental Services: $194,400
Grand Total: $855,732

Please let me know if you have any questions concerning the information above. Thank you for your support and confidence, and we are so excited to begin work on this great project.

Sincerely,
LOLLIO ARCHITECTURE

Jennifer Charzewski, AIA, LEED AP, Principal
cc: Lisa Garth, File
February 2, 2022

Liollic Architecture
147 Wappoo Creek Drive
Suite 400
Charleston, SC 29412

Attention: Elissa Morrison
Associate

Reference: Proposal for Engineering Services
Fire Station 23
Roof and Exterior Wall
REI Proposal No. P22CHS-010

Dear Ms. Morrison:

In response to our recent discussions, we are pleased to submit this proposal for your consideration. The scope outlined in this proposal include the roof and exterior walls of the facility to be located on Maybank Highway, Johns Island, SC.

The following is an outline of the proposed services for Construction Document Review (DR) and Quality Assurance (QA):

I. CONSTRUCTION DOCUMENT REVIEW

A. Perform a review of available construction Drawings and Specifications as they pertain to the building envelope including roofing system(s) and exterior wall system(s). The objective of this review will be to become familiar with the various building envelope systems to be installed and applicable construction details. We will compare the project requirements with provisions of the applicable Building Code, applicable manufacturer's recommendations and industry standards. During the review attention will be given to potential conflicts between the Drawings and Specifications, manufacturer's requirements or our understanding of generally accepted construction practices.

B. Our review will not include calculations or a detailed evaluation of building structural components to determine the adequacy of the proposed design. This review is limited to general compatibility and good construction practice and is not intended as a review of conformance with the applicable Building Code. Any modifications made to the final design based upon REI review comments remain the Project Architect’s or Designer of Record’s responsibility. Also, we will perform our review using that degree of skill and care ordinarily exercised under similar conditions by reputable members of our profession practicing in the area of the project’s location at the time of our work. No warranty is made or intended regarding our proposed services.

C. The reviews will be complete on the 100% DD drawings and specification, 50% CD drawings and specifications, and 100% CD drawings and specifications.

D. Attend six (6) coordination or clarification meetings either in person or by phone.
E. Assist in development of exterior envelope testing requirements for inclusion in the project specifications.

II. QUALITY ASSURANCE

A. Review and provide comments on building envelope related shop drawings and submittals as required by the Contract Documents. A copy of appropriate Contract Documents will need to be provided to perform the submittal review and construction monitoring.

B. Attend One (1) Exterior Wall Pre-Installation meeting with Architect, General Contractor and subcontractor(s) to ensure a clear understanding of the Contract Documents and review the proposed materials list as well as coordination with other trades.

C. One (1) site visit to observe and review mockup to verify compliance with Contract Documents.

D. Attend Roofing Pre-Installation meeting with Architect, General Contractor and roofing subcontractor to ensure a clear understanding of the Contract Documents and review the proposed materials list as well as coordination with other trades.

E. Perform Thirteen (13) quality assurance site visits as required by milestone construction events but not more than once every five working days, Monday through Friday, to verify work is in compliance with the Contract Documents. Photographs will be taken as deemed necessary for documentation. REI cannot comment on work that takes place and covered while REI is not onsite.

F. Prepare and submit reports from each quality assurance site visit relaying information pertaining to weather, area worked, application methods, material types installed during the site visit, and listing of non-conforming items requiring Contractor's correction.

G. Attendance of Four (4) onsite meeting by and RRC or REWC to review onsite conditions or discuss details.

H. Upon notification that the roofing is substantially complete, REI will attend the Architect's substantial completion inspection. A punch list will be prepared to list any minor items that require further treatment.

I. Upon notification that the roofing is fully complete, REI will visit the site to verify completion of punch list items.

III. ENGINEERING FEES

A. Engineering services will be provided on a unit rate basis in accordance with REI's standard fee schedule. The estimated fees for each phase are listed below. REI will notify Client in the event it appears services required will exceed the estimated cost:

1. Construction Document Review........................................... $19,500.00
2. Submittal Review.............................................................. $2,935.00
3. Exterior Pre-Installation Meeting & Mock-up Review........... $1,970.00
4. Roofing Pre-Installation Meeting...................................... $1,200.00
5. Quality Assurance Site Visits............................................. $20,258.00
   **Total.................................................................** $45,863.00
If this proposal meets with your approval, please sign the attached agreement and return it to us. This proposal will remain firm for a period of thirty (30) days. After that time, we reserve the right to review scheduled commitments and prices.

If you have any questions regarding this matter, please do not hesitate to call.

