

- The next Committee Meeting will be held on Monday, July 18th, 2022 in the Tiered Training Room.
- Committee agendas will be available on the Friday before the meeting.

**SPRINGDALE CITY COUNCIL
REGULAR MEETING
TIERED TRAINING ROOM
2ND FLOOR OF CRIMINAL JUSTICE BUILDING
Tuesday, July 12th, 2022**

5:55 p.m. Pre Meeting Activities

Pledge of Allegiance
Invocation – Brian Powell

6:00 p.m. **OFFICIAL AGENDA**

1. *Large Print* agendas are available.
2. Call to Order – Mayor Doug Sprouse
3. Roll Call – Denise Pearce, City Clerk/Treasurer
4. Recognition of a Quorum.
5. Comments from Citizens
The Council will hear brief comments from citizens present at the meeting during this period on issues not on the Agenda. No action will be taken tonight. All comments will be taken under advisement.
6. Approval of Minutes – **WILL BE PRESENTED & APPROVED AT 7/28 CITY COUNCIL MEETING.**
7. Procedural Motions
 - A. Entertain Motion to read all Ordinances and Resolutions by title only.
 - B. Entertain Motion to dispense with the rule requiring that ordinances be fully and distinctly read on three (3) different days for ordinances listed on this agenda as *item number(s) **8 and 10.** Motion must be approved by two-thirds (2/3) of the council members).*
8. Planning Commission Report and Recommendation by Patsy Christie, Director of Planning and Community Development

An Ordinance accepting the re-plat of the replat of lot 3B and lot 3C of Lake Road Estates, creating lot 3D to the City of Springdale, Arkansas, and declaring an emergency. **Pgs. 1-3**
9. Finance Committee by Chairman Jeff Watson

- A. **A Resolution** authorizing the execution of a professional services agreement for Construction Phase Services on Har-Ber Avenue extension and 64th Street. Forwarded from Committee with recommendation for approval. Presented by Ryan Carr, Engineering department. Pgs. 4-10
- B. **A Resolution** authorizing the expenditure of funds to acquire a portion of land from Dewey E. Johnson Revocable Trust for the Dean's Trail, Phase IIIA Project (Project No. ST1802). Forwarded from Committee with recommendation for approval. Presented by Ernest Cate, City Attorney. Pg. 11
- C. **A Resolution** waiving competitive bidding and authorizing the purchase of fitness equipment. Forwarded from Committee with recommendation for approval. Presented by Colby Fulfer, Chief of Staff. Pgs. 12-13
- D. **A Resolution** authorizing the Mayor and City Clerk to enter into a development agreement with Hylton Road Real Estate, LLC, for improvements to Hylton Road; and to waive competitive bidding. Forwarded from Committee with recommendation for approval. Presented by Colby Fulfer, Chief of Staff. Pgs. 14-15

10. Ordinance Committee by Chairman Mike Overton

An Ordinance amending Section 22-221 of the Code of Ordinances of the City of Springdale, Arkansas. Forwarded from Committee with recommendation for approval. Presented by Mike Chamlee, Chief Building Official. Pgs. 16-18

11. Parks and Recreation Committee by Chairman Mike Lawson

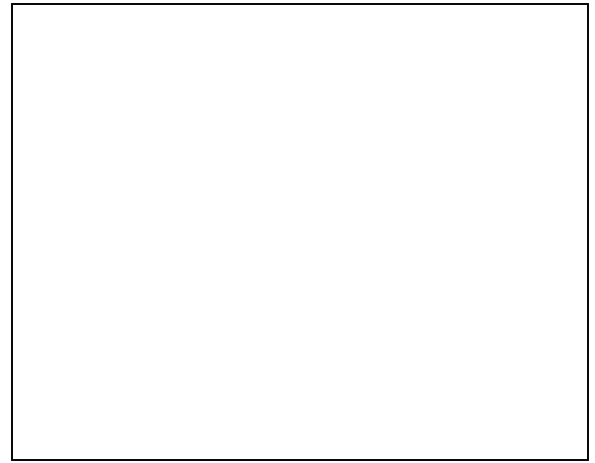
A Resolution authorizing the execution of a professional services agreement for construction administration services for Luther George Park. Forwarded from Committee without recommendation for approval. Presented by Jill Dabbs, Downtown Springdale Alliance. Pgs. 19-79

12. Comments from Council Members.

13. Comments from City Attorney.

14. Comments from Mayor

15. Adjournment.



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING THE RE-PLAT OF THE
REPLAT OF LOT 3B & LOT 3C OF LAKE ROAD
ESTATES, CREATING LOT 3D TO THE CITY OF
SPRINGDALE ARKANSAS, AND DECLARING AN
EMERGENCY.**

BE IT KNOWN BY THE CITY OF SPRINGDALE, ARKANSAS:

WHEREAS, there has been duly presented to the City Planning Commission of Springdale, Arkansas, a plat of certain lands in the City of Springdale, Washington County, Arkansas, being more particularly described as follows, to-wit:

Legal Description

SURVEY DESCRIPTION LOT 3D - A RE-PLAT OF LOTS 3B AND 3C

LOT 3D, BEING A RE-PLAT OF LOTS 3B AND 3C, AS PER THE PLAT FILED IN PLAT BOOK 24 AT PAGE 142, BEING A RE-PLAT OF LOT 3A OF THE RE-PLAT OF THE N1/2 OF LOT 2 AND LOT 3, LAKE ROAD ESTATES, SPRINGDALE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING #5 REBAR MARKING THE NORTHWEST CORNER OF SAID LOT 3B; THENCE S88°01'23"E 99.17 FEET TO AN EXISTING #5 REBAR AT THE NORTHWEST CORNER OF SAID LOT 3C; THENCE S88°03'35"E 99.31 FEET TO AN EXISTING #5 REBAR AT THE NORTHEAST CORNER OF SAID LOT 3C; THENCE S02°05'20"W 150.18 FEET TO A #5 REBAR AT THE SOUTHEAST CORNER OF SAID LOT 3C; THENCE N87°55'59"W 99.10 FEET TO AN EXISTING IRON REBAR AT THE SOUTHWEST CORNER OF SAID LOT 3C; THENCE N87°55'59"W 99.34 FEET TO AN EXISTING IRON REBAR AT THE SOUTHWEST CORNER OF SAID LOT 3B; THENCE N02°04'27"E 149.80 FEET TO THE POINT OF BEGINNING, CONTAINING 0.68 ACRES, MORE OR LESS. THE ABOVE DESCRIBED 0.68 ACRE TRACT HAVING RIGHTS OF INGRESS AND EGRESS OVER AND ACROSS AN EXISTING ACCESS EASEMENT AS SHOWN ON A SURVEY OF SAID LOT 3A, FILED IN PLAT BOOK 24 AT PAGE 53 OF THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 0.68 ACRE TRACT BEING SUBJECT TO A TWENTY-FIVE (25) FOOT WIDE ACCESS AND UTILITY EASEMENT AS SHOWN ON A SURVEY OF THE RE-PLAT OF LOT 3A, FILED IN PLAT BOOK 24 AT PAGE 142 OF THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS.

