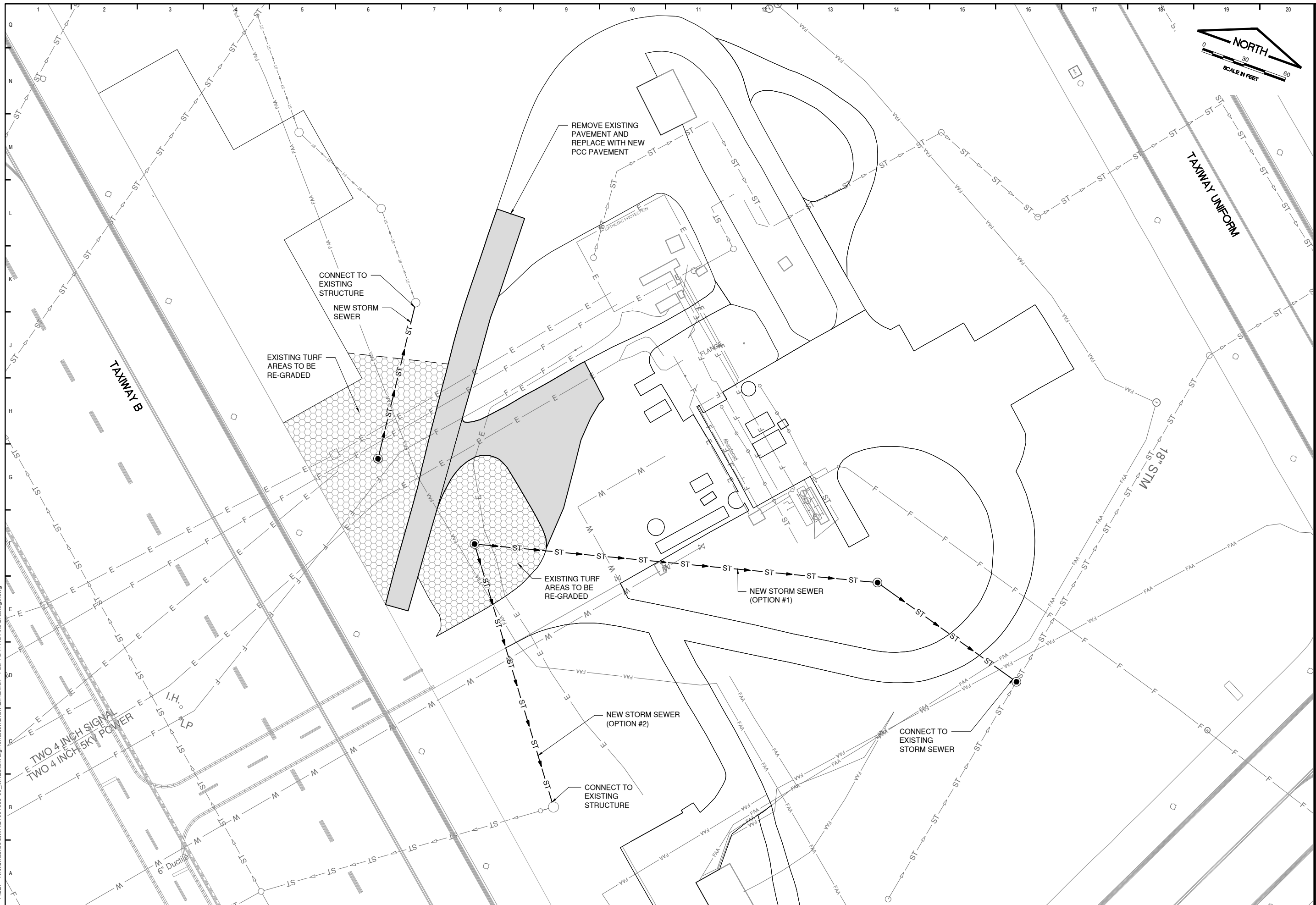


ATTACHMENT 1

FUEL FARM PROJECT SCOPE EXHIBIT

FILE: K:\Milwaukee\GMA\21001359-00_MKES\at\Augmentation\Draw\Exhibit\Ex - Fuel Farm Rd And Drainage.dwg



GENERAL MITCHELL INTERNATIONAL AIRPORT (MIKE)
**FUEL FARM ROADWAY AND
 DRAINAGE IMPROVEMENTS**
 5300 S. HOWELL AVE., MILWAUKEE, WI 53207



Milwaukee County Dept. of Administrative Services
 FACILITIES MANAGEMENT DIVISION
 Architectural, Engineering & Environmental Services
 DOWNTOWN OFFICE: 633 W. WISCONSIN AVE., SUITE 1000, MILWAUKEE, WI 53203
 AIRPORT ENGINEERING OFFICE: 5300 S. HOWELL AVE., MILWAUKEE, WI 53207



REVISION: DATE

DATE: 07/02/24

PROJECT:

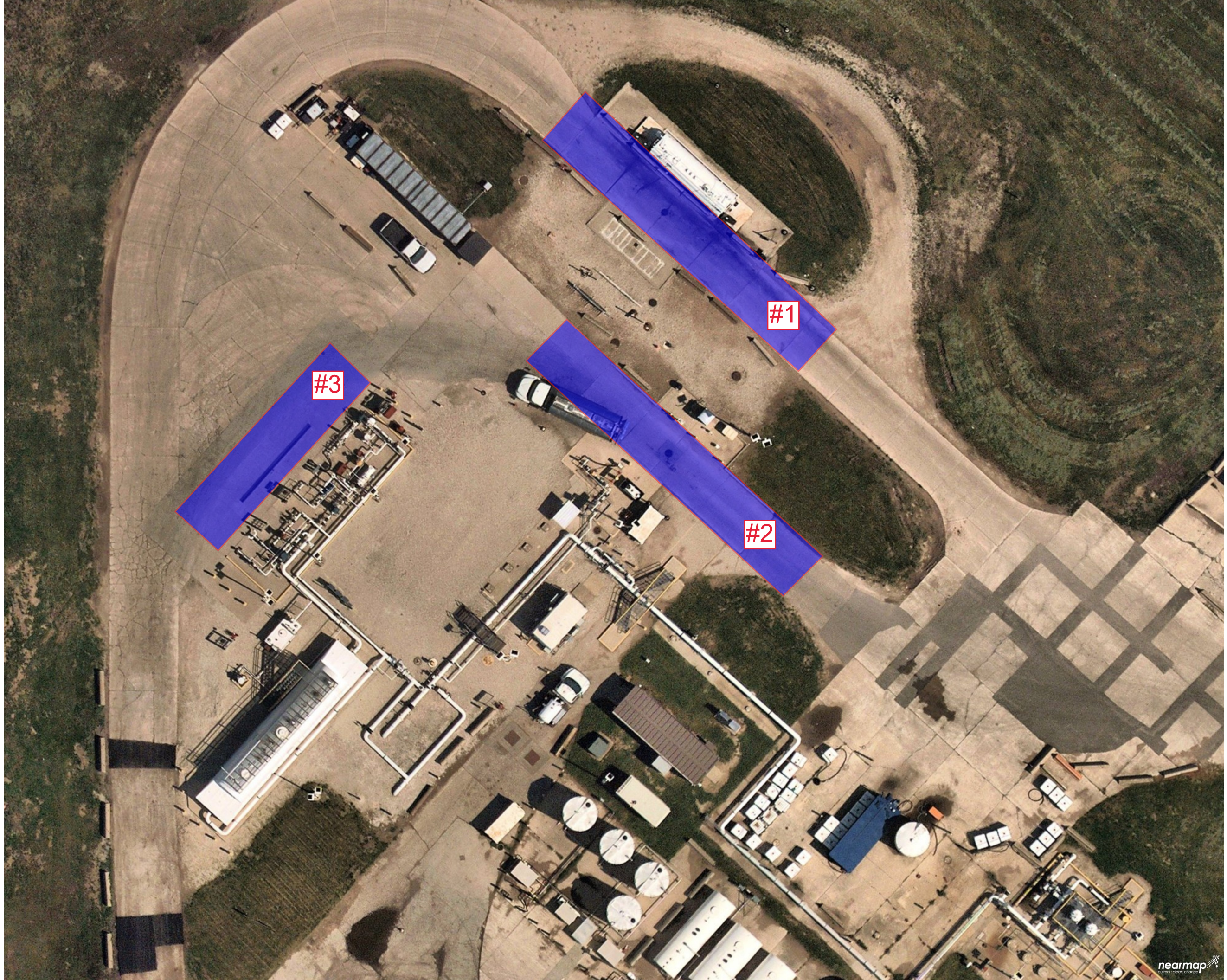
AIR PROJECT:

SITE NO: XXX

BUILDING NO: N/A

**FUEL FARM
 ROADWAY AND
 DRAINAGE
 IMPROVEMENTS**

EXHIBIT 1



ATTACHMENT 2

PROPOSAL PREPARATION, SUBMISSION AND EVALUATION GUIDELINES

PROPOSAL PREPARATION, SUBMISSION & EVALUATION

I. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of this RFQ must request it in writing via email no later than four business days before the last date for submission of qualification statement. Requests should be directed to the individual in charge at the email address listed in the RFQ. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment to the RFQ by posting to the RFQ website, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

II. Complete Qualification Statements

Qualification statements shall represent the best efforts of the offerors and will be evaluated as such. Qualification statements must set forth full, accurate, and complete information as required by this section and other sections of this RFQ.

