

Mayor
NELSON P.
CRABB

August 2, 2013

City
Administrator
SCOTT
FLORY

HONORABLE MAYOR & CITY COUNCIL MEMBERS:

The next meeting of the Clear Lake City Council is scheduled for Monday, **August 5, 2013**, at 6:30 p.m., in the Council Chambers, at City Hall. Please refer to the enclosed agenda for the items discussed below.

COUNCIL
MEMBERS

DANA
BRANT
Ward 1

TONY J.
NELSON
Ward 2

JIM
BOEHNKE
Ward 3

MIKE
CALLANAN
At Large

TERRY
UNSWORTH
At Large

ITEM #6A. **Purchase of two 2014 Chevy Caprice Police vehicles.**

The Police department is requesting authorization to purchase two (2) 2014 Chevy Caprice Police vehicles. The vehicles proposed to be purchased will replace two (2) 2008 Ford Crown Victoria vehicles. One of those vehicles was damaged in an accident and has not been part of the fleet for some time now. The other has 115,000 miles on it.

Ford Motor Company has discontinued producing the Ford Crown Victoria. The Police Chief has been conducting research and tested vehicles that the various manufacturers have introduced into the police vehicle market to fill the void left by the discontinuation of the Ford Crown Victoria. Namely these include: Ford Interceptor, Chevy Caprice, and Dodge Charger.

One of the consequences of changing from the current fleet is that the interior components cannot be transferred from the current vehicles to those of a different make and model. The Ford Crown Victoria was the last full-sized, non-SUV, based police pursuit vehicle on the market. All the current vehicles being produced by the manufacturers are mid-sized sedans.

Typically, the City purchases vehicles by seeking competitive quotes with dealers that are able to acquire vehicles under authority of the State bid process. By utilizing this process, the City is able to purchase vehicles at bid prices provided to the State. Due to the volume of vehicles the State annually purchases, the City is typically able to purchase vehicles at prices substantially lower than what the City can get through its own bid process.

Competitive quote were received from Pritchard's Ford and Lake Chevrolet for the purchase of two (2) 2014 Chevy Caprice Police vehicles.



The lease costly proposal was submitted by Lake Chevrolet at \$27,575 per vehicle. Just as an aside, the list price on the vehicle is \$33,675. The Council allocated \$70,000 in the FY 14 municipal budget for the purchase and outfitting of the vehicles.

ITEM #6B. **Northwest Water Tower Project.** At its regular meeting on July 1, 2013, the Council awarded the construction contract to Landmark Structures (Fort Worth, TX). The amount of the contract is \$2,229,000. The City has now received the partially-executed contract and bonds (performance, payment, & maintenance) and Certificate of Liability Insurance from the contractor. All these documents have been reviewed by City staff and the Project consultant and have been determined to be in compliance with the project specifications.

A pre-construction conference has been set for August 22nd at 2:00 p.m. The contractor has indicated that construction activities will not begin until November. The Project is to be completed in November of 2014.

ITEM #6C. **City Hall/Police Department Renovation Project.** At its regular meeting on July 1st, the Council approved the Facility Assessment Report completed by Bergland & Cram Architects (Mason City). Additionally, the Council authorized the negotiation of a Professional Services Agreement with Bergland & Cram for design, bidding, and construction services for the proposed City Hall/Police Department Renovation Project.

The consultant's fee is proposed at 9.2% of the cost of the Project which is estimated at \$1.3M.

Scott Flory
City Administrator

Smart Quote: "**Success is to be measured not so much by the position that one has reached in life as by the obstacles which he has overcome.**"

-- Booker T. Washington, American educator, author and political leader

TENTATIVE AGENDA
CLEAR LAKE CITY COUNCIL
CITY HALL – 15 N. 6TH STREET
MONDAY, AUGUST 5, 2013
CITY HALL – COUNCIL CHAMBERS
6:30 P.M.

1. Call To Order by Mayor Nelson P. Crabb.
2. Approval of Agenda.
3. Consent Agenda:
 - A. Minutes – July 15, 2013.
 - B. Approval of the bills & claims.
 - C. Licenses & Permits:
 - Tree Trimmer’s License: AAAA Arbor Service, Mason City, (new).
4. Citizen’s opportunity to address the Council on items not on the agenda:
 - In conformance with the City Council’s Rules of Procedure, no action can occur on items presented during the Citizens Forum.
 - Please walk to the lectern, state your name (spell last name), address, and subject of your discussion.
 - Speakers are limited to a maximum of five (5) minutes per person.
5. Unfinished Business:
6. New Business:
 - A. Purchase of two (2) 2014 Chevy Caprice Police Patrol Vehicles:
 - Review of request, Greg Peterson, Chief of Police.
 - **Motion** to authorize the purchase of two (2) 2014 Chevy Caprice Police Patrol Vehicles.
 - Discussion and consideration of **Motion** by City Council.
 - B. Northwest Water Tower Improvement Project:
 - Review by Scott Flory, City Administrator.
 - **Motion** to approve **Resolution #13-54**, A “Resolution approving Contract & bonds.”
 - Discussion and consideration of **Motion** by City Council.
 - **Motion** to approve **Resolution #13-55**, A “Resolution relating to the financing of the Northwest Water Tower Improvement Project by the City of Clear Lake, Iowa; establishing compliance with reimbursement bond regulations under the Internal Revenue Code.”
 - Discussion and consideration of **Motion** by City Council.

- **Motion** to approve **Resolution #13-56**, A “Resolution authorizing the reimbursement of funds expended from the Water Revenue Fund from the proceeds of the Tax-Increment Fund for the purposes of the Northwest Water Tower Project incident and related to this Resolution.”
- Discussion and consideration of **Motion** by City Council.

