

DRAFT AIA® Document B133® – 2019

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the « » day of «April» in the year «2024»
(In words, indicate day, month and year.)

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

«Village of Schaumburg »« »
«101 Schaumburg Court »
«Schaumburg, IL 60193 »
« »

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

«Williams Architects »« »
«500 Park Boulevard, Suite 800 »
«Itasca, IL 60143 »
« »

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

«Village of Schaumburg »
«New Village Hall »
«101 Schaumburg Court
Schaumburg, IL 60193 »

The Construction Manager (if known):
(Name, legal status, address, and other information)

«Camosy Construction »« »
«43451 N. Highway 41 »
«Zion, IL 60099 »
« »

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.

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.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

«Based upon the planning study prepared by Williams Architects and approved by the Village. »

§ 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.)

«The Project is to demolish the existing Village Hall and construct an all new one of approximately 60,000 – 70,000 SF in generally the same location. »

§ 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.)

«Construction cost is currently budgeted to be in the range of \$35,000,000 to \$40,000,000 plus soft costs. »

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

.1 Design phase milestone dates, if any:

«TBD »

.2 Construction commencement date:

«Early 2025 »

.3 Substantial Completion date or dates:

«Late 2026 »

.4 Other milestone dates:

«TBD »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[] 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.)

«TBD, but multiple bid releases will likely benefit the Village and this to be determined once the owner has brought the Construction Manager onto the project. »

§ 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.)

«Owner’s goal is to have a code-complying, energy efficient building, but no LEED or other third party certification is desired. »

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

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

«Mark Rysavy, Facilities Division Manager, Department of Engineering and Public Works »

«Village of Schaumburg »

« »

«Michael Hall, Director of Engineering and Public Works »

«Village of Schaumburg »

« »

§ 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)

«Camosy Construction
43451 N. Highway 41
Zion, IL 60099 »

- .2 Land Surveyor:

«TBD »« »
« »
« »
« »
« »

- .3 Geotechnical Engineer:

«TBD »« »
« »
« »
« »
« »

- .4 Environmental Consultant:

«TBD »« »
« »
« »
« »
« »

- .5 Other consultants and contractors:
(List any other consultants and contractors retained by the Owner.)

« »

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

«Mark S. Bushhouse, AIA, LEED AP »
«President / Managing Principal »
« »
«Andy R. Dogan, AIA, NCARB, LEED AP »
«Vice President / Senior Principal »
« »

§ 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:

«IMEG Corporation »« »
«263 Shuman Boulevard, Suite 550 »
«Naperville, IL 60563 »
« »
« »

.2 Mechanical, Electrical, Plumbing and Fire Protection Engineer:

«Berg Engineering Consultants, Ltd. »« »
«801 West Wise Road »
«Schaumburg, IL 60193 »
« »
« »

§ 1.1.12.2 Consultants retained under Supplemental Services:

- « .1 Civil Engineer:
- Eriksson Engineering Associates, Ltd.
145 Commerce Drive, Suite A
Grayslake, IL 60030
- .2 Interior Finishes and Materials:
- Williams Interiors
500 Park Boulevard, Suite 800
Itasca, IL 60143
- .3 Interior Furniture & Signage
- Williams Interiors
500 Park Boulevard, Suite 800
Itasca, IL 60143
- .4 Low Voltage, Wiring, Audio Visual, Access Control
- Sentinel Technologies
2550 Warrenville Road
Downers Grove, IL 60515
- .5 Landscape Design
- Eriksson Engineering Associates, Ltd.
145 Commerce Drive, Suite A
Grayslake, IL 60030
- »

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

AIA Document B133 – 2019. Copyright © 2014, and 2019. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This draft was produced at 16:49:46 ET on 02/05/2024 under Order No.4104248644 which expires on 01/25/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1782798164)

§ 1.2 The Owner and Architect may rely on the Initial Information which affects the scope of the project and the services of the Architect. 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 by mutual agreement. 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.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall review building and zoning laws, codes, ordinances and regulations in effect ("Governmental Requirements") that are applicable to the Architect's services and shall design in compliance with requirements imposed by governmental authorities having jurisdiction over the design of the Project ("Code Authority"). The Architect shall use reasonable efforts to obtain, at the earliest practical time, review of final Drawings and Specifications by the public body having authority over the design of the Project ("Code Authority"). 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.

§ 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 until termination of this Agreement.

§ 2.6.1 "The Architect shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000) each occurrence, if such CGL insurance contains a general aggregate limit, it shall apply separately to this Project. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CC 00 0110 93, or a similar form providing similar coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Owner shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a similar coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Owner. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

§ 2.6.2 The Architect shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than One Million Dollars (\$1,000,000) each accident. Such insurance shall cover liability arising out of hired and non-owned autos. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 120, or similar liability 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 liability insurance, provided such primary and excess or umbrella

liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2.,.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 The Architect shall maintain workers' compensation insurance as required by statute and Employers' Liability with policy limits not less than «Five Hundred Thousand Dollars» (\$ «500,000») each accident, «Five Hundred Thousand Dollars» (\$ «500,000») each employee, and «Five Hundred Thousand Dollars» (\$ «500,000») policy limit.

§ 2.6.6 The Architect shall obtain and maintain, at its own expense, Architect's professional liability insurance in the amount of not less than Three Million Dollars (\$3,000,000) per claim and not less than Three Million Dollars (\$3,000,000.00) in the aggregate (with all coverage retroactive to the earlier date of this Agreement of the commencement of the Architect's services in relation to the Project) for each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the Agreement with a deductible not to exceed \$50,000 without prior written approval. Said coverage shall be maintained for a period of three (3) years after the date of Substantial Completion of the Project. In the event that any professional liability insurance required by this Agreement is written on a claims-made basis, the Architect shall provide that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time services under this Agreement are completed.