Respectfully submitted,

REI Engineers

Brad Wiggins, RRC, REWC, RRO, CDT
Senior Project Manager

Charlie Arnold, PE, CxA+BE, BECxP, RRO
Branch Manager

Enc: Terms and Conditions to Agreement for Engineering and Consulting Services
Agreement for Engineering and Consulting Services
AGREEMENT FOR ENGINEERING AND CONSULTING SERVICES

THIS AGREEMENT is by and between Liollio Architecture, 147 Wappoo Creek Drive, Suite 400, Charleston, SC 29412 hereinafter called CLIENT and REI Engineers, 2090 Executive Hall Road, Suite 115, Charleston, SC 29407, hereinafter called REI, who agrees as follows:

1. DECLARATIONS: CLIENT desires to engage REI to provide Engineering and related technical services and other services in connection with CLIENT'S project ("THE PROJECT") described as follows:
   
   Fire Station 20

2. SCOPE OF WORK: REI shall provide Engineering and related technical services for THE PROJECT in accordance with the accompanying proposal.

REI Proposal P22CHS-010 dated February 2, 2022

If this agreement is not returned subsequent to a verbal approval or the receipt of your purchase order within 10 days, we will assume that the agreement has been accepted and is in force unless REI is otherwise notified in writing.

Executed this ___ day of __________, 20___ by ______________________________

Print Name and Title

________________________

Signature

Executed this 1st day of February, 2022. By

Charlie Arnold, PE, CxA+BE, BECxP, RRO

Branch Manager
TERMS AND CONDITIONS TO AGREEMENT FOR ENGINEERING AND CONSULTING SERVICES

ARTICLE 1. SERVICES: REI will:
1.1 Act for CLIENT in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of care of comparative industry practicing in the same or similar location to THE PROJECT.
1.2 Provide only those services that, in the opinion of REI, lie within the technical or professional areas of expertise of REI and which REI is adequately staffed and equipped to perform.
1.3 Perform all technical services under the general direction of a Registered Professional Engineer and in substantial accordance with the basic requirements of the appropriate Standards of The American Society for Testing and Materials, where applicable, or other standards designated by CLIENT and accepted by REI.
1.4 Maintain ownership of all instruments of service. All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by REI as instruments of service shall remain the property of REI. REI will distribute reports only to those persons, organizations or agencies specifically designated in writing by CLIENT or his authorized representatives; or as required by law. REI grants to CLIENT a non-transferable, irrevocable and perpetual royalty-free license to retain and use such instruments of service for any purpose in connection with the PROJECT specified in the Proposal, upon full payment by CLIENT for REI’s services. CLIENT may also use such instruments of service for other purposes only with REI’s written consent. Re-use of any such instruments of service by CLIENT on any extension of the PROJECT or on any other project without the written authorization of REI shall be at CLIENT’s sole risk and CLIENT shall indemnify, defend and save REI and its employees, officers and directors harmless from and against any loss, cost or expense suffered as a result of, or arising out of, or in connection with such re-use.
1.5 Retain samples for a period of 30 days following completion of the PROJECT, unless requested otherwise, after which samples will be discarded.
1.6 Retain all pertinent records relating to the services performed for a period of three years following completion of the PROJECT, during which period the records will be made available to CLIENT at all reasonable times.

ARTICLE 2. CLIENT’S RESPONSIBILITIES: CLIENT or his authorized representative will:
2.1 Provide REI with a written scope of work clearly itemizing REI’s duties in connection with THE PROJECT.
2.2 REI shall indicate to the CLIENT the information needed for rendering of services hereunder. The CLIENT shall provide to REI such information as is available to the CLIENT and the CLIENT’s consultants and contractors, and REI shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is impossible for REI to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify or because of errors or omissions which may have occurred in assembling the information the CLIENT is providing. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold REI and REI’s sub-consultants harmless from any claim, liability or cost (including reasonable attorney’s fees and costs of defense) for injury or loss arising or otherwise arising from errors, omissions or inaccuracies in documents, or other information provided by the CLIENT to REI.
2.3 Furnish right of entry onto THE PROJECT site for REI to make the necessary field studies. REI shall endeavor to minimize damage to the land but makes no guarantee to restore the site to its original condition unless a separate agreement is made for such restoration, in which case REI shall add the cost of restoration to the fee for THE PROJECT.
2.4 Indemnify in writing those persons, organizations, or agencies to be contacted in the event conditions are revealed during the execution of REI’s study that would require possible alteration of the study or would potentially influence design that is proceeding in parallel with the study.