C. Professional Services Agreement - City Hall/Police Department Renovation Project:

- Introduction by Scott Flory, City Administrator.
- Review of Professional Services Agreement, Doug Foreshoe, Bergland & Cram.
- **Motion** to approve Professional Services Agreement.
- Discussion and consideration of **Motion** by City Council.

7. Chief of Police’s Report:

8. Mayor’s Report:

9. Public Works Director’s Report:

- A. Update regarding US HWY 18 (N. 3rd St. W. - N. 9th St. W.) Water Main Improvement Project.
- B. Update regarding the S. 20th Street Intersection(s), Stormwater, & Sidewalk Project.

10. City Administrator’s Report:

11. City Attorney’s Report:

12. Other Business:

13. Adjournment.

NEXT REGULAR MEETING – AUGUST 19, 2013

I am asking to go ahead and order two new squad cars to replace two older squads in our fleet of police cars. One of the cars to be replaced is car #21, a 2008 Ford Crown Victoria which is already out of service due to an accident. The other car is car #26 which was purchased along with car #21 in 2008. Car #26 has approximately 115,000 miles on it.

Ford is no longer producing the Crown Victoria. There are three companies offering police pursuit sedans; these are the Ford Police Interceptor, the Dodge Charger and the Chevrolet Caprice. All three models are within a few dollars in price of each other. I have driven all three vehicles and have made a determination that the Chevrolet Caprice is best suited to our needs. Two local companies have given us bids on two Caprices; Lake Chevrolet and Pritchard's Ford. Although Pritchard's in Clear Lake is a Ford dealer, they also own Chevrolet dealerships elsewhere and have access to Chevrolets. The bids are for two 2014 Chevrolet Caprices although the sheet from Lake Chevrolet indicates 2013. The software for options on 2014 Caprices was not available at the time the bid was put together.

The bids are as follows:

Pritchard's	Vehicle #1	Cost	\$28,812
		Minus trade-in	<u>\$ 2,918</u>
		Net Cost	\$25,894
	Vehicle #2	Cost	<u>\$28,812</u>
		Total Cost	\$54,706
Lake Chevrolet	Vehicle #1	Cost	\$27,575
		Minus trade-in	<u>\$ 1,800</u>
		Net Cost	\$25,775
	Vehicle #2	Cost	<u>\$27,575</u>
		Total Cost	\$53,350

The price quoted by Lake Chevrolet is state bid price and although they are allowing \$1,118 less on the trade-in their bid is still some \$1,356 dollars less overall. I would recommend we accept the bid from Lake Chevrolet.

Chief Greg Peterson

Prepared For:
 Clear Lake Police Department
 Unit #1

Prepared By:
 administrator

Lake Chev



2014
~~2013~~

Fleet/Non-Retail Chevrolet Caprice Police Patrol Vehicle 4dr Sdn Polic

WINDOW STICKER

2013 Chevrolet Caprice Police Patrol Vehicle 4dr Sdn Police	Interior: - No color has been selected.
* 6.0L/364 CID * Gas/Ethanol V8	Exterior 1: - No color has been selected.
6-Speed Automatic w/OD	Exterior 2: - No color has been selected.

CODE	MODEL	MSRP
1EW19	2013 Chevrolet Caprice Police Patrol Vehicle 4dr Sdn Police	\$31,420.00
OPTIONS		
FE9	EMISSIONS, FEDERAL REQUIREMENTS	\$0.00
L77	ENGINE, 6.0L V8 SFI WITH ACTIVE FUEL MANAGEMENT, INCLUDES (E85) FL	\$0.00
MX0	TRANSMISSION, 6-SPEED AUTOMATIC, ELECTRONICALLY CONTROLLED	\$0.00
1SB	POLICE PREFERRED EQUIPMENT GROUP	\$0.00
9C1	POLICE PACKAGE	\$0.00
GIE	PHANTOM BLACK METALLIC	\$0.00
ACC	SEATS, FRONT BUCKET, CLOTH WITH HEAVY-DUTY FOAM, VINYL REAR BE	\$110.00
4BB	JET BLACK, CLOTH SEAT TRIM	\$0.00
UBW	AUDIO SYSTEM, AM/FM STEREO WITH CD PLAYER, SEEK-AND-SCAN, DIGIT	\$0.00
G80	DIFFERENTIAL, LIMITED SLIP	INC
—	COOLING, ENGINE OIL COOLER	INC
SG8	WHEEL, FULL-SIZE SPARE AND TIRE	\$170.00
6J3	WIRING, GRILLE LAMPS AND SIREN SPEAKER	\$170.00
7X6	SPOTLAMP, DRIVER-SIDE	\$460.00
DR9	MIRRORS, OUTSIDE HEATED POWER-ADJUSTABLE, BLACK, MANUAL-FOLDI	\$60.00
6A3	FLOOR COVERING, HEAVY-DUTY VINYL, FRONT AND REAR	INC
AMF	KEYS, 6 CUT	\$150.00
6E3	DOOR LOCKS, SINGLE KEY LOCKING SYSTEM, ENTIRE FLEET CODED ALIKE	\$25.00
6C7	LIGHTING, RED AND WHITE FRONT AUXILIARY DOME	\$195.00
7Y6	LIGHTING, INOPERATIVE DOME AND COURTESY LAMPS	\$25.00

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

GM AutoBook, Data Version: 283.0, Data updated 6/25/2013
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Customer File:

Prepared For:
Clear Lake Police Department
Unit #1

Prepared By:
administrator



2014

2013 Fleet/Non-Retail Chevrolet Caprice Police Patrol Vehicle 4dr Sdn Polic

WINDOW STICKER

6J4	WIRING, HORN AND SIREN CIRCUIT, INLINE FOR CUSTOMER-FURNISHED S	\$65.00
VQ2	FLEET PROCESSING OPTION	\$0.00
SUBTOTAL		\$32,850.00
	Advert/Adjustments	\$0.00
	Destination Charge	\$825.00
	TOTAL PRICE	\$33,675.00
Est City: - TBD - mpg		
Est Highway: - TBD - mpg		
Est Highway Cruising Range: - TBD - mi		