AND WHEREAS, said Planning Commission after conducting a public hearing, has approved the re-plat as presented by petitioner, and has approved the dedication of streets, rights-of-way and utility easements as shown upon said re-plat and join with the said petitioner in petitioning the City Council to accept the said REPLAT OF LOT 3B & LOT 3C OF LAKE ROAD ESTATES, CREATING LOT 3D to the City of Springdale, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS, that the RE-PLAT OF LOT 3B & LOT 3C OF LAKE ROAD ESTATES, CREATING LOT 3D, TO THE City of Springdale, Arkansas, as shown on the re-plat approved by the City Planning Commission, a copy of which is attached to this Ordinance and made a part hereof as though set out herein word for word, be and the same is hereby accepted by the City of Springdale, Benton County, Arkansas, and the City hereby accepts for use and benefit to the public the dedications contained therein.

EMERGENCY CLAUSE: It is hereby declared that an emergency exists and this ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, shall be in effect immediately upon its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest Cate, CITY ATTORNEY



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A PROFESSIONAL SERVICES AGREEMENT
FOR CONSTRUCTION PHASE SERVICES ON HAR-
BER AVENUE EXTENSION AND 64th STREET**

WHEREAS, the City of Springdale is in need of construction phase services for the Har-Ber Extension project and 64th Street;

WHEREAS, Garver, LLC was selected as the most qualified engineering firm for these projects;

WHEREAS, the price not to exceed amount for professional construction services shall be \$268,300.00.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
FOR THE CITY OF SPRINGDALE, ARKANSAS**, that

Section 1. the Mayor and City Clerk are hereby authorized to enter into a professional services agreement with Garver Engineering for construction phase services to be paid from the 2018 Street Bond Fund.

Section 2. The Mayor is authorized to approve change orders as long as the cumulative total of the change orders does not exceed 10% of the original agreement price.

PASSED AND APPROVED this _____ day of July, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED:

Ernest B. Cate, CITY ATTORNEY

**EXHIBIT D
(FORM OF AMENDMENT)**

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

**City of Springdale
Project No. 18044001**

AMENDMENT NO. 2

This Amendment No. 2, effective on the date last written below, shall amend the original contract between the City of Springdale (“**Owner**”) and Garver, LLC (“**Garver**”), dated January 12, 2021 (the “**Agreement**”).

This Amendment No. 2 adds Services for the:

Construction Phase Services extension of time for the 64th St Improvements and Construction Phase Services for Har-Ber Avenue Extension Phase I from 40th Street to Gutensohn Road in Springdale, AR.

The Agreement is hereby modified as follows:

**EXHIBIT A
(SCOPE OF SERVICES)**

1.1 Construction Phase Services

Per Section 12.8 Extension Consideration for Additional Work Requests, the Owner requests additional part-time resident construction observation services as shown in the following table.

An additional 154 calendar days will be added to the 64th St. Improvements project due to unforeseen circumstances. The proposed Amendment No. 2 fee is based on approximately 3 hours per day, 5 days per week.

The addition of 360 calendar day for construction phase services will be added for the Har-Ber Ave. Extension Phase 1 improvements project.

WORK DESCRIPTION	ORIGINAL CONTRACT PERFORMANCE TIME (MOS.)	ORIGINAL CONTRACT PERFORMANCE TIME (DAYS)	AMENDMENT NO. 1 CONTRACT PERFORMANCE TIME (DAYS)	AMENDMENT NO. 2 CONTRACT PERFORMANCE TIME (DAYS)	DAYS/WEEK
Construction Phase Services – 64 th St. Improvements	12	365	0	519	4 hrs/day, 5 days/week (3 hrs/day, 5 days/week for days added by Amend No. 2)

Construction Phase Services – Har-Ber Ave. Ext. Phase I	12	0	0	360	4 hrs/day, 5 days/week
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1.4 Bidding Services

Garver will repackage the Har-Ber Ave. Extension Project into two Phases for bidding. Phase 1 will be from 48th Street to 40th Street and Phase 2 will be from 40th Street to Gutensohn Road. This task includes revisions to the plans, quantities, cost estimates, specifications, and project manual.

Garver will revise the future Phase 2 plans and project manual to include the following work that was removed from Phase 1 by change order:

- A. 40th Street Widening
- B. Widening of the Bridge on 40th Street
- C. Traffic Signal at 40th Street / Har-Ber Avenue
- D. Traffic Signal at Gutensohn Road / Har-Ber Avenue

During the re-bid of Phase 2 Garver will:

- A. Prepare and submit Advertisement for Bids to newspaper(s) for publication as directed by the Owner. Owner will pay advertising costs outside of this contract.
- B. Dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling).
- C. Support the contract documents by preparing addenda as appropriate.
- D. Participate in a pre-bid meeting if necessary.
- E. Attend the bid opening.
- F. Prepare bid tabulation.
- G. Evaluate bids and recommend award.
- H. Prepare construction contracts.

EXHIBIT B (COMPENSATION SCHEDULE)

The table below presents a summary of the fee amounts and fee types for this Agreement.

WORK DESCRIPTION	ORIGINAL FEE AMOUNT	AMENDMENT NO. 1	AMENDMENT NO. 2	FEE TYPE
Construction Phase Services – 64 th St. Improvements & Extension	\$178,000.00	\$0.00	\$41,000	Hourly
Construction Phase Services – 40 th St. Improvements	\$0.00	\$266,088.00	\$0.00	Hourly
Construction Phase Services – Gene George South Phase I	\$0.00	\$203,794.00	\$0.00	Hourly
Construction Phase Services – Har-Ber Ave. Ext. Phase I	\$0.00	\$0.00	\$200,000.00	Hourly

Bidding Services – Har-Ber Ave. Ext. Phases I & II	\$0.00	\$0.00	\$27,300.00	Hourly
TOTAL FEE	\$178,000.00	\$469,882.00	\$268,300.00	

Increase the total amount paid to GARVER under this agreement by \$268,300.00 from \$647,882.00 to \$916,182.00.

IN WITNESS WHEREOF, Owner and Garver have executed this Amendment effective as of the date last written below.