III. Unnecessarily Elaborate Qualification Statements

Brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as unnecessarily elaborate and an indication of the offeror's lack of cost consciousness. Elaborate artwork, expensive paper and binding, and expensive visual and other presentation aids are neither necessary nor desired. Concise and clear proposals are sought.

IV. Retention of Qualification Statements

All qualification statement documents shall be retained by the County and therefore, will not be returned to the offerors. The County will not pay for preparation of qualification statements or for qualification statements that are retained by the County.

V. Examination of Qualification Statements

Offerors are expected to examine the Site, Statement of Work and all instructions and attachments in this RFQ. Failure to do so will be at the offeror's risk.

VI. Legal Status of Offeror

Each offeror must provide the following information in its proposal:

- A. Name of the offeror;
- B. Whether offeror is a corporation, joint venture, partnership (including type of partnership), or individual;
- C. Copy of any current license, registration, or certification to transact business in the State of Wisconsin if required by law to obtain such license, registration, or certification. If the offeror is a corporation or limited partnership and does not provide a copy of its license registration, or certification to transact business in the State of Wisconsin, the offeror shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and
- D. Copies of any current license, registration or certification required in RFQ;

E. If the offeror is a partnership of joint venture, names of general partners or joint venturers.

VII. Organization of Offeror

Each qualification statement must further contain a chart showing the internal organization of the offeror and the numbers of regular personnel in each organizational unit.

VIII. Offerors Authorized Agent

Each proposal shall set forth the name, title, telephone number, and address of the person authorized to negotiate in behalf of the offeror and contractually bind the offeror, if other than the person signing the proposal.

IX. Price Schedule Submission

Do not submit prices with this RFQ. Scope and fees are to be negotiated per AC 150/5100-14E Change 1 for each project separately after the qualified consultant is selected.

X. Certification and Representations

Offerors shall return with their qualification statements, resumes and any other documents as may be requested in the RFQ.

XIII. Acknowledgement of Amendments

Offerors shall acknowledge receipt of any amendment to this solicitation within their proposal.

XIV. Late Proposals and Modifications and Withdrawals of Proposals

Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered.

XV. Proposal Evaluation Criteria

The following is a list of general criteria which will be used to evaluate the proposals (Out of a total of 100%):

- a. Project approach and understanding, including strategy to perform requested work. Weight: 40% Total.
 - 1) Project approach, understanding and strategy to perform the work: 30%
 - 2) Description of challenges anticipated in these projects and strategy to overcome them: 10%

- b. Qualifications and experience of proposed project manager and team, including sub consultants. Weight: 60% Total.
 - 1) Qualifications, experience, and client references of team on past projects of similar scale and scope: 30%
 - 2) Qualifications and experience of lead project manager(s) on past projects of similar scale and scope: 30%

XVI. Staffing

Consultant shall provide, at its own expense, all personnel required in performing the services under this agreement. Such personnel shall not be employees of Owner.

The offeror must describe his or her qualifications and experience to perform the work described in this RFQ. Information about experience should include direct experience with the specific matter and similar facilities. Areas of expertise of each proposed staff member shall be provided (i.e., engineering, economics, architecture, planning). Specific examples of similar or related projects previously conducted shall cite:

- Name of client organization
- Name, address, and current telephone number of client contact person
- Contract number and inclusive dates
- Contract amount

Offeror shall provide the following information for every resume:

- Full name
- Title and areas of specialty
- Affiliation (that is, staff of offeror or subconsultant)
- Experience directly related to the proposed project
- Education/training
- Resumes shall be included for all key personnel expected to work on the project. Only resumes of staff or subconsultant staff employed by or under contract with the firm as of the date of proposal submission are to be included.

ATTACHMENT 3

TARGETED BUSINESS ENTERPRISE (TBE)
CONSULTANT TEAM MEMBER TBE STATUS FORM

Engineering / Professional Services at Milwaukee Mitchell International Airport (MKE)

CONSULTANT TEAM MEMBERS

		CERTIFICATION STATUS	
Firm's Name	Address	TBE	NONE

#Check applicable certification status boxes. Submit this form with proposal.

ATTACHMENT 4

TARGETED BUSINESS ENTERPRISE (TBE) REFERENCE FORMS

(Note: We are providing these forms for reference only. **Do not submit them with your proposal.** The selected consultant is required to complete these forms later, as part of the scope and fee negotiation phase.)

Office of Economic Inclusion (OEI)

COMMITMENT TO CONTRACT WITH TBE

TBE Information

TBE Firm Name:	Prime/Sub Options: (SELECT ONE)
TBE Firm Address: (Cannot be a PO Box)	EIN Number:

Contract Information

Contract Name:	Contract No:
Contract Total: \$	Contract Exclusions (Allowances & Reimbursements): \$
Contract Total (LESS Allowances & Reimbursements): \$	
Type of Contract: (SELECT ONE)	TBE Goal:

Scope of Work

Scope of Work Detailed Description:		
Applicable NAICS: <i>*If additional space is needed, please attach a separate sheet.</i>		
Work Scope Description:		NAICS:
Work Scope Description:		NAICS:
Work Scope Description:		NAICS:

1. TBE Contract Amount:	2. % of Total Contract:
--------------------------------	--------------------------------

The percentage is based on the eligible scope of services that TBE participation can reasonably be obtained, which might not be based on the total project contract amount. The commitment percentage is the key indicator of TBE participation. The Pass/Fail determination is based on the percentage stated in the RFP/BID. If the Prime is using one or multiple TBE companies the sum of the percentages MUST satisfy the minimum percentage stated in the RFP/BID. Note the percentage indicated on this document will be viewed by OEI the Prime's COMMITMENT to the TBE company.

Bidder/Proposer Commitment

(To be completed by firm committing work to TBE)

I certify that the TBE firm quoted the identified service(s) and cost(s). I further acknowledge our firm having negotiated with, and having received confirmation, on partnering, pricing and delivery from the TBE firm listed herein. *(Prime Contractor OR Consultant)* _____
(Phone) _____, or one of our subs, will enter into contract with the TBE firm listed, for the service(s) and amount(s) specified when awarded this contract. The information on this form is true and accurate to the best of my knowledge. I further understand that falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions under applicable law.

_____ Signature of Authorized Representative	_____ Name & Title of Authorized Representative	_____ Date
---	--	---------------

TBE Affirmation

(To be completed by TBE Owner/Authorized Representative)

- I affirm that our firm is certified as (SELECT ONLY ONE)
- I affirm this firm is owned by a (SELECT ONLY ONE)
- I affirm that the majority owner's ethnicity is (SELECT ONLY ONE)

- I acknowledge and accept this commitment to contract with my firm for the service(s) and dollar amount(s) specified herein, by
(Prime or sub firm name, if sub to a sub) _____

- I understand and accept that this commitment is for service(s) to be rendered in completion of the project specified herein to be completed with my own forces.
- I affirm that approval from OEI will be obtained prior to subletting any portion of this work awarded to my firm on this project.

_____ Signature of Authorized TBE Representative	_____ Name & Title of Authorized TBE Representative	_____ Phone Number	_____ Date
---	--	-----------------------	---------------

OEI Use Only

Commitment number _____ **of** _____ **Participation:** _____ % **Project Total** _____ % **CAGE Code:** _____

Approved: _____ **Date:** _____

COMMITMENT TO CONTRACT WITH TBE

ADDITIONAL INFORMATION & REQUIREMENTS:

Links to Directories for firms eligible for credit:

MBE and WBE <https://wisdp.wi.gov/Search.aspx>

Milwaukee County SBE <https://mke.diversitycompliance.com/Default.asp>

SAM Directory for Federal SBE <https://www.sam.gov/SAM/pages/public/index.jsf>

1. **CONTRACT ADJUSTMENTS:** The successful Bidder/Proposer will maintain the approved TBE participation level during the term of the contract with the County, including any additional work on the contract, e.g., change orders, addendums, scope changes, or fee increases.

2. **WRITTEN CONTRACTS WITH TBE:** The County requires that the successful Bidder/Proposer enter into contract, directly or through subs, as stated in this form. Agreements must be submitted to the County within 7 days of receipt of the Notice-To-Proceed. By executing this commitment, you are certifying that you have had contact with the named TBE firm and that they will be hired if you are awarded the contract by the County.

3. **SUBSTITUTIONS, TBE SUBCONTRACTING WORK, TRUCKING FIRMS:** The successful Bidder/Proposer must submit written notification of desire for substitution to the TBE affected, and send a copy to the County, stating the reason(s) for the request. The TBE will have five (5) business days to provide written objection/acceptance of the substitution. The "right to correct" must be afforded any TBE objecting to substitution/termination for less than good cause as determined by the County. Approval must be obtained from the County prior to making any substitutions. TBE firms are required to notify and obtain approval from the County prior to seeking to subcontract out work on this project. In the case of TBE trucking firms, credit will be given for trucks leased from other TBE firms; however, if the TBE leases trucks from non-TBE firms, the commission or fee will be counted for crediting.