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

GM AutoBook, Data Version: 283.0, Data updated 6/25/2013
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Customer File:

Prepared For:
Clear Lake Police Department
Unit #1

Prepared By:
administrator



2014

~~2013~~ Fleet/Non-Retail Chevrolet Caprice Police Patrol Vehicle 4dr Sdn Polic

QUOTE WORKSHEET

QUOTE WORKSHEET - 2013 Fleet/Non-Retail 1EW19 4dr Sdn Police

MSRP		\$31,420.00
Destination Charge		\$825.00
Optional Equipment		\$1,430.00
Dealer Advertising		\$0.00
Taxable Price		\$33,675.00
Government Bid and Deery discount		(\$6,099.70)
Accessories		
Trade of 2009 Ford Crown cic vin # 9x141971	(\$1,800.00)	
Total Accessories		(\$1,800.00)
TOTAL		\$25,775.30

Customer Signature / Date

Dealer Signature / Date

This is for a 2014 model

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

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Customer File:

July 03, 2013 1:00:24 PM

Page 3

RESOLUTION No. _____

A RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BONDS FOR THE NORTHWEST WATER TOWER IMPROVEMENT PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA; that the construction contract and bond executed and insurance coverage for the construction of certain public improvements described in general as construction of the Northwest Water Tower Improvement Project, and as described in detail in the plans and specifications heretofore approved, and which have been signed by the Mayor and Clerk on behalf of the City be and the same are hereby approved as follows:

Contractor: Landmark Structures, Fort Worth, Texas

Bond surety: Fidelity and Deposit Company of Maryland

Date of Bond: July 1, 2013

Portion of project: All construction work.

PASSED AND APPROVED, this 5th day of August, 2013.

Nelson P. Crabb, Mayor

ATTEST:

Jennifer Larsen, City Clerk

SECTION 00510

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT, made and entered into this 1st day of July, 2013, by and between the City of Clear Lake, Iowa, party of the first part, hereinafter referred to as the "Owner", and Landmark Structures I, L.P., party of the second part, hereinafter referred to as the "Contractor".

WITNESSETH: THAT WHEREAS, the Owner has heretofore caused to be prepared certain specifications and bid form blanks, dated the 1st day of May 2013, for **Northwest Water Tower Improvement Project** under the terms and conditions therein fully stated and set forth, and,

WHEREAS, said specifications and bid form blanks accurately and fully describe the terms and conditions upon which the Contractor is willing to perform the work specified:

NOW, THEREFORE, IT IS AGREED:

That the Owner hereby accepts the bid of the Contractor for the work, as follows:

ARTICLE 1 - THE PROJECT

1.01 The Project for which the Work under the Contract Documents may be the whole or only a part is named as follows:

NORTHWEST WATER TOWER IMPROVEMENT PROJECT

ARTICLE 2 - WORK

2.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Project includes all labor, materials and equipment necessary to construct an elevated water storage tank including excavation, backfill and site work, pavement, granular surfacing, buried piping, chain link fencing, seeding, reinforced concrete foundation, reinforced concrete support column, steel 1,000,000 gallon water storage tank, painting, electrical and miscellaneous associated work, including cleanup. Work also includes Alternate A – Flood Lighting and Alternate B – Upgraded Painting Schedule.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by Veenstra & Kimm, Inc. (Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

- A. The Work will be Substantially Completed by November 14, 2014.
- B. All work shall be complete and ready for Final Payment within 30 days after Substantial Completion.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Article 4.02 above, plus any extensions thereof allowed in accordance with Article 1.23 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$500 for each calendar day that expires after the time specified in Article 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$500 for each calendar day that expires after the time specified in Article 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A.

A. For all Work other than Unit Price Work, a Lump Sum of:

Two Million, Two Hundred Twenty-nine Thousand Dollars	<u>\$2,229,000</u>
(use words)	

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 1.04 of Section 01019 – Contract Considerations. Applications for Payment will be processed by Engineer as provided in Article 1.04 of Section 01019 – Contract Considerations and Article 1.32 of Section 00700 – General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment submitted by the 5th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be determined by the Schedule of Values established as provided in Section 01025 – Measurement and Payment:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Article 1.32 of Section 00700 – General Conditions:
 - a. 95 percent of Work completed (with the balance being retainage); and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Article 1.32 of Section 00700 - General Conditions.

B. Owner shall make payments to Contractor within 30 days following approval of Pay Estimate by City Council at a regularly scheduled Council meeting.

6.03 Final Payment

- A. Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment in accordance with Article 1.33 of Section 00700 - General Conditions, Owner shall pay Contractor as provided in Article 1.33 of Section 00700 - General Conditions the remainder of the Contract Price as recommended by Engineer as provided in said Article 1.33, less any sum Owner is entitled to withhold per Engineer's recommendation, including but not limited to liquidated damages.
- B. Final payment will not be made sooner than thirty (30) days following final acceptance of the work by the Owner.

ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due as provided in Article 1.33 of Section 00700 - General Conditions shall bear interest at the maximum legal rate.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Contract Documents and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Contract Documents.
 - E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - GUARANTEE

- 9.01 Contractor guarantee's all work constructed under this agreement, regardless if said work is performed by Contractor, his subcontractors, or other third tier subcontractors retained by subcontractor's, against defective workmanship and / or materials for a period of two (2) years from the date of Final Acceptance of work by Owner.

Workmanship and / or materials shall be considered defective when a condition causing premature failure (whole or in part) which was present in the relevant part or component of work when it was constructed or installed, or comes into existence as a result of the way in which the relevant part or component of work was constructed or installed.