§ 2.6.7 Additional Insured Obligations. The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

§ 2.7 Notwithstanding anything to the contrary contained in this Agreement, the Owner's review and acceptance (Or approval) of any and all documents required under this Agreement shall be for the sole purpose of furnishing the Architect with information as to the Owner's objectives and goals with respect to the Project. Such review and acceptance (or approval) shall not be for determining the propriety, accuracy or completeness of the Architect's Services and shall not create any liability on the part of the Owner for errors, omissions, or inconsistencies or other fault in the Architect's services.

§ 2.8 Prior to beginning services, the Architect shall furnish Owner with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative, showing compliance with the insurance requirements set forth above. The insurance on which the Owner is an additional insured shall provide for 30 calendar days' written notice to the Owner prior to the insurer cancellation. The Architect shall provide written notice to the Owner of cancellation of other policies required above. Failure of the Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Architect's obligation to maintain such insurance.

§ 2.9 The Owner shall have the right, but not the obligation, of prohibiting Architect from entering the Project site until such certificates, or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Owner. Failure to maintain the required insurance may result in termination of this Agreement at the Owner's option.

§ 2.10 The Architect shall provide certified copies of all insurance policies required above within twenty-one (21)calendar days of Owner's written request for said copies.

§ 2.11 For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer not in compliance

with this Section.

§ 2.12 If Architect's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

§ 2.13 Any deductibles or self-insured retentions must be declared to the Owner.

§ 2.14 The Architect shall cause each consultant employed by the Architect to purchase and maintain insurance of the type specified above. When requested by the Owner, the Architect shall furnish copies of certificates of insurance evidencing coverage for each consultant.

§ 2.15 Under no circumstances shall the Owner be deemed to have waived any of the insurance requirements of this Agreement by any action or omission, including but not limited to:

- (a) allowing any services to commence by the Architect before receipt of certificates of insurance;
- (b) failing to review any certificates of insurance received from the Architect;
- (c) failing to advise the Architect that any certificate of insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner. The Architect agrees that the obligation to provide the insurance required by this Agreement is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Owner.

§ 2.16 In the event the Architect fails to furnish and maintain the insurance required by this Agreement, the Owner may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost thereof to the Owner upon demand or shall have such cost deducted from any payments due the Architect. The Architect agrees to furnish to the Owner the information needed to obtain such insurance.

§ 2.17 All General Liability and Auto insurance provided by the Architect shall provide that the insurance shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of the insurer's liability.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Owner has authorized the Supplemental Services set forth in Article 4.1 of this Agreement. If, after execution of this Agreement, the Owner requests further Supplemental Services or Additional Service as described in Article 4, the Architect shall perform the agreed upon services pursuant to a duly executed Supplemental or Additional Services authorization.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. Architect to provide digital presentation materials for all Board and/or public meetings.

§ 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 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates

when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) approval of submissions by authorities having jurisdiction over the Project.

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

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

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project and shall assist the Owner in securing their approval, and shall incorporate changes in the Construction Documents as may be required by such authorities. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.8 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. The Owner shall be responsible to pay all fees, including permitting fees, associated with such approvals.

§ 3.1.9 The Architect is responsible for the coordination of all Drawings and Specifications relating to Architect's consultants with the Architect's design drawings for the Project, regardless of whether such documents are prepared or provided by Architect, and/or by Architect's consultants. The Architect is responsible for coordination and internal checking of all Drawings of the Architect and its consultants. The Architect is responsible for the completeness and accuracy of the final Drawings and Specifications submitted by or through Architect and for their compliance with all applicable building and zoning codes, ordinances, regulations, laws, and statutes in accordance with the standard of care.

§ 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or 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 on all communications related to substitution requests, clarifications, and interpretations.

§ 3.2.2 During one of the design phases or after bidding is complete, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. 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.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents as an Additional Service per Article 11.3 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 use the planning study space program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 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, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owners sustainable objective, if any.. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.3 Based on the Owner's approved planning study concepts, 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. Basic building mechanical, electrical, and fire suppression system options to be reviewed with the Owner, Architect and its consultants, and Construction Manager. Basic Design Services for the Building's HVAC System do not include a geothermal type system. Design of this type of system could be added under Article 11.3

§ 3.3.3.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, 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 Article 4.

§ 3.3.3.2 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.

§ 3.3.4 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager and request the Owner's written approval. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.5 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, identify agreed upon adjustments to the Project's size, quality, or budget, 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.

§ 3.3.6 The Architect will assist in the preparation and participate in a presentation to the Village Board Meeting to present, review and discuss the design.

§ 3.3.7 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

§ 3.4.1 Based on the Owner's written approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.34, 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 and request the Owner's written approval. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 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 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 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 Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete in all material respects and in compliance with applicable building and zoning codes, ordinances, statutes, regulations, and laws.

§ 3.5.3 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. The Architect shall afford the Owner the opportunity to review and comment upon the instructions to bidders, bidding forms, bidding requirements, and general conditions in sufficient time to permit any changed deemed necessary by the Owner prior to their being published and available to the bidding public.

§ 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 for the Owner's written approval. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 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 Any defective designs or specifications furnished by the Architect will be corrected by the Architect at no cost to the Owner.

§ 3.6 Bidding Phase Services

The Architect shall assist the Owner and Construction Manager in the bidding the Project by

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

§ 3.6.1 The Architect shall, as an Additional Service, consider requests for substitutions, if the Bidding Documents permit substitutions, and shall consult with the Construction Manager and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.6.2 The Architect shall provide conformed Construction Documents incorporating changes required for permits and final Project scope included in Owner/Contractor Agreement as an authorized Supplemental Service.

§ 3.7 Construction Phase Services

§ 3.7.1 General

§ 3.7.1.1 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. 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.

§ 3.7.1.2 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 3.7.6.5, the Architect’s responsibility to provide Construction Phase Services terminates 60 calendar days after the date the Architect issues the Substantial Completion certificate for Payment.

§ 3.7.1.3 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.