4. **REQUESTS FOR PAYMENT:** The successful Bidder/Proposer must indicate on the Continuation Sheet (AIA form G703, or equivalent) or invoice for consulting the work being performed by TBE by either a) placing the word "TBE" behind the work item or b) breaking out the work done by TBEs at the end of the report. The successful Bidder/Proposer shall notify TBE firms of the date on which they must submit their invoices for payment.

5. **TBE UTILIZATION REPORTS:** The successful Bidder/Proposer will enter payments to subs and suppliers directly into the County's online reporting system on a monthly basis. These entries will cover payments made during the preceding month and will include zero dollar (\$0) entries where no payment has occurred.

If you have any questions related to the Milwaukee County Target Enterprise Program, please contact:

414.278.4851 or oeicompliance@milwaukeecountywi.gov

ATTACHMENT 5

SAMPLE CONSULTING CONTRACT

DRAFT AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Consultant

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

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

« »
« »
« »
« »

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

« »
« »
« »
« »

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

« »
« »
« »

The Owner and Consultant 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.

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TABLE OF ARTICLES

1	INITIAL INFORMATION
2	CONSULTANT'S RESPONSIBILITIES
3	SCOPE OF CONSULTANT'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.)

« As set forth in Attachment A – Request for Proposal (RFP) »

§ 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.)

« As set forth in Attachment A – Request for Proposal (RFP) »

§ 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.)

« As set forth in Attachment A – Request for Proposal (RFP) »

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

.1 Design phase milestone dates, if any:

« As set forth in Attachment A – Request for Proposal (RFP) »

.2 Construction commencement date:

« As set forth in Attachment A – Request for Proposal (RFP) »

.3 Substantial Completion date or dates:

« As set forth in Attachment A – Request for Proposal (RFP) »

.4 Other milestone dates:

« As set forth in Attachment A – Request for Proposal (RFP) »



§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

« As set forth in Attachment A – Request for Proposal (RFP) »

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:

(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

« As set forth in Attachment A – Request for Proposal (RFP) »

§ 1.1.6.1 The Consultant shall endeavor to specify or provide sustainable design materials that are preapproved by Owner to insure the promotion of green environments when appropriate. Through the Schematic Design Phase, Consultant shall identify alternatives and provide cost inputs that would allow the Project to meet LEED Silver criteria. If the Owner identifies a Sustainable Objective, the Owner and Consultant shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Consultant shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

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

« »
« »
« »
« »
« »
« »

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Consultant’s submittals to the Owner are as follows:

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

« »
« »
« »
« »
« »

§ 1.1.9 The Owner shall retain the following consultants and contractors:

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

.1 Geotechnical Engineer:

« »« »

.2 [Intentionally Deleted]

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

« »



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

« »
« »
« »
« »
« »
« »
« »

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

« As set forth in Attachment B – Consultant’s Design Proposal »« »
« »

.2 Mechanical Engineer:

« As set forth in Attachment B – Consultant’s Design Proposal »« »
« »

.3 Electrical Engineer:

« As set forth in Attachment B – Consultant’s Design Proposal »« »
« »

.4 Civil Engineer:

« As set forth in Attachment B – Consultant’s Design Proposal »« »
« »

.5 Cost Consultant:

« As set forth in Attachment B – Consultant’s Design Proposal »« »
« »
« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

« As set forth in Attachment B – Consultant’s Design Proposal »

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

§ 1.2 The Owner and Consultant may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Consultant shall appropriately adjust the Consultant's services and schedule for the Consultant's services. To the extent that the material change results solely from an error by Owner in preparing all or a portion of the Initial Information, the Owner shall consider adjustments to 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; provided, however, that in such circumstances the Owner may, in its sole discretion, cancel all or a portion of the Project, without costs, in order to meet its budget.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use (1) AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or (2) another format as proposed in Attachment B – Consultant's Design Proposal and agreed by the parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in (1) AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or (2) another format as proposed in Attachment B – Consultant's Design Proposal and agreed by the parties, and the requisite (1) AIA Document G202™–2013, Project Building Information Modeling Protocol Form or (2) another format as proposed in Attachment B – Consultant's Design Proposal and agreed by the parties, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.4 Consultant hereby represents, and certifies to Owner that Consultant is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder; that Consultant has visited the site for the Project and thoroughly familiarized itself with the local conditions under which the services required hereunder are to be performed; and that Consultant correlated its observations of same with all of the requirements of this Agreement and shall correlate its observations of same with the Construction Contract Documents.

ARTICLE 2 CONSULTANT'S RESPONSIBILITIES

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

§ 2.2 Time is of the essence for all Consultant's services. The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by Consultants practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project and in such manner so that no aspect of the most current Project Schedule approved by Owner is delayed unless delay is caused by circumstances beyond the Consultant's control.

§ 2.3 The Consultant shall identify a representative authorized to act on behalf of the Consultant with respect to the Project. Such representative must be approved by Owner and shall not be changed without Owner's consent.

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

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

§ 2.5.1 [Intentionally Deleted]

§ 2.5.2 [Intentionally Deleted]

§ 2.5.3 [Intentionally Deleted]

§ 2.5.4 [Intentionally Deleted]

§ 2.5.5 [Intentionally Deleted]

§ 2.5.6 [Intentionally Deleted]



§ 2.5.7 Insurance & Proof of Financial Responsibility for Claims. Purchase and maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims of tort as respect damage to persons or property and third parties in such coverage and amounts as required and approved by the County Risk Manager. Furnish acceptable proof of such coverage to the County Risk Manager prior to services commenced under this Agreement.

§ 2.5.8 Provide evidence of the following coverage and minimum amounts.

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers Compensation	Statutory (Waiver if Subrogation for Worker Comp by Endorsement)
Employers Liability & Disease USL&H and All States Endorsement	\$100,000/\$500,000/\$100,000
General Liability	\$5,000,000 Per Occurrence (name the Owner as additional insured in the general liability policy by endorsement)
Bodily Injury & Property Damage to include personal injury, fire, legal, products and complete operations Contractual Liability and X, C & U	\$5,000,000 Aggregate
Consultants & Engineers Professional Liability & Errors & Omissions (Refer to section 2.6.12 for additional conditions)	\$2,000,000 Per Occurrence
Environmental Impairment Insurance	\$1,000,000 Aggregate Minimum (Unless not required)
Automobile Liability	(Name the Owner as an Additional Insured in the automobile policy by endorsement)
Bodily Injury & Property Damage All Autos	\$1,000,000 Per Accident

Note: Consultant's performing work on the secured air side at Milwaukee Mitchell International Airport and Timmerman Field shall maintain at least \$5,000,000 Auto & Commercial General Liability Limits. This can be satisfied through a combination of Auto and Umbrella, and General Liability and Umbrella Limits.

§ 2.5.9 Except for Environmental Impairment Insurance, Professional Liability (Errors and Omissions), Workers Compensation and Employers Liability, name Owner as an additional insured in the general liability and automobile policy as their interests may appear as respects services provided in this Agreement. A Waiver of Subrogation for Workers Compensation by endorsement in favor of Milwaukee County shall be provided. Afford Owner Thirty (30) day written notice of cancellation or non-renewal.

§ 2.5.10 Place insurance specified above with at least an “A” rated carrier per Best’s Rating Guide approved to do business in the State of Wisconsin. Submit deviations or waiver of required coverage or minimums in writing to Owner for approval as a condition of this Agreement. Waivers may be granted when surplus lines and specialty carriers are used.

§ 2.5.11 The insurance requirements contained within this Agreement are subject to periodic review and adjustment by the Owner.

§ 2.5.12 Professional Liability – Additional Provisions

§ 2.5.12.1 Provide additional information on professional liability coverage as respects policy type, i.e., errors and omissions for consultants and/or engineers, etc.; applicable retention levels; coverage form, i.e. claims-made, occurrence; discovery clause conditions; and effective, retroactive, and expiration dates, to Owner as requested to obtain approval of coverage as respects this section.

§ 2.5.12.2 Be responsible for the accuracy of the services performed under this Agreement and promptly make necessary revisions or corrections to services resulting from negligent acts, errors or omissions without additional compensation.

§ 2.5.12.3 Give immediate attention to these revisions or corrections to prevent or minimize delay to Project schedule.

§ 2.5.12.4 Be responsible to the Owner for losses or costs to repair or remedy as a result of Consultant’s negligent acts, errors or omissions.

§ 2.5.12.5 It is understood and agreed that coverage which applies to services inherent in this Agreement will be extended for two (2) years after completion of work contemplated in this Project if coverage is written on a claims-made basis.

§ 2.5.12.6 Deviations and waivers may be requested in writing based on market conditions to Owner. Approval shall be given in writing of any acceptable deviation or waiver to the Consultant prior to the Consultant effecting any change in conditions as contained in this section. Waivers shall not be unduly withheld nor denied without consultation with the Consultant.