- 9.02 The Contractor shall faithfully perform the contract on it's part and shall fully indemnify and save harmless the Owner from all cost and damage which Owner may suffer by reason of defective workmanship and / or materials, and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default.

ARTICLE 10 - CONTRACT DOCUMENTS

10.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 9, inclusive).
2. Performance Bond (pages 1 to 3, inclusive).
3. Payment Bond (pages 1 to 2, inclusive).
4. Maintenance Bond (pages 1 to 3, inclusive).
5. General Conditions (pages 1 to 18, inclusive).
6. Special Conditions (pages 1 to 4, inclusive).
7. Specifications as listed in the table of contents of the Project Manual.
8. Drawings consisting of 20 sheets with each sheet bearing the following general title: **Northwest Water Tower Improvement Project**.
9. Addenda (numbers 1 to 2, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
 - a. Notice of Award (pages 1 to 1, inclusive).
 - b. Contractor's Bid (pages 1 to 7, inclusive).
 - c. Documentation submitted by Contractor prior to Notice of Award.
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 1 to 1, inclusive).
 - b. Work Change Directives.
 - c. Change Order(s).

- B. The documents listed in Paragraph 10.01.A are made part of this Agreement by reference; exhibits to this Agreement as listed in Paragraph 10.01.A.11 are attached except as expressly noted otherwise above.
- C. There are no Contract Documents other than those listed above in this Article 10.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 1.23 of Section 00700 - General Conditions.

ARTICLE 11 - MISCELLANEOUS

11.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the Section 00100 – Instructions to Bidders.

11.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

11.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.05 Controlling Law

- A. This Agreement and any of its terms and provisions shall be interpreted or construed under the laws of the State of Iowa.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in three copies. One counterpart each has been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement will be effective July 1st, 2013 (which is the Effective Date of the Agreement).

OWNER: CITY OF CLEAR LAKE

CONTRACTOR:

Landmark Structures I, L.P.

By: _____

By: 

MIKE LAMON

Title: _____

Title: VICE PRESIDENT, LANDMARK STRUCTURES MANAGEMENT INC. (GENERAL PARTNER)

Attest: _____

Attest: 

GLENDA CURRY

Title: _____

Title: SALES COORDINATOR

Designated Representatives:

Designated Representatives:

Name: Joe Weigel

Name: MIKE LAMON

Title: Public Works Director

Title: VICE PRESIDENT, LANDMARK STRUCTURES MANAGEMENT INC. (GENERAL PARTNER)

Address for giving notices:

City of Clear Lake

Address for giving notices:

LANDMARK STRUCTURES I, L.P.

15 North 6th Street

1665 HARMON RD.

Clear Lake, IA 50428

FT. WORTH, TX 76177

Phone: 641-357-5267

Phone: (817)439-8888

FAX: 641-357-8711

FAX: (817)230-2070

License No.: _____
(Where applicable)

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

5/1/13

Performance Bond

SECTION 00610

Bond No.: 6339070

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that Landmark Structures I, L.P.

1665 Harmon Road, Fort Worth, TX 76177

a Partnership hereinafter called the PRINCIPAL, and

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

(Name of Surety)

c/o ZURICH 1400 American Lane Schaumburg, IL 60196

(Address of Surety)

hereinafter called the Surety, are held and firmly bound unto

City of Clear Lake

(Name of Owner)

15 North 6th Street, Clear Lake, Iowa 50428

(Address of Owner)

hereinafter called the OWNER, in the sum of Two Million, Two Hundred-Twenty-nine Thousand Dollars (\$2,229,000), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the 1st day of July, 2013, a copy of which is hereto attached and made a part hereof for the construction of:

Northwest Water Tower Improvement Project

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the SURETY or SURETIES and during the 2-year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY or SURETIES for value received hereby stipulate(s) and agree(s) that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

5/1/13

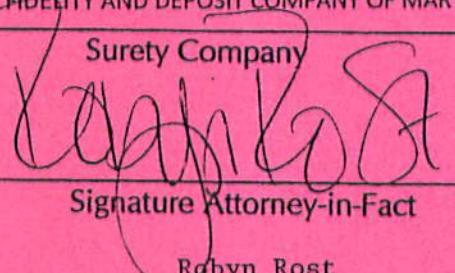
Performance Bond

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one which shall be deemed an original, this 1st day of July, 2013.

PRINCIPAL: Landmark Structures I, L.P.
Contractor

BY 
Signature MIKE LAMON
VICE PRESIDENT, LANDMARK STRUCTURES
MANAGEMENT INC., GENERAL PARTNER
Title

SURETY: FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Surety Company
BY 
Signature Attorney-in-Fact
Robyn Rost
Name of Attorney-in-Fact

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Company Name
c/o ZURICH
1400 American Lane

Company Address

Schaumburg, IL 60196

(Including Zip Code)

(847)605-6000

Company Telephone Number

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

5/1/13

Payment Bond

SECTION 00620

Bond No.: 6339070

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that Landmark Structures I, L.P.

1665 Harmon Road, Fort Worth, TX 76177

a Partnership hereinafter called the PRINCIPAL, and

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

(Name of Surety)

c/o ZURICH 1400 American Lane Schaumburg, IL 60196

(Address of Surety)

hereinafter called the Surety, are held and firmly bound unto

City of Clear Lake

(Name of Owner)

15 North 6th Street, Clear Lake, Iowa 50428

(Address of Owner)

hereinafter called the OWNER, in the sum of Two million, Two Hundred Twenty-nine Thousand Dollars (\$2,229,000), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the 1st day of July, 2013, a copy of which is hereto attached and made a part hereof for the construction of:

Northwest Water Tower Improvement Project

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY or SURETIES for value received hereby stipulate(s) and agree(s) that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

5/1/13

Payment Bond

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of which shall be deemed an original, this 1st day of July, 2013.