§ 3.7.1.4 The Construction Manager shall be responsible for conducting progress meetings as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§ 3.7.2 Evaluations of the Work

§ 3.7.2.1 The Architect shall visit the site at intervals indicated 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 or schedule. Site visits shall occur on an average of once every two weeks for up to 16 months. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall conduct any additional observations at any other as reasonably requested by the Owner as an Additional Service. On the basis of the site visits, the Architect shall provide field reports that 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.

§ 3.7.2.2 The Architect has the authority to recommend to the Owner that the Owner reject Work that the Architect observes which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to recommend to the Owner, that the Owner 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 recommendation 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.

§ 3.7.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made with reasonable promptness unless additional information is requested. Any communications via email shall be deemed sufficient to satisfy the writing requirement provided herein.

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

§ 3.7.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.7.3 Certificates for Payment to Construction Manager

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

§ 3.7.3.2 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.

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

§ 3.7.3.4 The Architect shall not review any waivers of lien from Contractors or their subcontractors or suppliers nor shall it investigate or verify if the Contractors, their subcontractors or material suppliers have received payment.

§ 3.7.4 Submittals

§ 3.7.4.1 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 Architect's approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness (minimum review time of ten (10) business days) while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.7.4.2 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.

§ 3.7.4.3 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 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.

§ 3.7.4.4 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.

§ 3.7.4.5 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.

§ 3.7.5 Changes in the Work

§ 3.7.5.1 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, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.7.5.2 The Architect shall maintain records relative to changes in the Work. Additionally, the Architect shall review and, upon request by Owner, provide written documentation of all change order requests and proposals with respect to the following criteria:

- .1 confirm the proposed change is a material change to the Contract;
- .2 confirm appropriate credits are included for Work not completed;
- .3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- .4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

§ 3.7.6 Project Completion

§ 3.7.6.1 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.

§ 3.7.6.2 The Architect shall contact the Owner's Representative to provide notice prior to any inspection for substantial or final completion. 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.

§ 3.7.6.3 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.

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

§ 3.7.6.5 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 and facility walk through with the Owner to review the facility operations performance and to assist the Owner in the preparation of a warranty list for the Owner's use with the Construction Manager.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. 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.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Assistance with Selection of Construction Manager	Owner and Architect
§ 4.1.1.2 Programming Review	Completed
§ 4.1.1.3 Multiple Preliminary Designs	N.A.
§ 4.1.1.4 Measured drawings	N.A.
§ 4.1.1.5 Existing facilities surveys	Owner
§ 4.1.1.6 Site evaluation and planning	Completed
§ 4.1.1.7 Building Information Model management responsibilities	Architect and Owner
§ 4.1.1.8 Development of Building Information Models for post construction use	TBD
§ 4.1.1.9 Civil engineering	Architect 1.1.2.1.1, 4.1.2.1.1 & 11.2.a
§ 4.1.1.10 Landscape design	Architect 1.1.2.1.1, 4.1.2.1.2 & 11.2.j
§ 4.1.1.11 Architectural interior design	Architect 1.1.2.1.1, 4.1.2.1.5 & 11.2.c
§ 4.1.1.12 Value analysis	
§ 4.1.1.13 Cost estimating	Owner's Construction Manager
§ 4.1.1.14 On-site project representation	Owner's Construction Manager
§ 4.1.1.15 Conformed documents for construction	Architect 11.3
§ 4.1.1.16 As-designed record drawings	N.A.
§ 4.1.1.17 As-constructed record drawings	Architect 11.3
§ 4.1.1.18 11 month warranty review if requested by the Owner.	Architect per 3.7.6.5 – in Basic Services
§ 4.1.1.19 Facility support services	N.A.
§ 4.1.1.20 Tenant-related services	N.A.
§ 4.1.1.21 Architect's coordination of the Owner's consultants	N.I.C.
§ 4.1.1.22 Telecommunications/data design	Owner
§ 4.1.1.23 Security evaluation and planning	
§ 4.1.1.24 Acoustical Design	Architect 11.4
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	N.I.C.
§ 4.1.1.26 Historic preservation	N.I.C.
§ 4.1.1.27 Interior Furniture design	Architect 4.1.2.1.6 and 11.2
§ 4.1.1.28 Public/Board Zoning Meetings, Submittals and Approvals	Architect 4.1.2.1.8 and 11.3 and Owner
§ 4.1.1.29 Fast-track design Services	Architect 4.1.2.1.4 and 11.3 and CM
§ 4.1.1.30 Low Voltage Wiring and Access Control, Audio Visual, and Paging Systems	Architect 4.1.2.1.3 and 11.2.e
§ 4.1.1.31 Commissioning agent	Architect 4.1.2.1.10

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below. These are Owner approved Supplemental Services outside of Basic Services.

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

«««§ 4.1.2.1.1 Civil Engineering (§ 4.1.1.9)

Professional services for civil engineering, other site related design services are included in the Architect's as an Additional Service.

1. Area of design to include the building footprint, area between the building and the pond to the north, within 10 feet around the building, areas of required storm water detention improvements, added parking area, redeveloped existing parking areas, changes to access drive to the west of the building. No improvements to the plaza on the east side of the building or other pathways and site areas.
2. Design Services include:
 - a. Design, construction documents, bidding assistance and construction administration.
 - b. Site demolition related to the demolition of the existing Village Hall and paved areas.
 - c. Overall grading with building elevations, overland drainage patterns and stormwater management locations.
 - d. Overall utility design with consideration/inverts of sanitary, water and storm sewer improvements including utility service connections.
 - e. Overall paving design with consideration of geometrics and landscape areas.
 - f. Investigation of existing storm water system, previously made improvement, permitting and calculations.
 - g. Preparation of calculations in conformance with the Village and Metropolitan Reclamation District (MWRD), Watershed Management Ordinance (WMO) for the developed area. Does not anticipate nor includes regional hydrologic modeling.
 - h. Includes 3 meetings during design with village staff and participation at 2 public zoning/planning approval meetings.
 - i. Preparation of the Stormwater Management Report including the calculation in conformance with MWRD and WMO.
 - j. Preparation of and submittals of the following agencies:
 - i. Assistance with completing the engineering portions of the local municipality site development application.
 - ii. Illinois Historic Preservation Agency (IHPA) Report.
 - iii. Illinois Department of Natural Resources (IDNR) Endangered Species Consultation Program Action Report (EcoCAT)
 - iv. Illinois Environmental Protection Agency (IEPA) Notice of Intent for Stormwater Discharge.
 - v. Illinois Environmental Protection Agency (IEPA) Sanitary Sewer Construction Permit.
 - vi. Illinois Environmental Protection Agency (IEPA) Water Main Construction Permit.
 - vii. Metropolitan Reclamation District (MWRD) Watershed Management permit.
 - k. Does not include off-site or on-site improvements not required for the new Village Hall.
3. Construction Administration Services include:
 - a. Site visits that include 4 visits during construction plus 1 punch list visit at substantial completion and 1 more visit for the final inspection.
 - b. Review and approval of shop drawings and other required submittals.
 - c. Review and responses to the contractor Requests for Information (RFI's).