§ 2.5.12.7 Obtain information on the professional liability coverage of subconsultants and/or subcontractors in the same form as specified above for review by Owner.

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

§ 2.5.8 The Consultant shall provide certificates of insurance and endorsements for review to the Owner for each successive period of coverage for the duration of this Agreement that evidence compliance with the requirements in this Section 2.5. The Consultant’s required certification of insurance and endorsements is included as **Attachment C**.

ARTICLE 3 SCOPE OF CONSULTANT’S BASIC SERVICES

§ 3.1 The Consultant’s Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services, as well as any other Basic Services as set forth in

Attachment A – Request for Proposal (RFP) and Attachment B – Consultant’s Design Proposal. The Consultant’s Basic Services shall also include assisting the Owner in connection with the Owner’s responsibility for filing documents required for the approval of governmental authorities having jurisdiction or plan approval over the Project. If required by Owner, the Consultant shall pay local and State Examination fees and be reimbursed at cost. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Consultant shall manage the Consultant’s services, administer the Project, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Consultant shall coordinate its services with those services provided by the Owner and the Owner’s consultants. The Consultant shall be entitled to rely on the accuracy and completeness, of services and information furnished by the Owner and the Owner’s consultants unless Consultant knew or reasonably should have known that any of such services or information was inaccurate or incomplete. The Consultant has responsibility for verifying overall dimensions of areas pertaining to the Project in existing drawings provided by Owner. The Consultant shall provide prompt written notice to the Owner if the Consultant 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 Consultant shall submit for the Owner’s approval a schedule for the performance of the Consultant’s services that shall be consistent with the Project schedule as set forth in **Attachment A – Request for Proposal (RFP) and Attachment B – Consultant’s Design Proposal** , and that shall be adjusted through a Change in Services, if necessary, as the Project proceeds. The Consultant shall include a month-by-month cashflow of Project costs that aligns with the submitted schedule. The cashflow shall be updated with any schedule revisions. The schedule shall include allowances for periods of time required for the Owner’s review, for the performance of the Owner’s consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Consultant or Owner. With the Owner’s approval, the Consultant shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3.1 Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Consultant or Owner. With the Owner’s approval, the Consultant shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. The Consultant acknowledges that unless Consultant objects, in writing, to the Project Schedule of Owner, it shall be deemed that the Consultant considers the time limits established by the Project Schedule are reasonable and that the time limits set forth in the Project Schedule shall not, except for reasonable cause, be exceeded by the Consultant unless approved through a Change in Service. When Project requirements have been sufficiently identified, the Consultant shall periodically update and expand upon the Project Schedule and shall further identify milestone dates for decisions required of the Owner, design services furnished by the Consultant, completion of documentation provided by the Consultant, commencement of construction and Substantial Completion of the Work.

§ 3.1.4 [Intentionally Deleted]

§ 3.1.5 The Consultant shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. In designing the Project, the Consultant shall respond to applicable design requirements imposed by such governmental authorities and by entities providing utility services. In accordance with the professional standard of care, the Consultant will design the Work, and all Instruments of Service prepared by Consultant under this Agreement, shall comply with any and all applicable federal, state, and local codes, laws, ordinances, regulations, rules, and statutes.

§ 3.1.6 The Consultant shall assist the Owner in connection with the Owner’s responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. Consultant shall notify Owner of all documents known to Consultant that need to be filed to obtain such approval. Consultant shall be present at approval hearings as necessary, and Consultant shall prepare any and all Consultant and engineering documents in connection therewith.

§ 3.1.7 The Consultant shall attend any and all meeting with the public or governmental officials relating to the Project that reasonably require the Consultant's attendance because of the nature of the meeting or the issues to be discussed throughout the duration of the Consultant's services.

§ 3.1.8 The Consultant shall make reasonable efforts to coordinate the services of any separate consultants retained by the Owner or Contractor with the Consultant's services.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 Owner shall provide Consultant with Owner's basic objectives, schedule, constraints, and criteria which shall be further refined with Consultant's assistance. The Consultant shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Consultant's services.

§ 3.2.2 The Consultant shall evaluate the Owner's program, and schedule requirements. Unless Consultant states otherwise in writing, it will be presumed the Consultant acknowledges that Owner's requirements are reasonable and achievable. The Consultant shall continue to provide evaluations of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain requirements of the Project, and shall continue to provide evaluations of the Owner's site for the Project based on: (a) the information provided by the Owner of site conditions; (b) the information prepared by the Consultant; and (c) the Owner's program, schedule, and budget for the Cost of Work. The Consultant shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project. The Consultant shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Consultant shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project including the Owner's anticipated Sustainable Objectives per Article 1.1.6. The Consultant shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Consultant shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Consultant shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections, and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 Basis of Design (BOD):

The Consultant shall meet with and interview the appropriate Owner's personnel to gather and coordinate information used to form the Basis of Design document. The document will include criteria for the types of spaces anticipated by the building program information. These interviews and meetings will inform the refinement of program, goals and objectives, vision and image, and design criteria for the facility.

The Consultant will develop and investigate design constraints established by codes and standards that are in effect at the project providing an evaluation of the effects on the project's development. Site constraints will be documented by the Owner or its consultants or contractors concerning utility corridors, easements, views, and connector criterion.

The Consultant and consultants will develop sets of criteria for each type of space with regard to environmental requirements. Systems selection options and criteria will be developed for analysis. The Consultant will develop diagrammatic studies, sketches, and narrative descriptions of space relationships and requirements including suggested module sizes and arrangements.

Describe the internal functions of each space, the personnel and material flow patterns, the general space allocations, the analysis of operating functions, the adjacency requirements, any special equipment, or facilities to serve the needs of the space.

The final BOD will document the criteria agreed to by the Owner and the design team providing document for validating construction cost and documenting direction for moving forward into Design Development.

§ 3.2.5.1 The Consultant shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

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

§ 3.2.6 The Consultant shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Consultant shall submit the Schematic Design Documents to the Owner and request the Owner's approval. Consultant shall not proceed to the Design Development Document Phase until Owner has approved, in writing, the Schematic Design Documents or has otherwise provided Consultant with written instructions to proceed with the Design Development Document Phase

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents or a written notice to proceed, and subject to the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.2, the Consultant shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents establishing the scope, relationships, forms, size, and appearance of the Project by means of 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. Furniture Fixtures & Equipment (FF&E) and IT equipment specifications will be provided to Consultant by Owner unless otherwise outlined in Attachment A – Request for Proposal (RFP). Consultant will provide appropriate space planning and services to accommodate such specifications in the Design Development Documents. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Consultant shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Consultant shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Consultant shall not proceed to the Construction Document Phase until the Owner has approved, in writing, the Design Development Documents.

§ 3.3.4 The Consultant's Specifications within the Project Manual shall include:

- (a) Technical content;
- (b) Section format; and

§ 3.3.5 In order to obtain the level of quality desired for the Project, or in some cases to obtain specific attributes desired for the Project, certain material or product specifications from only one manufacturer may be approved. However, other manufacturers may be given the opportunity, during the bidding period, to submit information to prove that they meet or exceed the particular requirements, but until satisfactory proof is presented, they will not be approved to bid on the Project.

§ 3.3.6 In order to provide Owner with the benefits associated with competitive bidding, and so as to not have to charge the Owner for the Consultant's or the Consultant's consultants' fees for performing the engineering design on particular product or system multiple times, certain specifications require that a specific manufacturer or supplier perform certain portions of the engineering design for their product or system and that they have an engineer licensed in the state where the Project is to be constructed, seal and sign such engineering design.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Consultant shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Consultant acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Consultant shall review in accordance with Section 3.6.4.

§ 3.4.2 In accordance with the professional standard of care the Consultant shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Consultant shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Consultant shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. The Consultant shall review the Owner's proposed method of contracting for construction services and shall notify the Owner of Anticipated impacts that such method may have on the Owner's program, financial, and time requirements, and the scope of the Project.

§ 3.4.4 The Consultant shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3. A revised month-by-month cashflow shall be provided to align with any changes to the estimate for the Cost of Work.

§ 3.4.5 The Consultant shall submit three (3) copies of the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.4.6 The Consultant shall complete all Construction and Bid Documents within the time period specified on the Project Schedule, unless delay is caused by circumstances beyond Consultant's control.

§ 3.4.7 The Construction Documents shall not be considered as complete until the Owner has approved, in writing, all Construction Documents. However, such approval by the Owner shall not be considered as acceptance of any negligent errors or omissions of the Consultant, any breach of this Agreement by Consultant, or any negligent uncertainties, ambiguities, or errors in the Construction Documents.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Consultant shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Consultant shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents, including Specifications and Drawings, and such other information provided an/or requested by Owner.

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Consultant shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 [Intentionally Deleted]

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Consultant shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified in the form set forth in Attachment M. If the Owner and Contractor further modify AIA Document A201-2017, those modifications shall not affect the Consultant's services under this Agreement unless the Owner and the Consultant amend this Agreement.