PRINCIPAL: Landmark Structures I, L.P.
Contractor

BY [Signature]
Signature MIKE LAMON
VICE PRESIDENT, LANDMARK STRUCTURES
MANAGEMENT INC., GENERAL PARTNER
Title

SURETY: FIDELITY AND DEPOSIT COMPANY OF MARYLAND
Surety Company

BY [Signature]
Signature Attorney-in-Fact
Robyn Rost
Name of Attorney-in-Fact

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

c/o ZURICH Company Name
1400 American Lane
Company Address
Schaumburg, IL 60196

(Including Zip Code)

(847)605-6000

Company Telephone Number

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

5/1/13

Maintenance Bond

SECTION 00630

Bond No.: 6339070

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that Landmark Structures I, L.P.

1665 Harmon Road, Fort Worth, TX 76177

a Partnership hereinafter called the PRINCIPAL, and

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

(Name of Surety)

c/o ZURICH 1400 American Lane Schaumburg, IL 60196

(Address of Surety)

hereinafter called the Surety, are held and firmly bound unto

City of Clear Lake

(Name of Owner)

15 North 6th Street, Clear Lake, Iowa 50428

(Address of Owner)

hereinafter called the OWNER, in the sum of Two Million, Two Hundred Twenty-nine Thousand Dollars (\$2,229,000), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the 1st day of July, 2013, a copy of which is hereto attached and made a part hereof for the construction of:

Northwest Water Tower Improvement Project

which Agreement includes a guarantee of all work against defective workmanship and materials for a period of two (2) years from the date of final acceptance of the work by the obligee, a copy of which Agreement is by reference made a part hereof:

NOW, THEREFORE, the condition of this Obligation is such that, if the PRINCIPAL shall faithfully perform the contract on his part and shall fully indemnify and save harmless the OWNER from all cost and damage which he may suffer by reason of failure so to do, and shall fully reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any such default.

PROVIDED, FURTHER, that if the PRINCIPAL shall pay all persons who have contracts directly with the PRINCIPAL for labor or materials, failing which such persons shall have a direct right of action against the PRINCIPAL and SURETY or SURETIES under this Obligation, subject to the OWNER'S priority.

Then this Obligation shall be null and void, otherwise it shall remain in full force and effect. PROVIDED, HOWEVER, that no suit, action or proceeding by reason of any default whatever shall be brought on this BOND after three (3) years from the date of final acceptance of the work.

PROVIDED, FURTHER, that any alterations which may be made in the terms of the Contract, or in the work to be done under it, or the giving by the OWNER of any extension of time for the performance of the Contract, or any other forbearance on the part of either the OWNER or the PRINCIPAL to the other shall not in any way release the PRINCIPAL and the SURETY or SURETIES, or either or any of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the SURETY or SURETIES of any such alteration, extension or forbearance being hereby waived.

AND FURTHER PROVIDED, the PRINCIPAL and SURETY or SURETIES on this BOND hereby agree to pay all persons, firms or corporations having contracts directly with the PRINCIPAL or with SUBCONTRACTORS, all just claims due them for labor performed or material furnished, in the performance of the contract on account of which this BOND is given, when the same are not satisfied out of the portion of the contract price which the OWNER shall retain until completion of the improvements, but the PRINCIPAL and SURETY or SURETIES shall not be liable to said persons, firms or corporations unless the claims of said claimants against said portions of the contract price shall have been established as provided by law.

Every SURETY on this BOND shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

- a. To the extension of time to the PRINCIPAL in which to perform the contract.
- b. To changes in the plans, specifications or contract, when such changes do not involve an increase of more than twenty percent (20%) of the total contract price, and shall then be released only as to such excess increase.
- c. That no provision of this BOND or of any other contract shall be valid which limits to less than three (3) year(s) from the date of final acceptance of the work the right to sue on this BOND for defects in workmanship or material not discovered or known to the Owner at the time such work was accepted.

5/1/13

Maintenance Bond

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of which shall be deemed an original, this 1st day of July, 2013.

PRINCIPAL: Landmark Structures I, L.P.

Contractor

BY

Signature MIKE LAMON
VICE PRESIDENT, LANDMARK STRUCTURES
MANAGEMENT INC., GENERAL PARTNER

Title

SURETY: FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Surety Company

BY

Signature Attorney-in-Fact

Robyn Rost

Name of Attorney-in-Fact

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Company Name

c/o ZURICH
1400 American Lane

Company Address

Schaumburg, IL 60196

(Including Zip Code)

(847)605-6000

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NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

RESOLUTION # _____

**RESOLUTION RELATING TO FINANCING OF THE
NORTHWEST WATER TOWER IMPROVEMENT PROJECT BY THE CITY OF
CLEAR LAKE, IOWA; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT
BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE**

BE IT RESOLVED by the City Council of the City of Clear Lake, Iowa, as follows:

1. Recitals.

- a) The Internal Revenue Service has issued Section 1.103-18 of the Income Tax Regulations dealing with the issuance of bonds, all or a portion of the proceeds of which are to be used to reimburse the City for project expenditures made by the City prior to the date of issuance.
- b) The Regulations generally require that the City make a prior declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued borrowing, that the borrowing occur and the reimbursement allocation be made from the proceeds of such borrowing within one year of the payment of the expenditure or, if longer, within one year of the date the project is placed in service, and that the expenditure be a capital expenditure.
- c) The City desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

2. Official Intent Declaration.

- a) The City proposes to undertake the project described on Exhibit A attached hereto.
- b) Other than (i) expenditures to be paid or reimbursed from sources other than a borrowing or (ii) expenditures permitted to be reimbursed pursuant to the transition provision of Section 1.103-18 (1) (2) of Regulations or (iii) expenditures constituting preliminary expenditures as defined in Section 1.103-18 (i) (2) of the regulations, not expenditures for the foregoing project as identified on Exhibit (A) have heretofore been made by the City and no expenditures will be made by the City until after the date of this Resolution.
- c) City reasonably expects to reimburse the expenditures made for costs of the designated project out of the proceeds of debt (the "Bonds") to be incurred by the City after the date of payment of all or a portion of the costs. All reimbursed expenditures shall be capital expenditures as defined in Section 1.150-(h) of the Regulations.
- d) This declaration is a declaration of official intent adopted pursuant to Section 1.103-18 of the Regulations.