City of Springdale

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

Appendix B

City of Springdale

64th St. - Hwy 412 to Dearing Ave. - Amend #2

CONSTRUCTION PHASE SERVICES

WORK TASK DESCRIPTION	E-4	C-3	C-2	C-1	- Select Category -	- Select Category -	- Select Category -
	\$181.00	\$153.00	\$125.00	\$98.00	\$0.00	\$0.00	\$0.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Administration and Coordination	4						
Quality Control Review							
Response to Inquiries	300						
Subtotal - Project Management	304	0	0	0	0	0	0
2. Civil Engineering							
Preconstruction Meeting	2			2			
Utility Coordination Meeting				4			
Progress Meetings with Contractor/City	15			15			
Monthly Pay Requests	2			20			
Shop Drawings/Material Submittals	30						
Record Drawings	4			24			
On-Site Meetings							
Resident Construction Observation			70	1343			
Final Project Inspection and Punchlist	8			16			
Subtotal - Civil Engineering	61	0	70	1424	0	0	0
3. Structural Engineering							
Response to Inquiries							
Shop Drawings							
Subtotal - Structural Engineering	0	0	0	0	0	0	0

Hours	365	0	70	1424	0	0	0
Salary Costs	\$66,065.00	\$0.00	\$8,750.00	\$139,552.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$214,367.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$514.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs	\$4,119.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$4,633.00

SUBTOTAL: \$219,000.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$219,000.00

Exhibit B**City of Springdale
Har-Ber Ave. Extension (Phase I)****BIDDING SERVICES**

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-1
	\$303.00	\$247.00	\$203.00	\$174.00	\$143.00	\$124.00	\$90.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Administration and Coordination	4		4				
Quality Control Review	2		8				
Submittals to Client			2				
Subtotal - Project Management	6	0	14	0	0	0	0
2. Civil Engineering							
Repackaging of Phase 1 for Bidding	1	2	8			8	4
Repackaging of Phase 2 for Bidding	1	2	8			8	4
Future Phase 2 Rebid							
Plan Revisions	2	4	8			6	4
Project Manual Revisions	1		4			2	
Update Quantities and Cost Estimate	1		2			4	
Dispense plans and specs to prospective bidders			2				
Addendums/Inquiries	2		6				
Pre-Bid Meeting	1		2				
Bid Opening			1				
Prepare bid tabulation			1				
Evaluate bids and recommend award	1		2				
Prepare construction contracts			6				
Notice to Proceed			2				
Subtotal - Civil Engineering	10	8	52	0	0	28	12
3. Structural Engineering							
Addendums/RFIs (Bridge / Retaining Walls) - Phase 2 Rebid			10				
Subtotal - Structural Engineering	0	0	10	0	0	0	0

Hours	16	8	76	0	0	28	12
Salary Costs	\$4,848.00	\$1,976.00	\$15,428.00	\$0.00	\$0.00	\$3,472.00	\$1,080.00

SUBTOTAL - SALARIES: \$26,804.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$496.00
Postage/Freight/Courier	\$0.00
Travel Costs	\$0.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$496.00

SUBTOTAL: \$27,300.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$27,300.00

Exhibit B**City of Springdale
Har-Ber Ave. Extension (Phase I)****CONSTRUCTION PHASE SERVICES**

WORK TASK DESCRIPTION	E-4	C-3	C-2	C-1	X-2
	\$203.00	\$171.00	\$140.00	\$109.00	\$97.00
	hr	hr	hr	hr	hr
1. Project Management					
Administration and Coordination	8				12
Response to Inquiries	220				
Subtotal - Project Management	228	0	0	0	12
2. Civil Engineering					
Preconstruction Meeting	4			2	
Utility Coordination Meeting				4	
Progress Meetings with Contractor/City	24			12	
Monthly Pay Requests	8			10	24
Shop Drawings/Material Submittals	24				
Record Drawings	4			24	
On-Site Meetings					
Resident Construction Observation (360 Cal Days at 4hrs/day)			80	1030	
Field checking earthwork quantities, Contractor's layout, etc.					
Prepare Change Orders	8				20
Final Project Inspection and Punchlist	2			8	
Subtotal - Civil Engineering	74	0	80	1090	44
3. Structural Engineering					
Response to Inquiries					
Shop Drawings					
Subtotal - Structural Engineering	0	0	0	0	0

Hours	302	0	80	1090	56
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Salary Costs	\$61,306.00	\$0.00	\$11,200.00	\$118,810.00	\$5,432.00
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SUBTOTAL - SALARIES:	\$196,748.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$252.00
Postage/Freight/Courier	\$0.00
Travel Costs	\$3,000.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$3,252.00
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SUBTOTAL:	\$200,000.00
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SUBCONSULTANTS FEE:	\$0.00
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TOTAL FEE:	\$200,000.00
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RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXPENDITURE
OF FUNDS TO ACQUIRE A PORTION OF LAND FROM
THE DEWEY E. JOHNSON REVOCABLE TRUST FOR
THE DEAN'S TRAIL, PHASE IIIA PROJECT (PROJECT
NO. ST1802).**

WHEREAS, the City of Springdale is in need of acquiring a portion of a tract of land for the Dean's Trail, Phase IIIA Project, Project No. ST1802, Tract 14R2, said land being owned by the Dewey E. Johnson Revocable Trust;

WHEREAS, the City of Springdale has determined by appraisal that the sum of \$18,600.00 is the estimated just compensation for the property needed from the Dewey E. Johnson Revocable Trust;

WHEREAS, the property owner has extended a counter-offer that the City pay the total sum of \$23,000.00 to acquire the land needed for the project, said amount being based on an increase in compensation due to the unique nature and terrain of this property;

WHEREAS, it is the recommendation of the City Attorney and the Mayor's Office that the City Council approve the additional sum of \$4,400.00 to acquire the property needed from the Dewey E. Johnson Revocable Trust, as this amount is reasonable, is justified, and will avoid the cost, expense, and risk of a trial;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the City is hereby authorized to acquire a portion of a tract of land for the Dean's Trail, Phase IIIA Project, Project No. ST1801, Tract 14R2, said land being owned by the Dewey E. Johnson Revocable Trust for the total sum of \$23,000.00.

PASSED AND APPROVED this _____ day of _____, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

RESOLUTION NO. ____

**A RESOLUTION WAIVING COMPETITIVE BIDDING
AND AUTHORIZING THE PURCHASE OF FITNESS
EQUIPMENT**

WHEREAS, in 2020 the City of Springdale approved an additional expansion of Phase 2 of the Criminal Justice Complex to include a fitness center, and

WHEREAS, the City of Springdale provides a workout facility that is used by many city employees as a benefit and is using equipment that needs to be updated, and

WHEREAS, the City of Springdale would like to use the same vendor and brand for fitness equipment as used in Phase 1 of the Criminal Justice Complex, and

WHEREAS, other vendors were not able to offer package pricing with similar equipment, and

WHEREAS, A.C.A. § 14-58-303 (b)(2)(B) states "The governing body by Resolution may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical".

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that competitive bidding is hereby waived for the purchase of the fitness equipment for Phase 2 of the Criminal Justice Complex and the Mayor is hereby authorized to execute an agreement with Your Total Fitness Shop for \$46,781.62.

PASSED AND APPROVED this ____th day of July, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

Your Total Fitness Shop

4608 West Walnut, Suite C
Rogers, AR 72756

Estimate

Date	Estimate #
6/27/2022	3938

Name / Address
C Springdale City Hall

P.O. No.	Terms	Rep	Project
	50% Down 50% ...		