ARTICLE 3. GENERAL CONDITIONS:
3.1 REI, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to THE PROJECT customarily vested in THE PROJECT architects, design engineers, or any other design agencies or authorities.
3.2 REI shall not be responsible for acts of omissions of any party or parties involved in the design of THE PROJECT or the failure of any contractor or subcontractor to construct any item on THE PROJECT in accordance with recommendations contained in any correspondence or verbal recommendations issued by REI.
3.3 This Agreement may be terminated by either party on receipt of written notice or by mutual agreement. If this Agreement is terminated by either party, REI shall be paid in full for all services performed through the termination date, and the CLIENT shall be provided with a complete report of the results of tests and analysis conducted prior to termination.
3.4 Neither CLIENT nor REI may delegate, assign sublet or transfer his duties or interest in the Agreement without the written consent of the other party.
3.5 REI makes no warranty, either expressed or implied, as to the findings, recommendations, plans, specifications, or professional advice. REI has endeavored to perform the services pursuant to generally accepted standards of practice in effect at the time of performance.
3.6 When REI does not prepare the Contract Documents for the project, the CLIENT waives all claims against REI arising from or in any way connected with errors, omissions, conflicts or ambiguities in the Contract Documents prepared by others. In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold REI harmless from any damage, liability or cost, including reasonable attorneys’ fees and defense costs, arising from any errors or omissions contained in the plans, specifications or other Contract Documents prepared by others, except for the sole negligence or willful misconduct of REI.
3.7 REI will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any agent or agreement of CLIENT, or safety precautions and programs incident thereto.
ARTICLE 4. INSURANCE:
4.1 REI shall secure and maintain throughout the full period of this Agreement sufficient insurance to protect it adequately from claims under applicable Workmen’s Compensation Acts and from claims for bodily injury, death or property damage as may arise from the performance of services under this Agreement. REI will, upon request, file certification of such insurance coverage with CLIENT or his authorized representative.
4.2 No insurance of whatever kind or type, which may be carried by REI, is to be considered as in any way limiting the contractor’s or subcontractor’s responsibility for damages resulting from his operations or for furnishing work and materials to The PROJECT. CLIENT agrees, therefore, to include, or cause to be included in The PROJECT’S construction contract, such requirements for insurance coverage and performance bonds to be secured and maintained by THE PROJECT contractor as CLIENT deems adequate to indemnify CLIENT, REI, and other concerned parties, against claims for damages and to insure compliance of work performance and materials with PROJECT requirements.

ARTICLE 5. CONSEQUENTIAL DAMAGES AND LIMITATIONS OF LIABILITY:
5.1 Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law: (i) REI shall not be liable, whether based on contract, tort, negligence, strict liability, warranty, indemnity, error or omission or any other cause whatsoever, for any consequential, special, incidental, indirect, punitive or exemplary damages of CLIENT, or damages of CLIENT arising from or in connection with loss of power, loss of use, loss of revenue or profit (actual or anticipated), loss by reason of shutdown or non-operation, increased cost of construction, cost of capital, cost of replacement power or customer claims, and CLIENT hereby releases REI from any such liability; and (ii) in no event shall the cumulative aggregate liability of REI, or its employees, officers or directors, to CLIENT resulting from, arising out of or in connection with the performance or nonperformance of the services or other obligations under this Agreement, exceed the lesser of (i) the total compensation paid to REI pursuant to this Agreement, or (ii) $10,000.00. regardless of the legal theory under which such liability is imposed. The remedies stated in this Agreement are CLIENT’s sole and exclusive remedies for any failure by REI to comply with obligations to CLIENT.

ARTICLE 6. PAYMENT:
6.1 CLIENT will pay REI for services and expenses in accordance with REI’s proposal. REI’s invoices will be presented at the completion of its work or monthly and will be paid within thirty (30) days of receipt by the CLIENT or his authorized representative.
6.2 Accounts beyond 30 days will be considered delinquent and shall be subject to service charge at a rate of 1.5% per month of delinquent amount.
6.3 REI shall be paid in full for all services under the Agreement, including any overruns of CLIENT’S contract or any unforeseen need for REI’s services exceeding original contract requirements. Payment for such services shall be made irrespective of any claim by CLIENT for compensation for additional work conducted. Any such claim shall in no respect delay payment of fees for services performed by REI.

ARTICLE 7. EXTENT OF AGREEMENT:
The Agreement, including the proposal and these terms and conditions, represents the entire agreement between CLIENT and REI and supersedes all prior negotiations, representations or agreements, written or oral. The agreement may be amended only by written instrument signed by CLIENT and REI. The parties to this Agreement may from time to time by mutual agreement seek to modify, extend or enlarge the services described in the Proposal. In the event the parties agree to a change to add additional services, or to make other modifications to the services, REI’s compensation, the schedule and any other relevant terms and conditions of the Proposal shall be equitably adjusted prior to performance of such services.

ARTICLE 8. MEDIATION:
8.1 In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Client and REI agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and REI further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

ARTICLE 9. CERTIFICATE OF MERIT:
The CLIENT shall make no claim for professional negligence, either directly or by way of a cross complaint against REI unless the CLIENT has first provided REI with a written certification executed by an independent consultant currently practicing in the same discipline as REI and licensed in the State where the work was performed. This certification shall: a) contain the name and license of the certifier; b) specify the acts or omissions that the certifier contends are not in conformance with the standard of care for a consultant performing professional services under similar circumstances; and c) state in detail the basis for the certifier’s opinion that such acts or omissions do not conform to the standard of care. This certificate shall be provided to REI not less than thirty (30) days prior to the presentation of any claim or the institution of any arbitration, mediation or judicial proceeding. This Certificate of Merit clause will take precedence over any existing state law in force at the time of the claim or demand for arbitration.

ARTICLE 10. BIOLOGICAL GROWTH:
CLIENT releases REI from any and all claims CLIENT and CLIENT’s employees, tenants or any other building occupants may have as a result of biological growth and agrees to defend, indemnify and hold REI harmless from any and all penalties, actions, liabilities, costs, expenses and damages arising from or relating to the presence of mold in CLIENT’s Building.