3. Budgetary Matters.

As of the date hereof, there are not City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the project, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

4. Filing.

The resolution shall be filed within 30 days of its adoption in the publicly available official books and records of the City. This resolution shall be available for inspection at the office of the City Clerk at the City Hall (which is the main administrative office of the City) during normal business hours of the City on every business day until the date of issuance of the Bonds.

5. Responsible Allocations.

The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally transfer of the appropriated amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the projects. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds, shall specifically identify the actual prior expenditure being reimbursed or, in the case of reimbursement of a fund or account in accordance with Section 1.103-18, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the Bonds from any restriction under the bond resolution or other relevant legal documents for the Bonds, and under applicable state statute, which would apply to the unspent proceeds of the Bonds.

ADOPTED THIS 5th day of August, 2013.

Nelson P. Crabb, Mayor

ATTEST:

Jennifer Larsen, City Clerk

Exhibit A

Estimated Cost
To be Reimbursed
From Bond Proceeds

Project Description

- | | | |
|----|---|-------------|
| 1. | Northwest Water Tower Improvement Project | \$1,000,000 |
|----|---|-------------|

RESOLUTION # _____

AUTHORIZING THE REIMBURSEMENT OF FUNDS EXPENDED FROM THE WATER REVENUE FUND FROM THE PROCEEDS OF THE TAX INCREMENT FUND FOR PURPOSES OF THE NORTHWEST WATER TOWER PROJECT INCIDENT AND RELATED TO THIS RESOLUTION

WHEREAS, the City Council of the City of Clear Lake has heretofore entered into contracts pertaining to the expenditure of lawfully available funds to finance costs associated with construction, professional services, and administrative costs related to the Northwest Water Tower Improvement Project; and

WHEREAS, the City wishes to use proceeds from the Tax Increment Fund to finance the costs of the aforementioned project and reimburse the Water Revenue Fund for costs attributable to said project; and

WHEREAS, the City Council hereby finds and determines that the reimbursement for expenditure of funds from the Water Revenue Fund of the City is not inconsistent with the City's budgetary and financial conditions; and

WHEREAS, the City Council hereby finds and determines that the adoption of this Resolution is in the best interests of the Citizens of the City of Clear Lake; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA, THAT:

SECTION 1: This Resolution is a declaration of intent to reimburse the Water Revenue Fund from the proceeds of the Tax Increment Fund for any capital expenditures and other costs incurred with respect to the Project herein referenced.

SECTION 2: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 3: All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 4: If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 5: This Resolution shall be in force and shall take effect upon its passage and approval by the City Council and Mayor.

Passed and approved August 5, 2013.

Nelson, P. Crabb, Mayor

Attest:

Jennifer Larsen, City Clerk

AIA[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-second day of May in the year Two Thousand Thirteen

(In words, indicate day, month and year.)

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

City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428
Telephone Number: 641.357.6267
Fax Number: 641.357.8711

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

Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401
Telephone Number: 641.423.6349
Fax Number: 641.423.7514

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

Clear Lake Municipal Building, Renovation and Expansion, Project# 11012
15 North 6th Street
Clear Lake, IA 50428
Multi-Phase Renovations for the Reuse of the Clear Lake Municipal Building

Phase 1: Windows, Exterior Doors, Roof
Phase 2: Fire Station Renovation, Mechanical, Electrical
Phase 3: City Hall Renovation
Phase 4: Existing Police Station Renovation

The Owner and Architect agree as follows.

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

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
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4	ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
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7	COPYRIGHTS AND LICENSES
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11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

Bid Fall/Winter 2013

Construction Begins Winter 2013/2014

.2 Substantial Completion date:

Seven to ten months after start of Construction depending on occupancy and Phasing Schedule.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

Init.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

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

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$2,000,000 Umbrella Liability

.2 Automobile Liability

N/A

.3 Workers' Compensation

\$500,000 Bodily Injury by Accident

\$500,000 Bodily Injury by Disease

.4 Professional Liability

\$3,000,000 Each Claim

\$5,000,000 Aggregate

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. 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

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User Notes:

(2051963255)

the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect 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 feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

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

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents

including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. 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 Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

§ 3.4.2 The Architect 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 Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

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

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

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

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

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

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

Init.

§ 3.5.2.3 The Architect 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 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

Init.

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

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

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material 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 Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review 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 Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests

for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to 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 the Work is found to be substantially complete, the Architect 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 Architect 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 Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Programming	A, O	
§ 4.1.2 Multiple preliminary designs	NP	
§ 4.1.3 Measured drawings	A	
§ 4.1.4 Existing facilities surveys	NP	