§ 3.6.1.2 The Consultant shall advise and consult with the Owner during the Construction Phase Services. The Consultant shall have authority to act on behalf of the Owner only to the extent provided in this Agreement, unless otherwise modified by written amendment. The Consultant 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 Consultant be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Consultant shall be responsible for the Consultant's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Consultant and Consultant's sub consultants are to complete site-specific Owner safety training prior to commencing work on the Project.

§ 3.6.1.3 The Consultant's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Owner approves the final Certificate for payment, issued by the Consultant, which approval shall not be unreasonably withheld.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Consultant, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, (a) to become generally familiar with the progress and quality of the portion of the Work completed; (b) to observe Work and to endeavor to guard the Owner against defects and deficiencies in the Work; (c) when applicable, to determine whether or not to issue a Certificate for payment; and (d) , to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. Site observations shall be per Section 4.2.3 until the Project reaches Substantial Completion. "Observations" as used herein shall consist of observing the Work and informing the Owner if Consultant becomes aware that Work does not conform to the Contract Documents. Consultant shall also attend Project job site meetings as required and shall otherwise be available to answer questions of Contractor (or the applicable Subcontractor). In addition, Consultant, or its applicable Consultant, shall be present on-site as necessary to review or monitor any critical Work item. All on-site observation of the Work shall be in compliance with Wis. Stats. Chapter 443.

§ 3.6.2.2 The Consultant has the authority to recommend rejection of the Work by the Owner that does not conform to the Contract Documents. Whenever the Consultant considers it necessary or advisable, the Consultant shall recommend to the Owner 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 Consultant nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Consultant to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Consultant shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor; however, Consultant's decision shall not

be binding on Owner or Contractor unless agreed to by such party. Absent such agreement, the Consultant's decisions shall be deemed to be recommendations. The Consultant's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Consultant 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 Consultant shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. Consultant

§ 3.6.2.5 [Intentionally Deleted]

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Consultant shall review and make recommendations to the Owner the amounts due to the Contractor. Based on the Owner's review and approval, the Consultant shall certify the amounts due the Contractor and shall issue certificates in such amounts. The Consultant's recommendation of certification for payment shall constitute a representation to the Owner, based on the Consultant's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Consultant's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Consultant.

§ 3.6.3.2 The issuance of a Certificate for Payment based on the Owner's review and approval shall not be a representation that the Consultant or Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Consultant shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Consultant's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness as to cause no delay in the Work or in activities of the Owner, Contractor, or other contractors, while allowing sufficient time, in the Consultant's professional judgment, to permit adequate review.

§ 3.6.4.2 In accordance with the Consultant-approved submittal schedule, the Consultant shall review and approve, or take other appropriate action (e.g., require revisions and resubmissions) upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of verifying that they comply with the requirements of the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Consultant's review shall not constitute approval of safety precautions, unless otherwise specifically stated by the Consultant, or construction means, methods, techniques, sequences or procedures. The Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Consultants' approval of submittal items in no way relieves the Contractor (or its subcontractors) of their respective responsibilities for review and due diligence of the submittal items for purposes of incorporation into the work performed by Contractor (and subcontractors). Consultant shall notify Owner in writing if Consultant observes any such portions of the work being constructed without Consultant having approved submittals for same.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Consultant shall specify the appropriate performance and design criteria that such services must satisfy. The Consultant shall review Shop

Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Consultant. The Consultant shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications, and approvals performed or provided by such design professionals, unless Consultant knew or reasonably should have known that any of such services, certifications, or approvals was inadequate, inaccurate, or incomplete. All submissions for design products not currently in use by Owner must be reviewed and approved by Owner prior to submission.

§ 3.6.4.4 The Consultant shall review and respond to requests for information about the Contract Documents. The Consultant 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 Consultant's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness as to cause no delay in Work or in the activities of the Owner, Contractor, or other contractors. If appropriate, the Consultant shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Consultant may authorize minor changes in the Work if approved by the Owner in writing that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Consultant shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Consultant shall prepare, reproduce, and distribute Drawings and Specifications to describe Work to be added, deleted, or modified.

§ 3.6.5.2 The Consultant shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Consultant shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Consultant to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Consultant determines that requested changes in the Work are not materially different for the requirements of the Contract Documents and has no effect on Contract Time or Contract Sum, the Consultant may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

§ 3.6.5.4 If the Consultant determines that implementation of the requested changes would result in a change of the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Consultant shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization and based upon consultation with the Contractor and Owner, the Consultant shall assist with preparing an estimate of the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Consultant. With the Owner's approval the Consultant shall incorporate those estimated into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

§ 3.6.5.5 The Consultant shall review and advise Owner as to the appropriateness of Cost of Work of any Field Change as set forth in the General Conditions.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Consultant shall support the Owner in the following activities:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion and provide Owner with WI Commercial Bldg. Code, Form SBD-9720;

- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor, including completion of **Attachment L – Consultant Agreement Closeout Checklist**; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Consultant's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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

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

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

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

§ 3.6.7 OTHER BASIC SERVICES

§ 3.6.7.1 Consultant shall evaluate substitutions proposed by Owner or Contractor and make subsequent revisions to Instruments of Service resulting therefrom.

§ 3.6.7.2 Consultant shall assist with the investigation, solicit, and prepare applications for outside grants that may be available in connection with energy and/or renewable resource related to grants.

§ 3.6.7.3 If applicable, Consultant shall investigate the existing building to verify that the building is suitable for the proposed renovation. This investigation will include verifying that the existing documentation provided by the Owner accurately reflects the physical space. If the documentation provided by the Owner is not accurate, the Consultant needs to advise the Owner. This investigation is exclusive of any disruptive investigation and the testing or mitigating any hazardous materials.

§ 3.6.7.4 The Consultant shall evaluate the Contractor's proposals and supporting data related to Change Orders and Construction Change Directives and shall prepare or revise the Instruments of Service in connection with any Change Order or Construction Change Directive.

§ 3.6.7.6 The Consultant shall prepare and deliver to the Owner, as a condition of receiving final payment, a set of reproducible as-constructed record drawings showing changes to the Work made during the construction based on marked-up prints, drawings and other data furnished by the Contractor to the Consultant. All record documents shall conform to the requirement of **Attachment I – Record Documents**.

§ 3.6.7.7 Consultant shall participate in warranty walk-throughs at the Project Site with the Owner and Contractor eleven (11) months after Substantial Completion of each phase of the Work to identify warranty work and any other items which must be corrected to conform with the requirements of the Contract Documents.

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 Consultant shall provide the listed Supplemental Services only if specifically designated in the table below as the Consultant's responsibility, and the Owner shall compensate the Consultant as provided in Section 11.2. Unless

otherwise specifically addressed in this Agreement, if neither the Owner nor the Consultant is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Consultant's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Consultant 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>(Consultant, Owner, or not provided)</i>
§ 4.1.1.1 Programming	If applicable, as set forth in Attachments A and B
§ 4.1.1.2 Multiple preliminary designs	If applicable, as set forth in Attachments A and B
§ 4.1.1.3 Measured drawings	If applicable, as set forth in Attachments A and B
§ 4.1.1.4 Existing facilities surveys	If applicable, as set forth in Attachments A and B
§ 4.1.1.5 Site evaluation and planning	If applicable, as set forth in Attachments A and B
§ 4.1.1.6 Building Information Model management responsibilities	If applicable, as set forth in Attachments A and B
§ 4.1.1.7 Development of Building Information Models for post construction use	If applicable, as set forth in Attachments A and B
§ 4.1.1.8 Civil engineering	If applicable, as set forth in Attachments A and B
§ 4.1.1.9 Landscape design	If applicable, as set forth in Attachments A and B
§ 4.1.1.10 Architectural interior design	If applicable, as set forth in Attachments A and B
§ 4.1.1.11 Value analysis	If applicable, as set forth in Attachments A and B
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	If applicable, as set forth in Attachments A and B
§ 4.1.1.13 On-site project representation	If applicable, as set forth in Attachments A and B
§ 4.1.1.14 Conformed documents for construction	If applicable, as set forth in Attachments A and B
§ 4.1.1.15 As-designed record drawings	If applicable, as set forth in Attachments A and B
§ 4.1.1.16 As-constructed record drawings	If applicable, as set forth in Attachments A and B
§ 4.1.1.17 Post-occupancy evaluation	If applicable, as set forth in Attachments A and B
§ 4.1.1.18 Facility support services	If applicable, as set forth in Attachments A and B
§ 4.1.1.19 Tenant-related services	If applicable, as set forth in Attachments A and B
§ 4.1.1.20 Consultant's coordination of the Owner's consultants	If applicable, as set forth in Attachments A and B
§ 4.1.1.21 Telecommunications/data design	If applicable, as set forth in Attachments A and B
§ 4.1.1.22 Security evaluation and planning	If applicable, as set forth in Attachments A and B
§ 4.1.1.23 Commissioning	If applicable, as set forth in Attachments A and B
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	If applicable, as set forth in Attachments A and B
§ 4.1.1.25 Fast-track design services	If applicable, as set forth in Attachments A and B
§ 4.1.1.26 Multiple bid packages	If applicable, as set forth in Attachments A and B
§ 4.1.1.27 Historic preservation	If applicable, as set forth in Attachments A and B
§ 4.1.1.28 Furniture, furnishings, and equipment design	If applicable, as set forth in Attachments A and B
§ 4.1.1.29 Other services provided by specialty Consultants	If applicable, as set forth in Attachments A and B
§ 4.1.1.30 Other Supplemental Services	If applicable, as set forth in Attachments A and B

§ 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 Consultant's responsibility is provided below.