Item	Description	Qty	Cost	Sale	Total
VC900-19-CT...	TRUE Palisade Stepmill with the Envision 16" Touchscreen w/ Mirroring and Mirroring Cables	1	9,999.00		9,999.00
TC400-CTS1...	TRUE C400 Treadmill - Envision 16" Console w/ Mirroring and Cables	1	11,385.00		11,385.00
XC400-CTS1...	TRUE C400 Elliptical - Envision 16" Console w/ Mirroring and Cables	1	9,745.00		9,745.00
SM1000	True FORCE Functional Trainer	1	4,000.00		4,000.00
SF1000	True FORCE Flat/Incline Bench	1	640.00		640.00
GVLAR-76PAC	Light Accessories Rack (Large) Package - Includes: 1 Accessory Rack, 3 Stability Balls, 6 Medicine Balls, 3 Exercise Mats, 2 Foam Rollers, 2 Ab Mats, 5 Coverd Resistance Bands.	1	1,599.00		1,599.00
SD1000	True FORCE Leg Extension/Leg Curl (Standard 175lbs Weight Stack)	1	3,515.00		3,515.00
SD1001	True FORCE Bicep/Tricep	1	3,320.00		3,320.00
SD1002	True FORCE Lat/Row	1	3,320.00		3,320.00
SD1003	True FORCE Leg Press/Calf	1	3,625.00		3,625.00
SD1005	True FORCE Multi-Press	1	3,625.00		3,625.00
	Total Purchases w/o Tax				54,773.00
Discount	Discount on Items Purchased		-22.00%		-12,050.06
Freight Delive...	Freight, Delivery, Installation & Set-up (FREE)		0.00		0.00
	Sales Tax		9.50%		4,058.68
			Total		\$46,781.62

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A DEVELOPMENT AGREEMENT WITH HYLTON ROAD REAL ESTATE, LLC, FOR IMPROVEMENTS TO HYLTON ROAD; AND TO WAIVE COMPETITIVE BIDDING

WHEREAS, the City of Springdale has approved several residential subdivision developments on Hylton Road, which will require the developer(s) of these subdivision to dedicate right-of-way, and to make certain street and storm drainage improvements to Hylton Road, pursuant to the City of Springdale's development ordinances, and to ensure that Hylton Road is designed and constructed according to Springdale Master Street Plan standards;

WHEREAS, a portion of Hylton Road is located between the recently approved residential subdivision developments, and the City wishes to make street and storm drainage improvements to Hylton Road consistent with those required to be made the developers of the nearby subdivisions, and to ensure that entirety of Hylton Road is designed and constructed according to Springdale Master Street Plan standards;

WHEREAS, it is beneficial that the City's improvements to Hylton Road be made in conjunction with those being made on Hylton Road by the developers of the nearby subdivisions, as the City's costs of the improvements to Hylton Road will be much less if included therein;

WHEREAS, the City wishes to enter into a Development Agreement with Hylton Road Real Estate, LLC, so that the entirety of Hylton Road is designed and constructed according to Springdale Master Street Plan standards, including that portion located between the recently approved residential subdivision developments;

WHEREAS, Ark. Code Ann. §14-58-303 states that “[t]he governing body, by resolution, may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical”;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS:

Section 1: That the Mayor and City Clerk are hereby authorized to execute a Development Agreement with Hylton Road Real Estate, LLC, for the improvements to Hylton Road.

Section 2: Due to the costs related to such improvements being made by Hylton Road Real Estate, LLC, and other exceptional circumstances involved, competitive bidding is not feasible or practical and is hereby waived for the improvements to Hylton Road as set forth in the Development Agreement, and that payment for costs associated with the Hylton Road improvements be paid from the Street Fund, in an amount not to exceed \$433,595.56.

PASSED AND APPROVED this _____ day of _____, 2022.

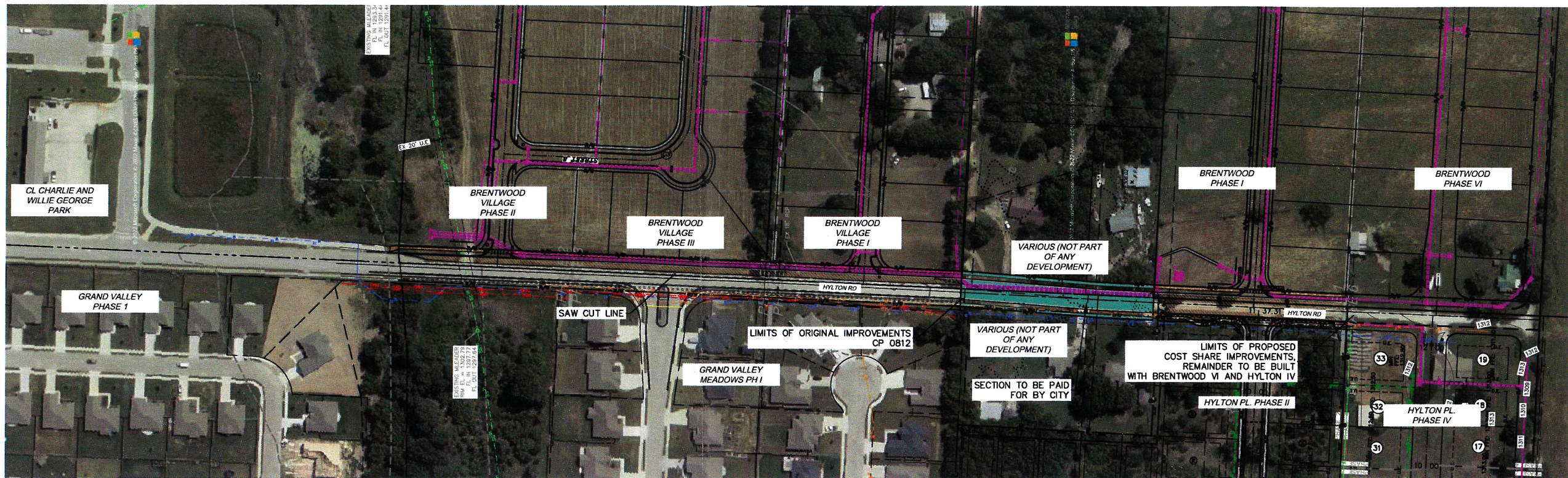
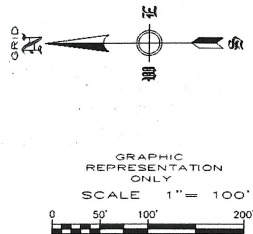
Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY



STATEMENT OF PROBABLE CONSTRUCTION COSTS
HYLTON ROAD IMPROVEMENTS
SPRINGDALE, ARKANSAS

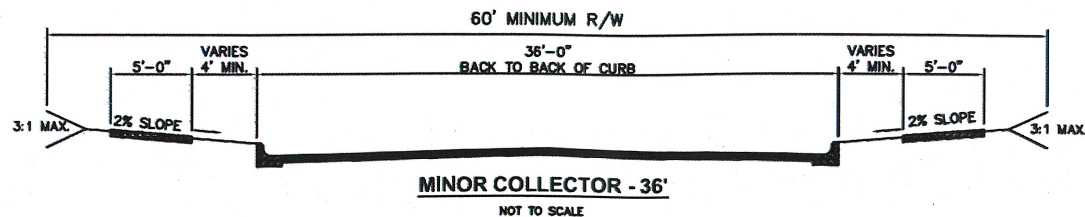
June 28, 2022
Engineering Services, Inc.
P.O. Box 282, Springdale, AR 72765