§ 4.1.5	Site Evaluation and Planning (B203™-2007)	NP	
§ 4.1.6	Building information modeling	NP	
§ 4.1.7	Civil engineering	NP	
§ 4.1.8	Landscape design	NP	
§ 4.1.9	Architectural Interior Design (B252™-2007)	A	
§ 4.1.10	Value Analysis (B204™-2007)	NP	
§ 4.1.11	Detailed cost estimating	NP	Estimation By Stecker-Harmsen during Study
§ 4.1.12	On-site project representation	NP	
§ 4.1.13	Conformed construction documents	NP	
§ 4.1.14	As-Designed Record drawings	A	
§ 4.1.15	As-Constructed Record drawings	A	
§ 4.1.16	Post occupancy evaluation	A	
§ 4.1.17	Facility Support Services (B210™-2007)	NP	
§ 4.1.18	Tenant-related services	NP	
§ 4.1.19	Coordination of Owner's consultants	A	
§ 4.1.20	Telecommunications/data design	A	Conduit Only
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	NP	
§ 4.1.22	Commissioning (B211™-2007)	NP	
§ 4.1.23	Extensive environmentally responsible design	NP	
§ 4.1.24	LEED® Certification (B214™-2007)	NP	
§ 4.1.25	Fast-track design services	NP	
§ 4.1.26	Historic Preservation (B205™-2007)	NP	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	NP	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect 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, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .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 data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;

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- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing 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 Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Eighteen (18) visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) 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 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Twenty-four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and 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 Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 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.

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

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

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 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 Architect, 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 Architect, without additional compensation, 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. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the

Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the 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. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

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Litigation in a court of competent jurisdiction

Other (Specify)

§ 8.3 ARBITRATION

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

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

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

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

§ 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the

interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that 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 A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

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

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

Init.

§ 10.8 If the Architect 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.

ARTICLE 11 COMPENSATION

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

(Insert amount of, or basis for, compensation.)

| 9.2% of Total Actual Construction Cost

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

| As mutually agreed upon

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

| As mutually agreed upon

| § 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0.00 %), or as otherwise stated below:

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

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Thirty	percent (	30	%)
Construction Documents Phase	Thirty	percent (	30	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work 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, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category

Rate

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

(Paragraph deleted)

- .2 Dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents; plans and specifications;
- .5 Postage, handling and delivery;

(Paragraph deleted)

- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0.00 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

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

5.00 % monthly

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

Design Development shall be a continuation of the Schematic Design included in the Clear Lake Municipal Building Facility Assessment Study, May 6, 2013, attached.

Init.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™–2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

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

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

Scott C. Smed, AIA, Managing Principal

(Printed name and title)

Init.

Additions and Deletions Report for **AIA® Document B101™ – 2007**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:47:10 on 07/31/2013.

PAGE 1

AGREEMENT made as of the Twenty-second day of May in the year Two Thousand Thirteen

...

City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428
Telephone Number: 641.357.6267
Fax Number: 641.357.8711

...

Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401
Telephone Number: 641.423.6349
Fax Number: 641.423.7514

...

(Name, location and detailed description)

Clear Lake Municipal Building, Renovation and Expansion, Project# 11012
15 North 6th Street
Clear Lake, IA 50428
Multi-Phase Renovations for the Reuse of the Clear Lake Municipal Building

Phase 1: Windows, Exterior Doors, Roof
Phase 2: Fire Station Renovation, Mechanical, Electrical
Phase 3: City Hall Renovation
Phase 4: Existing Police Station Renovation

PAGE 2

Bid Fall/Winter 2013

Construction Begins Winter 2013/2014

...

Seven to ten months after start of Construction depending on occupancy and Phasing Schedule.

\$2,000,000 Umbrella Liability

...

N/A

...

\$500,000 Bodily Injury by Accident
\$500,000 Bodily Injury by Disease

...

\$3,000,000 Each Claim
\$5,000,000 Aggregate

§ 4.1.1	Programming	<u>A, O</u>	
§ 4.1.2	Multiple preliminary designs	<u>NP</u>	
§ 4.1.3	Measured drawings	<u>A</u>	
§ 4.1.4	Existing facilities surveys	<u>NP</u>	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	<u>NP</u>	
§ 4.1.6	Building information modeling	<u>NP</u>	
§ 4.1.7	Civil engineering	<u>NP</u>	
§ 4.1.8	Landscape design	<u>NP</u>	
§ 4.1.9	Architectural Interior Design (B252™-2007)	<u>A</u>	
§ 4.1.10	Value Analysis (B204™-2007)	<u>NP</u>	
§ 4.1.11	Detailed cost estimating	<u>NP</u>	<u>Estimation By Stecker-Harmsen during Study</u>
§ 4.1.12	On-site project representation	<u>NP</u>	
§ 4.1.13	Conformed construction documents	<u>NP</u>	
§ 4.1.14	As-Designed Record drawings	<u>A</u>	
§ 4.1.15	As-Constructed Record drawings	<u>A</u>	
§ 4.1.16	Post occupancy evaluation	<u>A</u>	
§ 4.1.17	Facility Support Services (B210™-2007)	<u>NP</u>	
§ 4.1.18	Tenant-related services	<u>NP</u>	
§ 4.1.19	Coordination of Owner's consultants	<u>A</u>	
§ 4.1.20	Telecommunications/data design	<u>A</u>	<u>Conduit Only</u>
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	<u>NP</u>	
§ 4.1.22	Commissioning (B211™-2007)	<u>NP</u>	
§ 4.1.23	Extensive environmentally responsible design	<u>NP</u>	
§ 4.1.24	LEED® Certification (B214™-2007)	<u>NP</u>	
§ 4.1.25	Fast-track design services	<u>NP</u>	
§ 4.1.26	Historic Preservation (B205™-2007)	<u>NP</u>	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	<u>NP</u>	

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Eighteen (18) visits to the site by the Architect over the duration of the Project during construction

- .3 Two (2) 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 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Twenty-four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 16

9.2% of Total Actual Construction Cost

...

As mutually agreed upon

...

As mutually agreed upon

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0.00 %), or as otherwise stated below:

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>)	%)
Design Development Phase	<u>Thirty</u>	percent (	<u>30</u>)	%)
Construction Documents Phase	<u>Thirty</u>	percent (	<u>30</u>)	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>)	%)
Construction Phase	<u>Twenty</u>	percent (	<u>20</u>)	%)

PAGE 17

- ~~.1 Transportation and authorized out-of-town travel and subsistence;~~
- ~~.2 Long distance services, dedicated, .2 Dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~

...