§ 4.1.2.1.2 Landscape Architecture (§ 4.1.1.10)

1. Area of design to include the building footprint, area between the building and the pond to the north, within 10 feet around the building, areas of required storm water detention improvements, added parking area, redeveloped existing parking areas, changes to access drive to the west of the building. No improvements to the plaza on the east side of the building or other pathways and site areas.
2. Design Services include:
 - a. Design, Construction Documents, Bidding and Construction Administration phases.
 - b. Demolition of existing landscape elements associated with the new Village Hall.
 - c. Design of finish grading, lawn seeded or sodded and mulched areas.
 - d. Selection, drawings and specifications for plantings of bushes, perennials, trees and other typical plants.
 - e. Irrigation system within the project limits described above.
 - f. Coordination with Village staff to conform with Village zoning requirements for landscaping.
 - g. Preparation of colored landscaping plan for use in the zoning/planning approval process and attendance at 2 public meetings.
 - h. Services do not include improvements to other areas of the Village owned property including paths, plazas and the other on or off site areas.

«§ 4.1.2.1.3 Telephone, Computer, Multimedia and Other Special Systems (§ 4.1.1.22)

The Architect is not responsible for the design and coordination of the telephone, computer, 311 call center and other special systems not a part of the building's power, lighting, mechanical, fire suppression, fire alarm, low voltage wiring, access control, paging and control systems. The Architect shall design conduits, electrical boxes and power to allow for Owner designed system.

§ 4.1.2.1.4 Fast-Track / Multiple Bid Releases (§ 4.1.1.29)

Should multiple bid releases be utilized, the extra services associated with producing these documents, providing assistance for the Bidding and Negotiation Phases beyond the one included in the Basic Services, and any extra services required during the Construction Administration Phase shall be considered an Supplemental Service.

§ 4.1.2.1.5 Interior Design Services / Signage (§ 4.1.1.27)

Interior Design Service by Williams Architects' Interior Department to provide:

- a. Multiple color range options
- b. Meet with the Owner and work with the Owner to select and refine the preferred color theme.
- c. Meet with the Owner and select the specific interior finishes, materials, and colors.
- d. Design Owner approved patterns for the finishes, materials, and colors.
- e. Assist the Architect with refinements to the interior wall layouts.
- f. Services during the bidding phase to answer contractor questions.
- g. Review contractor submittals during the Construction Administration phase and visit the facility 2 times when appropriate, to observe the installation of the Interior finishes and to provide a field report after each site visit

§ 4.1.2.1.6 Furniture Design Services (§ 4.1.1.27)

Furniture Design Services by Williams Architects' Interior Department to provide:

- a. Work with the Owner to determine the facility's furniture needs.
- b. Based upon the inventory of the furniture to be reused in this facility determine the added amount of furniture needed.
- c. Furniture layout options for review, selection, and refinement, with the Owner using plan drawings and furniture lists.
- d. Multiple furniture manufacturer and quality level options along with their estimated costs for view with the Owner. Team to visit Merchandise Mart to review furniture options.
- e. Coordinate the furniture with the building interior finishes colors and textures.
- f. Provide furniture drawings and specifications to the Construction Manager for the Construction Manager to solicit and bid.
- g. Review the furniture submittals and coordinate with the Owner and constructor the delivery and installation dates.
- h. Visit the site 5 times when appropriate to coordinate outlet locations with furniture, observe the delivery and installation of the furniture, to review the furniture and its installation, provide field reports to advise the Owner and furniture installer as to the progress of the work and any observed deficiencies in the furniture or its installation and provide punch list at furniture Substantial Completion and final inspection.

§ 4.1.2.1.7 Low Voltage Wiring and Systems Design (§ 4.1.1.30)

Design of General Building Access Control, Audio/Visual (A/V), and Paging Systems and communication wiring for these systems and the Owner designed computer and phone systems (selection of equipment and design of the computer and phone systems are by the Owner.

§ 4.1.2.1.8 Public Board / Zoning Meetings, Submittals and Approvals (§ 4.1.1.28)

If the Owner requests special documents, assistance from the Architect as part of the zoning process, these services shall be considered a Supplemental Service. Services do include attendance at 4 Board and/or Public Meetings.

§ 4.1.2.1.9 Computer Animations

If Owner requests computer animations (videos of exterior "fly around" or interior "walk throughs") these to be provided on an hourly basis from 11.7.

§ 4.1.2.1.10 Commissioning Agent

Architect to determine in consultation with the Owner the consultant to retain and scope of their services.
Commissioning agents fee to be incorporated into this agreement in accordance with article 11.4 »

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

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

<< >>

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or 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 Instruments of Service;
- .4 Changing or editing previously prepared Instruments of 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 Instruments of Service when those Instruments of Service 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 and 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 except for four (4) public meetings as required by the Owner, which meetings may occur prior to the Construction Phase;
- .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; or
- .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 constructor 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 agreed-upon assumptions and 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.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. 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 but only to the extent that such services required or requested from the Architect represent a material change in the services that would otherwise be required of the Architect for the completion of the Project ;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker provided such claims are not or are not alleged to be the result of the Architect's negligent acts, errors or omissions.; 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 «Two» («2») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 «On an average of one visit every two weeks for 16 months» to the site by the Architect during construction
- .3 «One» («1») 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 «One» («1») inspections for any portion of the Work to determine final completion\
- .5 Two (2) public meetings, as requested by the Owner, which meetings may occur prior to the Construction Phase.