STREET AND STORM DRAINAGE IMPROVEMENTS: CITY PORTION

Item No.	Quantity	Unit	Item Description	Unit Price	Total Amount
1	0.4	LS	Construction Control, Mobilization, SWPPP, & Site Preparation	\$60,000.00	\$24,000.00
2	1,200.0	CY	Excavation and Grading	\$15.00	\$18,000.00
3	1,000.0	CY	Undercut and Backfill (24" Assumed)	\$25.00	\$25,000.00
4	1,300.0	CY	Embankment	\$23.00	\$29,900.00
5	1,388.9	SY	Class 7 Base Course 7" Thick (Hylton)	\$14.00	\$19,444.44
6	1,200.0	SY	Asphaltic Surface Course (3" Thick) (Hylton)	\$22.00	\$26,400.00
7	660.0	LF	Concrete Combination Curb and Gutter (2' Section)	\$20.00	\$13,200.00
8	400.0	SY	5' Concrete Sidewalk	\$60.00	\$24,000.00
9	340.0	LF	2-30" RCP	\$250.00	\$85,000.00
10	1.0	EA	Junction Box	\$12,000.00	\$12,000.00
11	1.0	LS	Demo and Repair Work (Driveways, Sod, Drainage)	\$75,000.00	\$75,000.00
Total: City's Portion, without Contingency					\$351,944.44
Contingency (10%)					\$35,194.44
Engineering and Inspection (12%)					\$46,456.67
Total: City's Portion, with Contingency and Engineering/Inspection					\$433,595.56

STREET AND STORM DRAINAGE IMPROVEMENTS: DEVELOPER PORTION

Item No.	Quantity	Unit	Item Description	Unit Price	Total Amount
1	0.6	LS	Construction Control, Mobilization, SWPPP, & Site Preparation	\$60,000.00	\$36,000.00
2	2,400.0	CY	Excavation and Grading	\$15.00	\$36,000.00
3	2,000.0	CY	Undercut and Backfill (18" Assumed)	\$25.00	\$50,000.00
4	1,000.0	CY	Embankment	\$23.00	\$23,000.00
5	2,800.0	SY	Class 7 Base Course 7" Thick (Hylton)	\$14.00	\$39,200.00
6	2,200.0	SY	Asphaltic Surface Course (3" Thick) (Hylton)	\$22.00	\$48,400.00
7	1,600.0	LF	Concrete Combination Curb and Gutter (1.5' Section)	\$20.00	\$32,000.00
8	600.0	SY	5' Concrete Sidewalk	\$60.00	\$36,000.00
9	117.0	LF	30" RCP	\$125.00	\$14,625.00
10	62.0	LF	36" RCP	\$165.00	\$10,230.00
11	60.0	LF	42" RCP	\$175.00	\$10,500.00
12	61.0	LF	42" HERCP	\$250.00	\$15,250.00
13	345.0	LF	2-4"x2' RBC	\$730.00	\$251,850.00
14	550.0	LF	2-4"x3' RBC	\$775.00	\$426,250.00
15	1.0	LS	Drop Inlets/Junction Box (8-4,8-5,8-6, 1-2, 1-3,1-4,1-5,1-6,1-7,1-8,1-9)	\$125,000.00	\$125,000.00
16	1.0	LS	Headwall 1-10	\$13,800.00	\$13,800.00
Total: Developer's Portion, without Contingency					\$1,168,105.00
Contingency (10%)					\$116,810.50
Total: Developer's Portion (Along Hylton Road, until the southern boundary line of Hylton II. Street south of this location to be built by developer as indicated on the phasing plans for Brentwood and Hylton III)					\$1,284,915.50



REVISION	DATE	DESCRIPTION

SCALE: 1"=100'
DATE: Jun 28, 2022
DRAWN BY: BAW
W.O. # 20945

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTION 22-221 OF THE
CODE OF ORDINANCES OF THE CITY OF SPRINGDALE,
ARKANSAS.**

WHEREAS, Section 22-221 of the Code of Ordinances of the City of Springdale, Arkansas, contains the Arkansas Mechanical Code for the City of Springdale, Arkansas;

WHEREAS, the City of Springdale, Arkansas, has previously adopted the 2010 Arkansas Mechanical Code by way of Ordinance No. 4471 on November 23, 2010;

WHEREAS, the Arkansas Department of Labor and Licensing have updated their rules and have adopted the International Mechanical Code, 2021 edition of the International Code Council, Inc. ("the ICC 2021 Mechanical Code"); and

WHEREAS, it is in the best interest of the City of Springdale, Arkansas, for the City Council of the City of Springdale, Arkansas, to now adopt the ICC 2021 Mechanical Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
CITY OF SPRINGDALE, ARKANSAS:**

Section 1: A certain document, three (3) copies of which are on file in the office of the City Clerk and building official of the City of Springdale, being marked and designated as the "ICC 2021 Mechanical Code", be and is hereby adopted as the Mechanical Code of the City of Springdale, Arkansas, and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance.

Section 2: Section 22-221 of the Code of Ordinances of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 22-221. Adopting; scope and application.

- (a) Adoption: The ~~2010 Arkansas Mechanical Code, excluding Appendix B,~~ ICC 2021 Mechanical Code is hereby adopted by reference as though it were copied herein word for word.
- (b) Scope and application: These rules and regulations are adopted in an attempt to insure safe mechanical installations, including alterations, repairs, replacements, equipment, appliances, fixtures, fittings and appurtenances thereto, so as to safeguard life, health and the public welfare, and are recommended by the Arkansas HVACR Licensing Board.
- (c) Definition: For the purposes of this section, the chief building official, and his assistants, or any official assigned by the mayor, shall be the "administrative authority" authorized to enforce the provisions of the ~~2010 Arkansas Mechanical Code~~ ICC 2021 Mechanical Code.
- (d) Copies of the ~~2010 Arkansas Mechanical Code~~ ICC 2021 Mechanical Code: Three copies of this code are now on file in the office of the clerk and building official of the City of Springdale, Arkansas, and the same are hereby adopted and incorporated, as if set out at length herein, ~~excluding Appendix B.~~ From the date on which this ordinance shall take effect, the provisions of the aforementioned code shall be controlling in the construction of all buildings and other structures within the corporate limits of the city, except as regulated by other ordinances of the City of Springdale Municipal Code.

- (e) Penalty: The penalty for violating any provision of the ~~2010 Arkansas Mechanical Code~~ ICG 2021 Mechanical Code shall be the same as provided under the penalty section of the Springdale Code of Ordinances (section 1-9).
- (f) Conflicts: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.
- (g) Severability: The provisions of this section are hereby declared to be severable, and if any provisions shall for any reason be declared illegal or invalid, such holding shall not affect the validity of the remainder of this section.