- .4 Printing, reproductions, plots, standard form documents; plans and specifications;

...

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

...

- .9 All taxes levied on professional services and on reimbursable expenses;
- ~~.10 Site office expenses; and expenses;~~

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0.00 %) of the expenses incurred.

...

§ 11.10.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

...

5.00 % monthly

...

Design Development shall be a continuation of the Schematic Design included in the Clear Lake Municipal Building Facility Assessment Study, May 6, 2013, attached.

PAGE 18

Scott C. Smed, AIA, Managing Principal

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Scott C. Smed, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:47:10 on 07/31/2013 under Order No. 9652010660_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA[®] Document B101[™] – 2007 Exhibit A

Initial Information

for the following PROJECT:

(Name and location or address)

Clear Lake Municipal Building, Renovation and Expansion, Project# 11012
15 North 6th Street
Clear Lake, IA 50428

THE OWNER:

(Name, legal status and address)

City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428

THE ARCHITECT:

(Name, legal status and address)

Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401

This Agreement is based on the following information.
(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

ARTICLE A.1 PROJECT INFORMATION

§ A.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

Multi-Phase Renovations for the Reuse of the Clear Lake Municipal Building

- Phase 1: Windows, Exterior Doors, Roof
- Phase 2: Fire Station Renovation, Mechanical, Electrical
- Phase 3: City Hall Renovation
- Phase 4: Existing Police Station Renovation

(See Clear Lake Municipal Building Facility Assessment Study, May 6, 2013 Prepared by Bergland + Cram)

§ A.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

Renovation of 12,886 SQ FT Existing Municipal Building Located at 15 – North 6th Street, Clear Lake, IA

§ A.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

ADDITIONS AND DELETIONS:

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

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

Init.

(Provide total, and if known, a line item break down.)

Construction Budget: \$1,336,541 Stecker Harmsen 2.12.13 Cost Estimate

§ A.1.4 The Owner's other anticipated scheduling information, if any, not provided in Section 1.2:

§ A.1.5 The Owner intends the following procurement or delivery method for the Project:
(Identify method such as competitive bid, negotiated contract, or construction management.)

Competitively Bid with a Single Prime Contractor for All Phases of Work

§ A.1.6 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

ARTICLE A.2 PROJECT TEAM

§ A.2.1 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address and other information.)

Scott Flory, City Administrator
Greg Peterson, Chief of Police
15 North 6th Street
Clear Lake, IA 50428
Ph: 641.357.6267

§ A.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address and other information.)

Clear Lake City Council

§ A.2.3 The Owner will retain the following consultants and contractors:
(List discipline and, if known, identify them by name and address.)

§ A.2.4 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address and other information.)

Douglas M. Foeshoe, Project Architect, Principal
Randall S. Cram, Senior Architect
Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401
Ph: 641.423.6349

§ A.2.5 The Architect will retain the consultants identified in Sections A.2.5.1 and A.2.5.2.
(List discipline and, if known, identify them by name, legal status, address and other information.)

§ A.2.5.1 Consultants retained under Basic Services:

.1 Structural Engineer

Peterson Engineers

Init.

Don Peterson, P.E.
1200 Valley West Drive, Suite 505
Ph: 515.225.2821

.2 Mechanical Engineer

Modus
Harry Doyle, P.E.
214 East 14th Street
Waterloo, IA 50703
Ph: 319.235.0650

.3 Electrical Engineer

Modus
Harry Doyle, P.E.
214 East 14th Street
Waterloo, IA 50703
Ph: 319.235.0650

§ A.2.5.2 Consultants retained under Additional Services:

§ A.2.6 Other Initial Information on which the Agreement is based:
(Provide other Initial Information.)

| Clear Lake Municipal Building Facility Assessment Study, May 6, 2013, Prepared by Bergland + Cram

Additions and Deletions Report for AIA® Document B101™ – 2007 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

Clear Lake Municipal Building, Renovation and Expansion, Project# 11012
15 North 6th Street
Clear Lake, IA 50428

...

City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428

...

Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401

...

Multi-Phase Renovations for the Reuse of the Clear Lake Municipal Building

Phase 1: Windows, Exterior Doors, Roof
Phase 2: Fire Station Renovation, Mechanical, Electrical
Phase 3: City Hall Renovation
Phase 4: Existing Police Station Renovation

(See Clear Lake Municipal Building Facility Assessment Study, May 6, 2013 Prepared by Bergland + Cram)

...

Renovation of 12,886 SQ FT Existing Municipal Building Located at 15 – North 6th Street, Clear Lake, IA

PAGE 2

Construction Budget: \$1,336,541 Stecker Harmsen 2.12.13 Cost Estimate

...

Competitively Bid with a Single Prime Contractor for All Phases of Work

...

Scott Flory, City Administrator

Greg Peterson, Chief of Police
15 North 6th Street
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Ph: 641.357.6267

...

Clear Lake City Council

...

Douglas M. Foreshoe, Project Architect, Principal
Randall S. Cram, Senior Architect
Bergland and Cram Architects, Inc.
1002 East State Street, Suite A
Mason City, IA 50401
Ph: 641.423.6349

...

Peterson Engineers
Don Peterson, P.E.
1200 Valley West Drive, Suite 505
Ph: 515.225.2821

PAGE 3

Modus
Harry Doyle, P.E.
214 East 14th Street
Waterloo, IA 50703
Ph: 319.235.0650

...

Modus
Harry Doyle, P.E.
214 East 14th Street
Waterloo, IA 50703
Ph: 319.235.0650

...

Clear Lake Municipal Building Facility Assessment Study, May 6, 2013, Prepared by Bergland + Cram