§ 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 «Forty-Eight» («48») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements. 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.

§ 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 With the Architect's assistance, 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 designate a representative that shall act as the liaison between the Board of Trustees of the Village of Schaumburg and the Architect. This designation is being made for the purposes of facilitating the administrative and day-to-day management issues relating to the Project. In dealing with the Designated Representative, the Architect acknowledges that the Owner is an Illinois municipal corporation that can only be contractually bound by an affirmative vote of the Board of Trustees of the Village of Schaumburg. The Owner shall not unreasonably delay its vote to approve or disapprove necessary items in relation to the Architect's duties in relation to this Project so that the Project schedule is not impacted.

§ 5.4.1 The Owner has the right to reject any portion of the Architect's Services on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's Construction Administration services or any other design services or documents on any reasonable basis, including aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Services are rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the deliverables prepared for that phase in accordance with Owner's direction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Services previously approved by the Owner under previous phases, in which case such revision will be paid as an Additional Service. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as an Additional Service. The Architect must notify the Owner of all Additional Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for Additional Services without such written approval by Owner.

§ 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 inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

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

§ 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 furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Architect shall assist the Owner in determining the need for other consultants and their scopes of services. The Owner may contract separately for the consulting services suggested by the Architect either as a Supplemental Service under this Agreement provided the Architect agrees in writing or by Owner directly. Unless otherwise indicated, those services shall be performed by licensed professionals who shall affix their seals on the appropriate documents prepared by them. The Architect and the Owner's consultants shall bear the mutual responsibility to coordinate their documents and the Owner's contracts with the Owner's consultants shall so require. The Architect shall be entitled to rely on the technical sufficiency, accuracy, compliance with the standard of care, and timely delivery of documents and services furnished by those consultants unless the Architect knows that such services are deficient or inaccurate,

§ 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 shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect. However, the 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.

§ 5.12 The Owner shall include the Architect in all 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.

§ 5.13 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.

§ 5.14 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.

§ 5.15 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.

§ 5.16 Construction Manager's Obligation to Insure for Bodily Injury Claims

The Owner will require the Construction Manager responsible for construction to purchase insurance to cover claims and expenses asserted against Architect, its employees and consultants for bodily injury, sickness, disease, or death caused by any negligent act or omission of the Construction Manager, any of its Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable.

§ 5.17 Force Majeure

In the event the Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, landslide, tornado, epidemic, pandemic, and other acts of God, war, act of terrorism, malicious mischief, theft, strike, lockout and other labor problems, shortages of material or labor, governmental shutdowns, failure of any governmental agency or the Owner to furnish information or to approve or to disapprove the Architect's services or any other cause beyond the reasonable control of the Architect's time for completion of the Architect's work, shall be extended by the period of resulting delay.

§ 5.18 Indemnity for Deviation

The Owner may choose to act as its own general contractor or may otherwise choose to materially deviate during construction from the Construction Documents prepared by the Architect. If such action by the Owner occurs, the Owner hereby indemnifies and holds harmless the Architect, its employees and consultants from and against all claims, damages, losses and expense, including but not limited to attorneys' fees and economic damages arising out of, in connection with, or resulting from the performance (or failure to perform) of the owner, where there has been a material deviation from any document prepared by Architect or where there has been a failure to follow any material written recommendation of the Architect. In the event that the Architect, its employees and consultant are required to bring an action to enforce the provisions of this indemnity, the indemnifying party shall pay the attorneys' fee and cost incurred by the indemnified party in bringing that action, if the indemnity is granted.

§ 5.19 Construction General Conditions

The Owner agrees to require the following paragraph to be made a part of the General Conditions for the Construction of the Project:

"In performing its obligations for the Owner, the Architect and their consultants may cause expense for the Construction Manager and subcontractors. However, Construction Manager, its subcontractors and sureties shall maintain no direct action against the Owner or Architect, consultants, their agents and employees, for any claim arising out of, in connection with or resulting from the Work performed or required to be performed. Only the Owner shall be the beneficiary of any undertaking by the Architect."

§ 5.20 Builders Risk Insurance:

The Owner shall require that the Architect and its employees to be named as additional named insureds under the builders Risk Insurance purchased by the Owner and/or Construction Manager applicable to the Project.

§ 5.21 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.

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 or Architect's consultants 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 unused contingencies for changes in the Work; or other costs that are the responsibility of the Owner. If the Owner reduces the budget for the Cost of the Work at any time during the Project, the Architect shall be entitled to be compensated for all services rendered based upon the budgets that were in effect when the services were rendered.

For compensation to the Architect based upon a percentage of the Cost of Work, the Cost of the Work shall include: 1) 76% of the cost of alternates which are not accepted; 2) 100% of the cost of alternates which are accepted; 3) 100% of the cost of change orders which increase the Cost of the Work (unless they are caused by the Architect's error omission);

§ 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 Construction Manager's judgment as a construction 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.

§ 6.4 If, during or at the end of the Schematic Design 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 during or 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 and cost reduction goal is less than 8%, 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, 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 In transmitting Instruments of Service, or any other information, the transmitting party represents that it is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. The documents in electronic file format will be provided upon request. The information is proprietary in nature, and shall only be utilized for the Project. All drawing information contained therein, including but not limited to clocks, symbol libraries, details, etc. shall not be reproduced, sold, distributed or utilized in any form on other project without the express written permission of the Architect. Due to the unsecured nature of these electronic files and inability of the originator to establish controls over the use thereof, the Architect and its consultants assumes no responsibility for any consequences arising out of the use of the data. It is the sole responsibility of the user to check the validity of all information contained. The user shall, at all times, refer to the author provided hard copy, or in the case of the Architect's Instrument of Service, the signed and sealed Construction Documents for the Project. The user shall assume all risks and liabilities resulting from the use of electronic file data.