Section 3: All other provisions of Chapter 22 of the Code of Ordinances of the City of Springdale, Arkansas, not specifically amended by this ordinance shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney



To: All Interested Parties

From: HVAC/R Board Alan Dean, Chairman
Lindsay Moore, Program Manager

Date: June 3, 2022

Subject: HVAC/R Rules Adoption

Effective June 3, 2022, the HVAC/R Board rules have been updated. The new rules include changes to license holders regarding CEU requirements, General Liability Insurance, and the adoption of the ICC 2021 Mechanical Code. A full copy of the rules can be located and downloaded on the Arkansas Department of Labor and Licensing's website at www.labor.arkansas.gov under the HVAC/R page at <https://www.labor.arkansas.gov/labor/code-enforcement/hvac-r/>.

Updated rules include:

**SECTION XX. LICENSURE, CERTIFICATION, OR PERMITTING OF UNIFORMED
SERVICE MEMBERS, VETERANS, AND SPOUSES – ARK CODE 17-1-106**

SECTION XXI CONTINUING EDUCATION

No HVAC/R license shall be renewed unless the licensee completes at least four (4) hours of continuing education per calendar year. Continuing education shall consist of classroom or other Board approved instruction relating specifically to the construction, installation, maintenance, and repair of HVAC/R systems. Two (2) of the four (4) hours shall be on the mechanical code as adopted by the Board. The remaining two (2) hours may be on any other Board approved instruction. The first cycle shall begin on the effective date of Section XXI and end on December 31, 2022.

SECTION XXIII. THE INTERNATIONAL MECHANICAL CODE

(1) The Board hereby adopts and incorporates herein the International Mechanical Code, 2021 edition of the International Code Council, Inc., commonly referred to as the ICC.

(2) The International Mechanical Code, 2021 shall be the standard for the conduct of HVACR work.

For additional information, you can contact the HVACR Board by email at asklabor@arkansas.gov

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT FOR
CONSTRUCTION ADMINISTRATION SERVICES FOR
LUTHER GEORGE PARK.**

WHEREAS, the City of Springdale is in need of construction administration services associated with the planned improvements to Luther George Park;

WHEREAS, Spackman Mossop Michaels, LLC, was selected as the most qualified firm to provide construction administration services for this project;

WHEREAS, the price not to exceed amount for professional services shall be \$248,650.00.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the Mayor and City Clerk are hereby authorized to enter into a professional services agreement with Spackman Mossop Michaels, LLC, for construction administration services associated with the planned improvements to Luther George Park, in an amount not to exceed \$248,650.00, which shall be paid from funds raised in the Luther George Park Capital Campaign and currently held by the City.

PASSED AND APPROVED this _____ day of _____, 2022.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Fourteenth day of March in the year Two Thousand Twenty-Two

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

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

City of Springdale
201 Spring Street Springdale, AR 72764

Telephone Number: (479) 750-8114

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

Spackman Mossop Michaels, LLC
1824 Sophie Wright Place
New Orleans, LA 70130

Telephone Number: (504) 218-8991

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

Luther George Park Bidding and Construction Administration Services
Luther George Park, Springdale, Arkansas

Professional Landscape Architecture services for bidding and construction administration for the expansion and renovation of the approximately 14.5 acre area of Luther George Park located in downtown Springdale, Arkansas along the Razorback Regional Greenway

The Owner and Landscape 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.

Init.

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ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

Construction of Luther George Park as documented in Exhibit A: "21_04_15 LGP 100% CD Drawing Set", dated 04/15/2021.

The design team, led by the Landscape Architect will continue in their roles into CA. This includes Trahan Architects (architecture), Spectrum Design Consultants (structural engineering), and Olsson (civil and MEP engineering). Additionally, the Landscape Architect will be utilizing Ecological Design Group (EDG) for on-the-ground and field observation support of the civil and landscape scopes. During the Bidding Phase, the design team will participate in virtual pre-bid meetings, respond to bidders' questions, and assist with evaluating bids as needed.

Construction Administration services will include:

- Assist Construction Manager with submissions for building permits
- Pre-construction Conferences
- Attend regular OAC meetings
- Respond to RFIs
- Prepare ASIs and sketches
- Review of submittals including product data, shop drawings, samples, mock ups, etc

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- Travel to project site, and related fabrication/ nursery facilities is included
- Field Observations Reports for in person visits to site or fabrication facilities
- Part-time inspection of sewer extension and any public main extension
- As-Built of sewer extension for SWU (as-builts of all other scope areas not included)
- Prepare Punch Lists

The design team utilized the expertise of specialty consultants on the design of the Performance Pavilion. The continued involvement of Threshold Acoustics and Schuler Shook is recommended to oversee their scope related to AV infrastructure, electrical systems, and acoustic performance. The Specialty Consultants fee, found in Section 11.1, includes travel for 4 visits to the project site at critical milestones.

This Contract does not include significant value engineering redesign. The proposal does not include permitting fees, as-built drawings (other than required for SWU), H&H Modeling, or surveying services. Upon conclusion of the design phase, the design team identified outstanding items that will need to be addressed prior to proceeding to Bidding & CA. These are identified in the Exhibit B: "21_02_25 LGP Next Steps Memo" dated February 25, 2021.

The following services detailed in Exhibit B are excluded from the Basic Services scope of this Contract:

- Water Street Shared Street Connection + Overhead Electrical Upgrade
- Ozark Gardens
- Service Yard and Shed
- Trailhead Parking
- Picnic Shelters
- New Use for Skate Park
- Stream Restoration & Enhancement
- Remove Cell Tower
- Donor Signage

These services can be provided as an Additional Service for an Additional Services fee if desired by the Client.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Please reference Exhibit A: 21_04_15 LGP 100% CD Drawing Set, which includes the limit of work line.

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

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

The Owner has identified a Construction Budget of TEN MILLION DOLLARS (\$10,000,000.00) for this work.

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

- .1 Design phase milestone dates, if any:

N/A

- .2 Construction commencement date:

Undetermined at time of execution.

(Paragraph Deleted)

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.3 Substantial Completion date or dates:

Undetermined at time of execution.

(Paragraph Deleted)

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Procurement is based on a CMAR process or similar with Construction Manager in place with the City of Springdale. During the Bidding Phase, the design team will participate in virtual pre-bid meetings, respond to bidders' questions, and assist with evaluating bids as needed.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Landscape Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Landscape Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

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

N/A

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

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

(Paragraph Deleted)

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(Paragraph Deleted)

3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

Any Geotechnical Engineering, Surveying services and work required to obtain Permits shall be procured directly by the Owner.