(Describe in detail the Consultant'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 Consultant's Services documents that can be included as an exhibit to describe the Consultant's Supplemental Services.)

« Provides as necessary as set forth in **Attachment A – Request for Proposal (RFP)** and **Attachment B – Consultant's Design Proposal**. For any RFPs requiring Programming or Master Planning services Consultant shall perform the services as described below.

Programming and/or Master Plan Phase

From Interviews, research, and study of the Owner needs, the Consultant shall prepare a program and an estimate of probable construction costs for the project. Consultant shall take action as required under Section 6.4 and request the Owner's approval of the Programming and/or Master Plan Documents. If revisions to the Programming and/or Master Plan Phase Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Programming and/or Master Planning Phase, the Consultant shall incorporate the required revisions in the Schematic Development Phase. Consultant shall, during the programming phase, notify Owner of all tests, investigations, inspections, analysis, studies, or reports known to Consultant that should be undertaken in connection with the development of the design and construction documents.

Elements of the program shall include a full description of each of the following:

- .1 Exterior and interior functional areas and spaces of the Project, with technical and equipment requirements on each;
- .2 Comparisons between existing and proposed facilities and systems;
- .3 Diagrams to describe proposed circulation and relationships between functional areas and departments;
- .4 Descriptions of provisions for future changes and growth;
- .5 Narrative of the rationale for proposed program and prioritized options to maintain Project budget.

Upon completion of the Programming Phase documents, the Consultant shall submit three (3) copies of drafts of same for review. After review, the Consultant shall incorporate necessary corrections and additions into the final report and submit three (3) copies to Owner for approval.

»

§ 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.)

« If applicable, as set forth in Attachment A – Request for Proposal (RFP) »

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Consultant shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Consultant as provided in Section 11.2.

§ 4.2 Consultant's Additional Services

The Consultant may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to (a) any negligent error or omission of the Consultant or Consultant's consultants; (b) any breach of this Agreement by the Consultant; or (c) uncertainties or errors in the Contract Documents. Any Additional Services provided in accordance with this Section 4.2 shall entitle the Consultant to compensation pursuant to Section 11.3 and an appropriate adjustment in the Consultant's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, and provided such additional services are not the result of a) any negligent error or omission of the Consultant or Consultant's consultants; (b) any breach of this Agreement by the Consultant; or (c) uncertainties or errors in the Contract Documents, the Consultant shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Consultant shall not proceed to provide the following Additional Services until the Consultant receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 [Intentionally Deleted]
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients unless required in **Attachment A – Request for Proposal**;
- .6 Preparation of design and documentation for significant alternate bid or proposal requests proposed by the Owner;
- .7 [Intentionally Deleted]
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Consultant is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .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 Consultant.

§ 4.2.2 [Intentionally Deleted]

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

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

§ 4.2.4 Except for services required under Section 3.6.6.5 and 3.6.7.7 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 Consultant incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within « » (« ») months of the date of this Agreement, through no fault of the Consultant, extension of the Consultant's services beyond that time shall be compensated as Additional Services.

§ 4.2.6 Notwithstanding anything to the contrary in this Agreement, Owner shall have no obligation to pay Consultant for any Additional Services unless, prior to performing same, (a) Consultant notifies Owner in writing of the services it intends to perform, the reasons therefor and the cost of such services, and (b) Owner agrees in writing to such services and the cost therefor. If Consultant fails to comply with the foregoing procedure, such services shall be deemed to be Basic Services under this Agreement. In addition, Owner shall have no obligation to pay Consultant for any Additional Services if such services result from the errors, omissions, or negligence of Consultant or the failure of Consultant to perform in accordance with the terms of this Agreement. Consultant acknowledges that Basic Services shall include all Consultant's services performed in connection with the Project prior to the date hereof and that none of such services shall be considered 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.

§ 5.2 The Owner shall establish and may periodically update 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. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Consultant. Consultant

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Consultant's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services. Consultant and Contractor shall inform Owner of the time periods required for Owner's approval of submittals. Such time periods must be reasonable and in no event less than ten (10) business days from Owner's receipts of the submittal unless a shorter period of time is expressly agreed to by Owner.

§ 5.4 If requested by Consultant in writing, 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. The Consultant shall request any required surveys from the Owner with enough advanced notice to allow the Owner to procure and furnish such information and not impact the Project schedule for the Consultant's Work.

§ 5.5 If requested by Consultant in writing, 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. The Consultant shall request any required geotechnical services from the Owner with enough advanced notice to allow the Owner to procure and furnish such information and not impact the Project schedule for the Consultant's Work.

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

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit or similar format, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Consultant. 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 Except as otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 Except as otherwise provided in this Agreement, 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. This term shall not create a duty on part of the Owner to provide such services for the benefit of any other Project team member.

§ 5.11 The Owner shall provide prompt written notice to the Consultant if the Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in the Consultant's Instruments of Service.

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

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

§ 5.14 The Owner shall provide the Consultant access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Consultant access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Consultant, the Owner shall furnish the requested information as necessary and relevant for the Consultant to evaluate, give notice of, or enforce lien rights.

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 Consultant and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Consultant; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner. The Consultant, Contractor and Owner shall cooperate to manage not just the Cost of the Work, but also the Total Project Cost to at or below the Total Project Budget.

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

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

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

§ 6.5 If at any time the Consultant's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Consultant, without additional compensation, 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 Consultant in making such adjustments.

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

- .1** give written approval of an increase in the budget for the Cost of the Work;
- .2** authorize rebidding or renegotiating of the Project within a reasonable time;
- .3** terminate in accordance with Section 9.5;
- .4** in consultation with the Consultant, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Consultant shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Consultant to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Consultant could not reasonably anticipate, the Owner shall compensate the Consultant for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Consultant's services for modifying the Construction Documents shall be without additional compensation. In any event, the Consultant's modification of the Construction Documents shall be the limit of the Consultant's responsibility as a Basic Service under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 [Intentionally Deleted]

§ 7.2 [Intentionally Deleted]

§ 7.3 [Intentionally Deleted]

§ 7.3.1 [Intentionally Deleted]

§ 7.4 [Intentionally Deleted]

§ 7.5 [Intentionally Deleted]

§ 7.6 Upon completion of the Project or upon termination of this Agreement, it is understood that all completed or partially completed data, drawings, records, computations, survey information, and all other material that Consultant has collected or prepared in carrying out this Agreement shall be provided to and become the exclusive property of the Owner. Therefore, any reports, information and data, given to or prepared or assembled by Consultant under this Agreement shall not be made available to any individual or organization by Consultant without the prior written approval of the Owner (see **Attachment I – Record Documents**). No reports or documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

§ 7.7 Consultant further understands that oral and written communications with Owner regarding Consultant's services under this Agreement are confidential. No aspect of Consultant's services may be discussed with any individual or organization other than Owner, unless Consultant receives prior written authorization from Owner for such discussion.

§ 7.8 If Consultant's services are terminated prior to completion of the Project, Owner will indemnify and hold Consultant and Consultant's subconsultants harmless for costs or claims for damages arising out of use the of incomplete documents, interpretation, revision, alteration, or omission to the documents which are not made by Consultant or subconsultants. Should Owner reuse documents, created by Consultant, the seals and certifications of Consultant and subconsultants shall be invalid, shall not be used and shall be deleted and Owner will indemnify and hold Consultant and Consultant's subconsultants harmless for cost or claims for damages arising out of the reuse of the documents.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Consultant 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 Consultant 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 recovered under property insurance, the Owner and Consultant 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 Consultant, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 [Intentionally Deleted]

§ 8.1.4 The Consultant shall indemnify, defend and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments, 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 Consultant, its employees and its consultants in the performance of professional services under this Agreement

§ 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 Consultant's services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Consultant 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)*

« Litigation or Arbitration as determined by Owner, acting in its sole and absolute discretion, after the dispute arises. »

§ 8.3 Arbitration

§ 8.3.1 If the Owner has selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute

of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

[Intentionally Deleted]

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Consultant's option, cause for suspension of performance of services under this Agreement. If the Consultant elects to suspend services, the Consultant shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Consultant 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 Consultant all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. The Consultant'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 Consultant, the Consultant 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 Consultant 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 Consultant terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Consultant for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Consultant's termination of consultant agreements.

§ 9.7 [Intentionally Deleted]

§ 9.8 [Intentionally Deleted]

§ 9.9 The Owner's rights to use the Consultant'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, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Consultant, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Consultant 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 Consultant.