§ 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 royalty-free 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, 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.

Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project and payment of all sums due and owing the Architect and subject to the terms hereof the Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit at the Owner's sole risk and responsibility and without liability to the Architect's or its consultants, including the following:

- a. Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas;
- b. Any future renovation, addition, or alteration to the Project; and
- c. Any future maintenance or operations issue as it pertains to the Project.

The Architect or Architect's consultants shall not be responsible for any use of or modifications to the Instruments of Service made by or on behalf of the Owner or Owner's representatives or for Owner's use of the Instruments of Service on this Project or on other projects or addition or renovations to the Project without the involvement of the Architect and its consultants, and the Owner shall release the Architect and its consultants and shall indemnify and hold Architect and its consultants from all claims, damages, losses, costs and expenses, including the cost of defense, related to claims or causes of action asserted by anyone arising from such use, reuse or modifications.

§ 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 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. This provision shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 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. 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.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. However, mediation shall not be a pre-condition to a claim against the Architect as a third party defendant.

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

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

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

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

[« »] Other: (Specify)

« »

§ 8.3 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 seven days' written notice to the Owner before suspending services in accordance herewith. 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. The Owner and Architect shall meet promptly to negotiate any disputed amounts.

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

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

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

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

§ 9.7 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:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

«Eight percent (8%) of remaining unpaid fees, whether or not earned at the time of termination, set forth in Article 11. »

.2 Licensing Fee if the Owner requests to continue using the Architect's Instruments of Service without the involvement of the Architect:

«Ten percent (10%) of all fees in Article 11. »

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

§ 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.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located,

§ 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. Unless otherwise disclosed and arranged for disposal, the Owner represents to the Architect that no hazardous or toxic substances within the meaning of any applicable statute or regulation are presently stored, or otherwise located on the Project site or adjacent thereto. Further, within the definition of such statutes or regulations, no part of the project site or adjacent real estate, including the ground water located thereon, is presently contaminated with such substances.

§ 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. 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 on its face 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 Indemnity from Construction Manager Required in Construction Contract

To the fullest extent permitted by law, the Construction Manager shall waive all rights of contribution and shall indemnify and hold harmless the Owner, the Architect and their agents and employees and consultants from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, and economic damages, arising out of or resulting from or in connection with the performance of the Work, provided that any such claim, damage, loss or expenses is caused in whole or in part by any negligent act or omission of the Construction Manager, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Agreement.

In any and all claims against the Owner or the Architect or any of their agents or employees and consultants by any employee of the Construction Manager or any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph agreement shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

§ 10.10 The Owner shall not require arbitration as the binding dispute resolution forum with the Construction Manager and shall strike the arbitration requirements in the A201-2017.

§ 10.11 The Owner shall require the Construction Manager to name the Owner and the Architect and their respective directors, officers and employees as additional insureds on the Construction Manager's automobile and general liability for liability arising out of the operations of the Construction Manager. The Owner shall require the Construction Manager's excess policies be following form and shall also require that the Construction Manager's general liability and automobile liability policies be endorsed to be primary and non-contributory over any other insurance carried by the additional insureds. The Owner shall require the Construction Manager to submit written evidence of its compliance with this Section.

§ 10.12 Any legal notice or communication, requests, reply, advice, report or designation (hereinafter severally and collectively called 'legal notice') in this Agreement provided or permitted to be given, made or accepted by either party to the other shall be in writing unless otherwise provided herein and shall be given or be served by depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, by delivering the same in person to such party or by facsimile and with an e-mail confirmation with read/receipt requirements. Legal notices deposited in the mail in the manner hereinabove described shall be effective upon receipt. For purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to Owner:

Village of Schaumburg
714 S. Plum Grove Road, Schaumburg, IL 60193
Attn: Mark Rysavy, Facilities Division Manager
Email: mrysav@schaumburg.com
Phone: (847) 923-6645

If to Architect:

Williams Architects
500 Park Boulevard, Suite 800
Itasca, IL 60143
Attn: Mark S. Bushhouse
Email: msbushhouse@williams-architects.com
Phone: (630) 221-1212

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)

«For the Architect’s Basic Design Services including architecture, structural, mechanical, electrical, plumbing and fire suppression engineering shall be One Million Four Hundred Twenty-Five Thousand Dollars (\$1,425,000). Based upon a total construction cost of \$30,000,000 including all site, building and Construction Manager’s costs.

If Owner authorizes a total construction cost that exceeds \$30,000,000 then the Architect’s fee shall be increased by 4.65% of the total construction costs that exceeds \$30,000,000 up to \$40,000,000.

If Owner authorizes a total construction cost that exceeds \$40,000,000 then the Architect’s fee shall be increased by 4.55% of the total construction costs that exceeds \$40,000,000. »

§ 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.)

«Supplemental Services in addition to the Basic Services fee of the Architect are as follows:

- a. Civil Engineering: \$95,000
- b. Landscape Design: \$45,000
- c. Furniture Design: \$85,000
- d. Interior Signage Design: \$24,000
- e. Interior Finishes Design: \$75,000
- f. To provide design services for the low voltage systems including: Low Voltage communication wiring (for these and the Owner’s phone and computer systems), access control, Audio Visual and Paging Systems: \$20,000
- g. Commissioning Agent: To be determined in accordance with article 11.4. »

§ 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.)