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

Wes Michaels
1824 Sophie Wright Place
New Orleans, LA 70130
Telephone Number: (504) 218-8991

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Architect:

Trahan Architects
Trey Trahan

701 Poydras St. #150P
New Orleans, LA 70139
Telephone Number: (504) 522-9033
Email Address: ttrahan@trahanarchitects.com

.2 Mechanical Engineer:

Olsson Inc.
Jane Earnhart
601 P Street, Suite 200
PO Box 84608
Lincoln, NE 68501
Telephone Number: (402) 474-6311
Email Address: jearnhart@olsson.com

.3 Electrical Engineer:

Olsson Inc.
See

(Paragraph Deleted)

Above.

.4 Structural Engineer:

Spectrum Design Consultants
3606 Hamptstead Lane
Rosewell, GA 30075

.5 Civil Engineer:

Olsson Inc.
See Above.

Ecological Design Group, Inc.
341 S. 3rd St.
Rogers, AR 72756

.6 Acoustics +A/V Systems Consultant:

Threshold Acoustics

141 West Jackson Boulevard, Suite 2080
Chicago, IL 60604

.7 Performance Planning + Performance Lighting Consultant:

Shuler Shook

750 North Orleans, Suite 400
Chicago, IL 60654

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

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

The design team assumes that the Construction Manager will provide an online platform, such as ProCore, for

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tracking and managing all project related documents such as schedules, RFIs, and submittals. The Construction Manager will provide a virtual platform for OAC meetings. The Construction Manager will provide a construction camera for remotely monitoring construction progress and additional photography as needed to review work in progress between visits to the site. The Construction Manager will ship physical samples to relevant consultants. The Owner will procure all required testing services.

§ 1.2 The Owner and Landscape Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Landscape Architect shall appropriately adjust the Landscape Architect's services, schedule for the Landscape Architect's services, and the Landscape Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 LANDSCAPE ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Landscape Architect shall perform its services consistent with the professional skill and care ordinarily provided by Landscape Architects practicing in the same or similar locality under the same or similar circumstances. The Landscape 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 Landscape Architect shall identify a representative authorized to act on behalf of the Landscape Architect with respect to the Project.

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

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

§ 2.5.1 Commercial General Liability with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2,000,000.00) for each occurrence and Four Million Dollars and Zero Cents (\$ 4,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Landscape Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

Init.

§ 2.5.3 The Landscape Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$) each accident, One Million Dollars and Zero Cents (\$ 1,000,000.00) each employee, and One Million Dollars and Zero Cents (\$ 1,000,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2,000,000.00) per claim and Two Million Dollars and Zero Cents (\$ 2,000,000.00) in the aggregate.

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

§ 2.5.8 The Landscape Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF LANDSCAPE ARCHITECT'S BASIC SERVICES

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

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

§ 3.1.2 The Landscape Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Landscape Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Landscape Architect shall provide prompt written notice to the Owner if the Landscape Architect becomes aware of any error, omission, or inconsistency in such services or information.

(Paragraph Deleted)

§ 3.1.4 The Landscape Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Landscape Architect's written approval.

§ 3.1.5 The Landscape Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Landscape Architect shall respond to applicable design requirements imposed by those authorities and entities. Refer to Section 1.1.1 of this document for exclusions from the Landscape Architect's scope of work and responsibilities regarding Permit procurement and fees.

§ 3.1.6 The Landscape 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. Refer to Section 1.1.1 of this document for exclusions from the Landscape Architect's scope of work and responsibilities regarding permit procurement and fees.



(Paragraphs Deleted)

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Landscape Architect shall assist the Construction Manager in Construction Manager's established bidding process.

§ 3.5.2 Competitive Bidding

(Paragraph Deleted)

§ 3.5.2.2 The Landscape Architect shall assist the Construction Manager in bidding the Project by:

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

(Paragraph Deleted)

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Landscape Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

(Paragraphs Deleted)

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Landscape Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

(Paragraph Deleted)

§ 3.6.1.2 The Landscape Architect shall advise and consult with the Owner during the Construction Phase Services. The Landscape Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Landscape 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 Landscape Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Landscape Architect shall be responsible for the Landscape Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Landscape Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Landscape Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Landscape Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Landscape 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 Landscape Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Landscape Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Landscape Architect considers it necessary or advisable, the Landscape Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Landscape 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 Landscape Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Landscape 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 Landscape Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Landscape 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 Landscape 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 Landscape 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 A201-2017, the Landscape 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 Landscape Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Landscape Architect's certification for payment shall constitute a representation to the Owner, based on the Landscape 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 Landscape Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial

Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Landscape Architect.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Landscape Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Landscape Architect's action in reviewing submittals shall be taken within fourteen (14) calendar days, 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 Landscape Architect's professional judgment, to permit adequate review. The Landscape Architect shall review and respond to all Requests for Interpretation/Information (RFI) within seven (7) calendar days.

§ 3.6.4.2 The Landscape 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 Landscape Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Landscape 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 Landscape Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Landscape Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Landscape Architect. The Landscape Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Landscape Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Landscape Architect shall review and respond to requests for information about the Contract Documents. The Landscape 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 Landscape 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 Landscape Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Landscape 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 Landscape Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Landscape 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 Landscape Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Landscape Architect shall:

1. conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
2. issue Certificates of Substantial Completion;
3. issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Landscape Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Landscape 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 Substantial Completion has been achieved, the Landscape 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.

(Paragraph Deleted)

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

(Paragraphs Deleted)

N/A

(Paragraph Deleted)

(Table Deleted)

(Paragraphs Deleted)

(Paragraphs Deleted)

(Paragraph Deleted)

§ 4.2 Landscape Architect's Additional Services

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

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Landscape Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Landscape Architect shall not proceed to provide the following Additional Services until the Landscape 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 size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .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;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Landscape Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Landscape Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Landscape Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Landscape Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Landscape Architect of the Owner's determination. The Owner shall compensate the Landscape Architect for the services provided prior to the Landscape Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Landscape 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; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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(Paragraph Deleted)

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Landscape Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Eighteen (18) months of the date of this Agreement, through no fault of the Landscape Architect, extension of the Landscape 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.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Landscape Architect. The Owner and the Landscape 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 Landscape Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Landscape 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 other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

(Paragraphs Deleted)

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

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

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

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

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

§ 5.14 The Owner shall provide the Landscape 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.

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

ARTICLE 6 COST OF THE WORK

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

(Paragraphs Deleted)

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

(Paragraph Deleted)

§ 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 Landscape 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 Landscape Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Landscape Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Landscape Architect could not reasonably anticipate, the Owner shall compensate the Landscape Architect for the modifications as an Additional Service pursuant to Section 11.3. In any event, the Landscape Architect's modification of the Construction Documents shall be the limit of the Landscape Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Landscape Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Landscape Architect and the Landscape 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 Landscape Architect and the Landscape Architect's consultants.

§ 7.3 The Landscape Architect grants to the Owner a nonexclusive license to use the Landscape Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Landscape Architect shall obtain similar nonexclusive licenses from the Landscape Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Landscape Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Landscape Architect and Landscape 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 Landscape 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

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granted herein to another party without the prior written agreement of the Landscape Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Landscape Architect and the Landscape Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Landscape Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Landscape 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 Landscape Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Landscape 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 Landscape 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 Landscape Architect's services, the Landscape 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 Landscape Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

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

(Check the appropriate box.)