§ 10.4 If the Owner requests the Consultant to execute certificates, the proposed language of such certificates shall be submitted to the Consultant for review at least 14 days prior to the requested dates of execution. If the Owner requests the Consultant to execute consents reasonably required to facilitate assignment to a lender, the Consultant shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Consultant for review at least 14 days prior to execution. The Consultant 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 Consultant.

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

§ 10.7 The Consultant shall have the right to include photographic or artistic representations of the design of the Project among the Consultant's promotional and professional materials with prior written authorization of Owner. The Consultant shall be given reasonable access to the completed Project to make such representations. However, the Consultant's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Consultant in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Consultant in the Owner's promotional materials for the Project.

§ 10.8 If the Consultant or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information or (4) as may be required under Wisconsin's Public Records Law, Wis. Stat. § 19.21 *et seq.*, as determined by Owner in accordance therewith.

§ 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.

§ 10.8.2 Consultant and Owner understand that Owner is bound by the Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21 *et seq.* Consultant hereby agrees that it shall be obligated to assist Owner in retaining and timely producing records that are subject to Public Records Law upon any statutory request having been made. Except as otherwise authorized by Owner in writing, records that are subject to Public Records Law shall be maintained for a period of three years after expiration of this Agreement. In the event that Owner receives a request to disclose any Consultant information defined as "Confidential Information" or labeled as such by Consultant, Owner will promptly provide Consultant notice of the public records request to enable Consultant to resist any required disclosure and/or to obtain suitable protection regarding such required disclosure by Owner. In the event the designation of "Confidential Information" of such Consultant information is challenged by the requestor and Consultant resists disclosure by Owner, Consultant hereby agrees to provide legal counsel or other necessary assistance to Owner to defend the designation

of confidentiality and agrees to indemnify and hold Owner harmless for any costs or damages arising out of Owner's agreement to withhold such Consultant information from disclosure. Alternatively—or in the event Owner declines to resist a request to disclose any such document— Consultant may instead exercise itself any right available to it under the law to attempt to prevent disclosure by Owner.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 Counterparts, Facsimile or Electronic Signature. This Agreement may be signed in one or more counterparts including via facsimile or email, or by electronic signature in accordance with applicable law, all of which shall be considered one and the same agreement, binding on all parties hereto, notwithstanding that both parties are not signatories to the same counterpart. A signed facsimile or photocopy of this Agreement shall be binding on the parties to this Agreement.

§ 10.11 Equal Employment Opportunity. In accordance with Section 56.17 of the Milwaukee County Code of General Ordinances and Title 41 of the Code of Federal Regulations, Chapter 60, Consultant certifies as to the following:

§ 10.11.1 Non-Discrimination

- .1 The Consultant shall not discriminate against an employee or applicant for employment because of race, color, national origin or ancestry, age, sex, sexual orientation, gender identity and gender expression, or disability, marital status, family status, lawful source of income or status as a victim of domestic abuse, sexual assault or stalking, which includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- .2 The Consultant shall post in conspicuous places, available to employees, notices to be provided by the County, setting forth provisions of non-discrimination clause.
- .3 A violation of this Section 10.11 shall be sufficient cause for Owner to terminate this Agreement without liability for uncompleted portion or for materials or services purchased or paid for by Consultant for use in completing this Agreement.

§ 10.11.2 Affirmative Action Program

- .1 Consultant shall strive to implement principles of equal employment opportunity through an effective affirmative action program, which shall have as its objective to increase the use of women, minorities, and persons with disabilities and other protected groups, at all levels of employment in all divisions of Consultant's work force, where these groups may have been previously under-used and under-represented.
- .2 In the event of dispute of compliance with these requirements, Consultant shall be responsible for showing that the requirements have been met.

§ 10.11.3 Affirmative Action Plan

- .1 Consultant shall certify that if it has fifty (50) or more employees, a written affirmative action plan has been filed or will be developed and submitted (within 120 days of contract award) for each establishment. File current Affirmative Action plans, if required, with one of the following: The Office of Federal Contract Compliance Programs, the State of Wisconsin, or the Milwaukee County Department of Audit, 633 W. Wisconsin Avenue, 9th Floor, Milwaukee, Wisconsin 53203. If a current plan has been filed, indicate where filed « » and the year covered « ».
- .2 The Consultant shall require lower-tier subcontractors who have fifty (50) or more employees to establish similar written affirmative action plans.

§ 10.11.4 Non-Segregated Facilities. Consultant shall certify that it does not and will not maintain or provide

segregated facilities for employees at its establishments, and that employees are not permitted to perform their services at a location under its control where segregated facilities are maintained.

§ 10.11.5 Consultant. Consultant shall certify that certifications regarding non-discrimination, affirmative action program, and non-segregated facilities have been obtained from proposed consultants that are directly related to contracts with the Owner, if any, prior to the award of contracts, and that such certification will be retained.

§ 10.11.6 Reporting Requirement. Where applicable, Consultant shall certify compliance with reporting requirements and procedures established in Title 41 Code of Federal Regulations, Chapter 60 (Equal Opportunity Employment).

§ 10.11.7 Employees. Consultant shall certify that « [REDACTED] » employees are in the Standard Metropolitan Statistical Area (Counties of Milwaukee, Waukesha, Ozaukee, and Washington, Wisconsin) and that it has « [REDACTED] » employees in total.

§ 10.11.8 Compliance. Consultant shall certify that it is not currently in receipt of outstanding letters of deficiencies, show cause, probable cause, or other notification of non-compliance with EEO regulations.

§ 10.12 Consultant Services. Should Consultant find it necessary or advisable to employ consultants for performing services under this Agreement, the following shall apply:

§ 10.12.1 Consultant shall:

- .1 Be responsible for services performed by any consultants under this Agreement.
- .2 Be compensated for the cost of any consultants as provided under Payments (consultant compensation is included in the overall basic compensation total).

§ 10.12.2 Consultants employed shall be engaged in conformance with the following:

- .1 Obtain Owner's written approval for the hiring of each proposed consultant to be used in performance of the contractual obligations under this Agreement. Owner will indicate such approval and/or rejection on **Attachment J – Subconsultant Listing**.
- .2 Within five (5) days of the above approval, consultant shall execute **Attachment K – Subconsultant Compliance Certification**, binding consultant to the terms and conditions of this Agreement including the Audit and Inspection of Records requirements.
- .3 Owner will not approve as a consultant a person connected with a firm manufacturing, selling, or installing material or equipment that is or may be included in Project.
- .4 Approved consultants shall also complete **Attachment E – Manpower, Direct Salary Rate and Overhead & Profit Factor Schedule** for potential additional services to be requested at a later date.

§ 10.12.3 Unless otherwise approved by Owner, Consultant shall not employ consultants within the Consultant's specialties, i.e. architectural design for Consultants, electrical for electrical engineers, HVAC for HVAC engineers, etc.

§ 10.12.4 Fees for consultants shall be compensated by Owner as billed to Consultant (there shall be no mark up for costs/fees billed by consultants).

§ 10.13 Compliance with Governmental Requirements. Evidence satisfactory compliance for Unemployment Compensation and Social Security Reporting as required by federal and state laws.

§ 10.14 Rights of access and audit. The Consultant, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Consultant related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Consultant. All subcontractors or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Consultant and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations

Concerning Fraud, Waste, and Abuse) of the Milwaukee County Code of General Ordinances.

§ 10.15 Independent Contractor. Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between Owner or its successors or assigns and Consultant or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Consultant is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.

§ 10.16 Prohibited Practices

- .1 Consultant during the period of this Agreement shall not hire, retain or utilize for compensation any member, officer, or employee of Milwaukee County or any person who, to the knowledge of Consultant, has a conflict of interest with Milwaukee County.
- .2 Consultant hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

§ 10.17 The Owner shall agree that the Consultant will not provide environmental reports or evaluations of existing conditions at the existing building with regards to hazardous materials and other environmental conditions that may or may not be prevalent at the existing building site including but not limited to the presence of asbestos, mold, hazardous waste or any and all other materials or conditions that may pose threat or danger to the owner and or his contractor, subcontractor employees and customers, residents, tenants, lender, or other.

§ 10.18 It is intended by the parties to this Agreement that the services provided in connection with the Project shall not subject the individual employees, officers, directors, owners, consultants to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Owner and Consultant agrees that any claim, demand or suit shall be directed and or asserted only against the company and not against any of the company's individual employees, officers, directors, owners, and consultants.

§ 10.19 Notice. All notices or other communications required or permitted to be given or made hereunder to either party shall be deemed to be so given or made when in writing via email, with a delivery confirmation, or delivered in person (with evidence of receipt) such as overnight courier services or sent by United States Registered or Certified Mail, Postage prepaid, or by Federal Express or other service providing proof of delivery, directed to the parties at the following addresses or to such other addresses as they may from time to time designate in writing:

If to the Owner:

<< >>
<< >>
<< >>

And

<< >>
<< >>
<< >>

If to Consultant:

<< >>
<< >>
<< >>

Any change to the notice address listed above must be given to the other party in the same manner as described in this section. The date of notice shall be the date of delivery if the notice is personally delivered, the date of mailing if the notice is sent by United States certified mail or the date of transmission if the notice is sent by email. Each party agrees to maintain evidence of the respective notice method utilized.