«On an hourly basis in accordance with Article 11.7 or as otherwise agreed to by the Owner and Architect. »

§ 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 times a «one point one five multiplier » («1.15»), 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:

Schematic Design Phase	«Sixteen»	percent («16»	%)
Design Development Phase	«Eighteen»	percent («18»	%)
Construction Documents Phase	«Forty»	percent («40»	%)

AIA Document B133 – 2019. Copyright © 2014, and 2019. All rights reserved. “The American Institute of Architects,” “American Institute of Architects,” “AIA,” the AIA Logo, and “AIA Contract Documents” are trademarks of The American Institute of Architects. This draft was produced at 16:49:46 ET on 02/05/2024 under Order No.4104248644 which expires on 01/25/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents’ Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

Bidding Phase	«Two»	percent («02»	%)
Construction Phase	«Twenty-Four»	percent («24»	%)
Total Basic Compensation	One Hundred	percent (100	%)

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 if the budget is reduced..

§ 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.)

<< >>

Employee or Category	Rate (\$0.00)
Managing Principal	\$ 250.00 / Hour
Senior Principal	\$ 231.00 / Hour
Principal	\$ 225.00 / Hour
Associate Principal	\$ 223.00 / Hour
Senior Associate/Senior Project Manager	\$ 223.00 / Hour
Associate/Project Manager	\$ 203.00 / Hour
Architect III	\$ 180.00 / Hour
Architect II	\$ 166.00 / Hour
Architect I	\$ 149.00 / Hour
Senior Project Coordinator II	\$ 180.00 / Hour
Senior Project Coordinator I	\$ 166.00 / Hour
Project Coordinator IV	\$ 135.00 / Hour
Project Coordinator III	\$ 124.00 / Hour
Project Coordinator II	\$ 105.00 / Hour
Project Coordinator I	\$ 90.00 / Hour
Project Technician II	\$ 70.00 / Hour
Project Technician I	\$ 54.00 / Hour
Aquatic Engineer II	\$ 214.00 / Hour
Aquatic Engineer I	\$ 163.00 / Hour
Director of Marketing	\$ 200.00 / Hour
Marketing Coordinator	\$ 145.00 / Hour
Accounting	\$ 192.00 / Hour
Secretarial	\$ 135.00 / Hour
Clerical	\$ 96.00 / Hour
Director of Interior Design	\$ 182.00 / Hour
Interior Designer V	\$ 142.00 / Hour
Interior Designer IV	\$ 119.00 / Hour
Interior Designer III	\$ 92.00 / Hour
Interior Designer II	\$ 79.00 / Hour
Interior Designer I	\$ 54.00 / Hour

§ 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 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 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .7 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;
- .8 All taxes levied on professional services and on reimbursable expenses;
- .9 Site office expenses;
- .10 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
- .11 Other Owner approved 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 «fifteen» percent («15» %) of the expenses incurred to a maximum of \$57,500.

§ 11.8.3 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:

(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.)

« »

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of «zero» (\$ «0») shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

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

§ 11.10.2 Progress Payments

§ 11.10.2.1 Payments shall be due and payable and interest shall accrue pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1, et. Seq.).

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

« » % « »

§ 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 or as a result of litigation.

§ 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 within five (5) business days of a request from the Owner.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

«§ 12.1 **Limited Liability Entity.** The Owner acknowledges that the Architect is a corporation and agrees that any claim made by the Owner arising out of any act or omission of any director, officer or employee of the Architect in the execution or performance of this Agreement, shall be made against the entity and not against any of their individual directors, officers or employees.

§12.2 **Responsibility for Code Compliance.** The Architect shall conform the final Drawings and Specifications to applicable building codes existing on the date of the start of Construction Documents, or if a change in the applicable codes has been communicated to the Architect that will be in affect at the time of completion of the final Drawings and Specifications. However, the Owner recognizes that interpretations by governmental officials ("Code Authority") are often subject to change even after issuance of a building permit. If modifications to the Drawings or Specifications are required because of an interpretation by the Code Authority which had not been previously given, or which if given, was different than a prior interpretation of the Code Authority, the Architect shall make the required modifications, but the cost of such modifications shall be compensated as an Additional Service. The parties acknowledge that submittal of Drawings and Specifications for permit routinely results in comments, questions and change requests by the Code Authority, and the Architect shall make such changes and/or provide the requested information as a Basic Service. Nothing contained herein shall relieve the Architect of its obligation to modify at its own expense Plans and Specifications where the Architect has negligently failed to prepare them in compliance with the applicable government requirements.

§ 12.3 **Americans With Disabilities Act.** The Architect shall conform the Construction Documents to the requirements known to similarly situated architects with the Americans With Disabilities Act Accessibility Guidelines ("ADAAG"). The Owner and Architect further recognize that interpretations of the ADAAG by governmental officials and/or courts of law may evolve, vary or change. Should such evolution, variance or change require Architect to make modifications to the final Drawings or Specifications, such modifications shall be considered an Additional Service. The Owner shall be solely responsible for compliance with the provisions of the Americans With Disabilities Act for any areas outside the scope of the Project. The Owner and Architect further recognize that interpretations of the ADAAG by governmental officials and/or courts of law may evolve, vary or change. Should such evolution, variance or change require Architect to make modifications to the Drawings or Specifications, such modifications shall be considered an Additional Service.

§ 12.4 To the extent any of the following applies to the Architect, the Architect shall comply during the performance of this Agreement with applicable federal, state and local laws, rules and regulations including the following:

(a) **Certification.** The Architect certifies that it is not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or 5/33E-6 (interference with contract submission and award by public official) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act) or as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue or any fee required by any unit of local government or the State, unless the Party is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or the fee, as set forth in Section 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq. The Architect certifies by signing this Agreement that the Architect has not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq.; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has any of the Architect made admission of guilt of such conduct which is a matter of record, nor has any official, officer, or employee of the Parties been so convicted nor made such an admission; and

(b) Non-Discrimination. The Architect agrees not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. The Architect maintains a written Sexual Harassment Policy in compliance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)). The Architect certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Adm. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. The Architect certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160); and

(c) Illinois Freedom of Information Act. The definition of a public record in the Freedom of Information Act (5 ILCS 140/1 et seq.) ("FOIA") includes a "public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body and that directly relates to the governmental function and is not otherwise exempt under this Act." (5 ILCS 140/7(2)). Consequently, the Parties must maintain and make available to the other Parties, upon request, their public records relating to the performance of this Agreement in compliance with the requirements of the Local Records Act (50 ILCS 205/1 et seq.) and FOIA. The Architect agrees to maintain, without charge to the Owner, all records and documents for the Project in compliance with the FOIA. The Architect shall produce records which are responsive to a request received by the Owner under the FOIA which are not in the possession of the Owner or previously provided to the Owner by the Architect so that the Owner may provide records to those requesting them within reasonable timeframes. If additional time is necessary to compile records in response to a request, then Architect shall so notify the Owner and if possible, the Owner shall request an extension so as to comply with the FOIA.

(d) In the event of the Architect's non-compliance with the provisions of the foregoing federal and state laws, including the Equal Employment Opportunity Clause, the Illinois Human Rights Act, or the rules and regulations of the Illinois Department of Human Rights which are applicable to the Architect, the Architect may be declared ineligible for future contracts or subcontracts and this Agreement may be canceled and voided in whole or in part without any liabilities or penalties being imposed on the Owner and with such other sanctions or other penalties as may be imposed on the Architect as provided by statute or regulation or this Agreement. However, any forbearance or delay by the Owner in canceling this Agreement shall not be constituted as and does not constitute the Owner's consent to such a violation or the Owners waiver of any rights it may have.

§ 12.5 To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, officials and employees (the "Indemnitees") from and against liabilities, damages, losses and expenses, including reasonable legal fees (attorney's and paralegals' fees and court costs) recoverable under applicable law, incurred by an Indemnitee to a third party claimant arising out of or resulting from the performance of the Architect's Services, provided that any such damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom, or is attributable to misuse or improper use of trademark or copyright protected material or otherwise protected intellectual property, and (ii) to the extent the damage, loss or expense is caused by a wrongful or negligent act or omission for the Architect, any subconsultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable in the rendering of professional services. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section.

§ 12.6 The Architect shall include as a requirement in the General Conditions that the Contractor shall reimburse, defend, hold harmless and indemnify Architect from all attorney's fees, costs and expenses expended by the

Architect in defending any claims made against it for bodily injury arising out of, resulting from or in connection with any construction Work performed by the Contractor or anyone retained by the Contractor on the Project, including but not limited to subcontractors or material suppliers, where the Architect is not negligent or is found not to be negligent or in charge of or in control of the Work under Illinois law and that the Contractor shall name the Architect as an additional insured on the Contractor's general liability policy for such claims.

§ 12.7 The Architect shall include as a requirement in the General Conditions the following text: "The Contractor shall reimburse, defend, hold harmless and indemnify the Owner and its officers, appointed and elected officials, employees, agents, volunteers and representatives from and against all claims, damages, losses and expenses of any kind, including reasonable legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's Work for bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom, or is attributable to misuse or improper use of trademark or copyright protected material or otherwise protected intellectual property, and indemnify to the extent the damage, loss or expense is caused by a wrongful or negligent act or omission for the Contractor, any subconsultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable arising out of, resulting from or in connection with any construction Work performed by the Contractor or anyone retained by the Contractor on the Project, including but not limited to subcontractors or material suppliers. This indemnification and hold harmless provision shall not be restricted or limited by any statutory limitation on compensation or benefits payable under any worker's compensation laws in that the Contractor agrees to assume all responsibility and liability, to the fullest extent permitted by law, and the Contractor waives any limitation of liability defense based upon any worker's compensation law and the cases decided thereunder for all losses and damages of any kind, including illness, death, property damage, or property loss, sustained by the Contractor or any of its employees, agents, representatives or subcontractors or their employees or agents, excluding, however, any claims and causes of action that arise from the willful and wanton conduct of the Owner or its employees, agents, volunteers and representatives. To the fullest extent permitted by law, the Contractor agrees to waive and release its rights to file any and all claims and causes of action of any kind against the Owner and its employees, agents, volunteers and representatives for contribution for losses, damages, settlements and judgments relating to any injuries and losses, including but not limited to any bodily injury, death, personal injury, illness, or property damage or property loss of any kind, including litigation defense costs and legal fees for claims and causes of action of any kind, whether directly or indirectly arising from or connected with the Work on the Project brought by the above named Contractor or any of its employees, agents, representatives or subcontractors or their employees or agents, or its/his/her/their executors, administrators, heirs, next of kin, successors and assigns or any other persons or third parties, excluding, however, any claims and causes of action that arise from the willful and wanton conduct of the Owner or any of its employees, agents, volunteers and representatives. If the any of Contractor's employees, agents, representatives or subcontractors or their employees or agents are injured or sustain a loss of any kind, including illness, death, property damage, or property loss, on account of its/his/her/their work on the Project, the Contractor agrees to assume all responsibility and liability, to the fullest extent permitted by law, for all losses and damages of any kind on account of its/his/her/their work on the Project, excluding, however, any claims and causes of action that arise from the willful and wanton conduct of the Owner or any of its employees, agents, volunteers and representatives, and shall be solely responsible for and liable for payment of all compensation or benefits related to any worker's compensation laws, unemployment compensation laws, pension laws, or any amendments to such laws or other similar employment benefit laws and shall not seek contribution for payment of such statutory compensation or benefits.

§ 12.8 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Architect and its employees from and against all claims, demands, causes of actions, suits, losses and expenses, including reasonable attorney's fees, paralegal and litigation expenses and court costs, arising out of or resulting from any act, conduct or omission of the Owner or any one for whose acts or omissions the Owner may be liable, regardless of whether such claim, damage, loss or expense is attributable to bodily injury, sickness or death, injury to or destruction of tangible property, loss of use or other economic damages. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would exist as to any other party or person described in this Section.

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

»

- .2 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)

« »« »

(Printed name and title)

ARCHITECT (Signature)

«Mark S. Bushhouse, AIA
President / Managing Principal »« »

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