§ 10.20 Medicare Access to Books and Records. In the event, and only in the event, that Section 952 of P.L. 96-499 (42 U.S.C. Section 1395x(v)(1)) is applicable to this Agreement, the Consultant agrees as follows: (a) until the expiration of four (4) years after the furnishing of such services pursuant to this Agreement, the Consultant shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of his/her duly authorized representatives, this Agreement, and books, documents and records of the Consultant that are necessary to certify the nature of the duties of this Agreement; and (b) if Consultant performs its services hereunder through a subcontract with a related organization, with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, then any such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of its duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of the cost of services provided pursuant to such subcontract.

ARTICLE 11 COMPENSATION

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

- .3 Other
(Describe the method of compensation)

« The Basic Service Compensation Total including reimbursables expenses for the project for the Consultant including all subconsultants shall be the "Not-To-Exceed" sum as indicated below on the basis of hourly rates set forth in section 11.7 »

(Insert amount)

« »

§ 11.2 For the Consultant'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 Consultant as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« To be billed with Basic Services in section 11.1 »

§ 11.3 For approved Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Consultant as follows:
(Insert amount of, or basis for, compensation.)

« Hourly, Not-to-Exceed rates as set forth in **Attachment E - Manpower, Direct Salary Rate and Overhead & Profit Factor Schedule** as updated from time to time by the Consultant and approved by the Owner

Additional Services Rate Itemization

The form on which the Additional Services Rate Itemization is reported and approved is included as **Attachment E** (by Consultant and subconsultants).

On **Attachment E** list staff by name, including clerical staff, who will be assigned to the Project.

"Overhead Rate" (Overhead Factor less profit) contained within the Overhead Factor submitted by Consultant and each subconsultant shall be Federal Acquisition Regulation ("FAR") (48 CFR 1-31) audit certified. Provide a copy of the Consultant's most recent auditor's report for each rate.

If Consultant or subconsultant does not possess a FAR audit certified rate then each shall submit as **Attachment E-2** their proposed rate, for the fiscal year, with identification of the accounting method used and certification that the proposed rate contains only those indirect costs proper and appropriate for the type of professional services sought by this Agreement. It is understood and agreed that no direct charge will be made for labor or expenses included in the Overhead Factor.

“Overhead Factor” and the “Principal’s Flat Rate” shall include but are not limited to reimbursement of the following:

Social Security	General Office Expenses
Vacation, Holiday & Sick Pay	Dues & Subscriptions
Pension & Personal Insurance Plans	Profit
Local Telephone & Fax Service	Registration Fees
Insurance	Legal & Accounting Expenses
Postage & Shipping (see “C-2”)	Auto Expenses, Parking
Taxes	Travel Costs to locations within a 100 mile radius of Milwaukee
Office & Drafting Supplies	Meals
Repairs & Maintenance	Use of CAD Equipment & Systems (including drawing plots)
Selling Expense	Miscellaneous Overhead
General Advertising	Office Utilities

For personnel changes during the term of this Agreement submit a new **Attachment E-1** within sixty (60) days of adding or deleting staff used or permanent classification changes. In case of added personnel or classification changes, the new “Direct Salary Rate/Hour” will not increase more than 10 percent (10%) above the rate previously listed for the specific classification being replaced.
Consultant »

§ 11.4

« Intentionally Deleted »

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

Program and Master Plan	« Ten »	percent (« 10 »	%)
Schematic Design Phase	« Fifteen »	percent (« 15 »	%)
Design Development Phase	« Fifteen »	percent (« 15 »	%)
Construction Documents	« Thirty-Eight »	percent (« 38 »	%)
Phase				
Procurement Phase	« Four »	percent (« 4 »	%)
Construction Phase	« Eighteen »	percent (« 18 »	%)
Total Basic Compensation	one hundred	percent (100	%)

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

§ 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 Consultant 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 Consultant and the Consultant's consultants are set forth in **Attachment E – Manpower, Direct Salary Rate and Overhead & Profit Factor Schedule** as updated from time to time by the Consultant and approved by the Owner.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Consultant and the Consultant's consultants directly related to the Project as set forth in **Attachment F – Guidelines for Reimbursable Expenses** and shall not exceed the amount established in **Attachment B - Consultant's Design Proposal**.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant and the Consultant's consultants plus « zero » percent (« 0 » %) of the expenses incurred as set forth **Attachment F – Guidelines for Reimbursable Expenses**.

§ 11.9 **Consultant's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Consultant normally maintains, the Owner shall pay the Consultant for the additional costs incurred by the Consultant for the additional coverages as set forth below:
(Insert the additional coverages the Consultant is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Consultant.)

« As set forth in Attachment F – Guidelines for Reimbursable Expenses »

§ 11.10 Payments to the Consultant

§ 11.10.1 Initial Payments

§ 11.10.1.1 [Intentionally Deleted]

§ 11.10.1.2 [Intentionally Deleted]

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed as set forth in **Attachment G – Required Invoice Format**. Payments are due and payable within thirty (30) days following presentation of the Consultant's invoice which shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to the Agreement or any other supporting documentation requested by Owner. Except for documentation specifically required by **Attachment G – Required Invoice Format**, all other supporting documentation shall not be submitted but shall be clearly identified and readily accessible as specified herein under section 10.14. Amounts unpaid « thirty » (« 30 ») days after the invoice is received by the Owner with the required supporting documentation shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Consultant.

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

« Payment due and unpaid under Contract Documents shall bear interest at rate specified in Wisconsin Statutes 71.82 (1) (a) compounded monthly. »

§ 11.10.2.2 [Intentionally Deleted].

§ 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 provided as set forth in **Attachment G – Required Invoice Format**.

§ 11.10.2.4 Owner will make payments to Consultant within thirty (30) days of invoice approval on the basis of monthly billings prepared by the Consultant and approved by the Owner. Payments will be made on the basis of ninety five percent (95%) of the approved statement. No retainage, however, shall be withheld for reimbursable expenses.

§ 11.10.2.5 Adherence with prompt payment requirements is monitored through information entered into the Diversity Management and Compliance System, utilizing B2GNow software. Consultant is required to report payments received from the Owner and amounts paid to sub-consultants. Sub-consultants will receive an automated email requesting them to confirm the amounts and whether the terms of the prompt payment policy were complied with. There is no cost to the Consultant or any sub-consultant, the only requirement is to become a registered user and complete the one-hour webinar training. The Owner will enter the Consultant's contract, and the Consultant will enter all sub-consultants, including both TBE/DBE and non-TBE/DBE firms.



§ 11.10.3 Final Payment

§ 11.10.3.1 Final Payment shall be made after the following have been accomplished:

- .1 Owner is in receipt of Consultant's signed Certification of Substantial Completion (A.I.A. Document G704) in conformance with Contract Documents (for each contract).
- .2 Owner is in receipt of "Record Documents".
- .3 Owner is in receipt of Consultants' invoice labeled "Final Billing".
- .4 Owner has determined that Consultant has performed the obligations under this Agreement as evidenced by completion of **Attachment L – Consultant Agreement Closeout Checklist**.

§ 11.10.3.2 Final payment shall be the release of the five percent (5%) retainage, held by Owner from partial payments for performance under this Agreement.

§ 11.10.3.3 Consultant is required to conform to all TBE/DBE Requirements set forth in **Attachment D**. Upon notification from Owner to the Consultant that the obligations under this Agreement have been completed, the Consultant shall within thirty (30) calendar days submit for payment a final invoice for any remaining unpaid charges. Should the Consultant fail to respond within the thirty (30) days, the Owner will assume no additional charges have been incurred. Owner will transmit to Consultant notice of termination of this Agreement with a check for any remaining retainage.

§ 11.10.4 Consultant shall submit to Owner a partial waiver of lien (covering all services through the date of payment) from Consultant and all of its consultants as a condition to receiving each progress payment and a final waiver of lien from Consultant and all of its consultants as a condition to receiving final payment.

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.)

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Consultant 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 Consultant.

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

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Consultant
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)

<< >>

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

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

« »

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

« »



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

- « Attachment A – Request for Proposal »
- « Attachment B – Consultant’s Design Proposal »
- « Attachment C – Certificate of Insurance and Endorsements »
- « Attachment D – Targeted Business Enterprise (TBE) Requirements »
- « Attachment E – Manpower, Direct Salary Rate and Overhead & Profit Factor Schedule »
- « Attachment F – Guideline for Reimbursable Expenses »
- « Attachment G – Required Invoice Format »
- « Attachment H – NOT USED »
- « Attachment I – Record Documents »
- « Attachment J – Subconsultant Listing »
- « Attachment K – Subconsultant Compliance Certification »
- « Attachment L – Consultant Agreement Closeout Checklist »
- « Attachment M – Modified AIA A201 - 2017 »
- « Attachment N – Modified AIA A101 - 2019 »

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

OWNER (Signature)

CONSULTANT (Signature)

« »« »

« »« »

(Printed name and title)

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

ATTACHMENT 6

BHS - ASSESSMENT REPORT