☒ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

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[] Other: (Specify)

If the Owner and Landscape Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 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 Landscape 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 Landscape Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

§ 9.2 If the Owner suspends the Project, the Landscape Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Landscape Architect shall be compensated for expenses incurred in the interruption and resumption of the Landscape Architect's services. The Landscape 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 Landscape Architect, the Landscape 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 Landscape Architect for the Owner's convenience and without cause.

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

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Landscape Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Landscape Architect the following fees:

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

.1 Termination Fee:

None.

.2 Licensing Fee if the Owner intends to continue using the Landscape Architect's Instruments of Service:

None.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Landscape Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Landscape 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 Landscape Architect shall have the right to include photographic or artistic representations of the design of the Project among the Landscape Architect's promotional and professional materials. The Landscape Architect shall be given reasonable access to the completed Project to make such representations. However, the Landscape Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Landscape Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Landscape Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Landscape Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

For Basic Services included in the scope of this agreement, the Owner shall pay the Landscape Architect a fee of TWO HUNDRED THOUSAND FIFTEEN ONE HUNDRED FIFTY DOLLARS (\$215,150.00).

Init.

For the services provided by Specialty Consultants that will accompany the Basic Services, the Owner shall pay the Landscape Architect a fee of THIRTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$33,500.00).

Therefore, the total fees the Owner shall pay the Landscape Architect for Bidding and Construction Administration services included in this Agreement comes to a total of TWO HUNDRED THOUSAND FORTY-EIGHT SIX HUNDRED FIFTY DOLLARS (\$248,650.00).

As a courtesy, the Landscape Architect has already procured the services estimate for the required Surveying services to accompany the Large-Scale Development Permit for the project, the Owner shall pay the estimated service fee of ELEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$11,250.00) based on the Change Order proposal from Blew & Associates, P.A. dated 8/27/2021 (Exhibit C: "21_08_27 Change Order #2"). This fee is not included in the Basic Services fee above and is an additional cost to the Owner. The fee is the sole responsibility of the Owner, and the Owner will be contracted with Blew & Associate, P.A. The Landscape Architect will invoice the Owner directly for the fees charged for the services outlined in Exhibit C.

.2 Percentage Basis
(Insert percentage value)

Zero (0.00) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

N/A

§ 11.2 For the Landscape Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Landscape Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

N/A

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

Work that is considered Additional Services shall be compensated at hourly rates listed in Exhibit D: 2022 SMM Hourly Rates or at a fixed fee negotiated with the Owner.

§ 11.4 Compensation for Supplemental and Additional Services of the Landscape Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Landscape Architect plus Five percent (5.00 %), or as follows:
(Insert amount of, or basis for computing, Landscape Architect's consultants' compensation for Supplemental or Additional Services.)

(Paragraph Deleted)

(Table Deleted)

(Paragraphs Deleted)

§ 11.7 The hourly billing rates for services of the Landscape Architect and the Landscape Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Landscape Architect's and Landscape Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Exhibit D: "2022 SMM Hourly Rates"

Employee or Category	Rate (\$0.00)
Principal	\$200.00
Project Manager	\$150.00
Associate	\$125.00
Designer	\$80.00
Administrative	\$65.00
Intern	\$40.00

§ 11.8 Compensation for Reimbursable Expenses

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

.1

(Paragraph Deleted)

Permitting and other fees required by authorities having jurisdiction over the Project, including but not limited to permit fees, survey services, and testing services;

- .2 Printing, reproductions, plots, and standard form documents;
- .3 Postage, handling, and delivery;

(Paragraph Deleted)

- .4 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .5 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .6 All taxes levied on professional services and on reimbursable expenses;

(Paragraph Deleted)

- .7 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .8 Other similar Project-related expenditures.

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

Init.

§ 11.9 Landscape Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Landscape Architect normally maintains, the Owner shall pay the Landscape Architect for the additional costs incurred by the Landscape Architect for the additional coverages as set forth below:

(Insert the additional coverages the Landscape Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Landscape Architect.)

N/A

§ 11.10 Payments to the Landscape Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 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.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Landscape Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Landscape Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Landscape Architect's invoice. Amounts unpaid Ninety (90) 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 Landscape Architect.

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

1 % One Percent

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

N/A

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Landscape Architect

(Paragraph Deleted)

.)

(Paragraph Deleted)

.2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

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

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

Exhibit A: 21_04_15 LGP 100% CD Drawing Set

Exhibit B: 21_02_25 LGP Next Steps Memo

Exhibit C: 21_08_27 Change Order #2

Exhibit D: 2022 SMM Hourly Rates

.4 Other documents:

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

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

-See attached digital signatures page-

OWNER (Signature)

Patsy Christie, Director

(Printed name and title)

-See attached digital signatures page-

LANDSCAPE ARCHITECT (Signature)

Wes Michaels, Principal

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

Init.

Digital Signatures Page

Additions and Deletions Report for AIA® Document B101™ – 2017

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 17:36:40 ET on 03/14/2022.

PAGE 1

AGREEMENT made as of the Fourteenth day of March in the year Two Thousand Twenty-Two

...

BETWEEN the Landscape Architect's client identified as the Owner:

...

City of Springdale

...

201 Spring Street Springdale, AR 72764

Telephone Number: (479) 750-8114

...

and the Landscape Architect:

...

Spackman Mossop Michaels, LLC

...

1824 Sophie Wright Place

...

New Orleans, LA 70130

Telephone Number: (504) 218-8991

...

Luther George Park Bidding and Construction Administration Services

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User Notes:

Luther George Park, Springdale, Arkansas

Professional Landscape Architecture services for bidding and construction administration for the expansion and renovation of the approximately 14.5 acre area of Luther George Park located in downtown Springdale, Arkansas along the Razorback Regional Greenway

.

...

The Owner and Landscape Architect agree as follows.

PAGE 2

TABLE OF ARTICLES

...

2 LANDSCAPE ARCHITECT'S RESPONSIBILITIES

...

3 SCOPE OF LANDSCAPE ARCHITECT'S BASIC SERVICES

...

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

...

Construction of Luther George Park as documented in Exhibit A: "21_04_15 LGP 100% CD Drawing Set", dated 04/15/2021.

The design team, led by the Landscape Architect will continue in their roles into CA. This includes Trahan Architects (architecture), Spectrum Design Consultants (structural engineering), and Olsson (civil and MEP engineering). Additionally, the Landscape Architect will be utilizing Ecological Design Group (EDG) for on-the-ground and field observation support of the civil and landscape scopes. During the Bidding Phase, the design team will participate in virtual pre-bid meetings, respond to bidders' questions, and assist with evaluating bids as needed.

Construction Administration services will include:

- Assist Construction Manager with submissions for building permits
- Pre-construction Conferences
- Attend regular OAC meetings
- Respond to RFIs
- Prepare ASIs and sketches
- Review of submittals including product data, shop drawings, samples, mock ups, etc
- Travel to project site, and related fabrication/ nursery facilities is included
- Field Observations Reports for in person visits to site or fabrication facilities
- Part-time inspection of sewer extension and any public main extension
- As-Builts of sewer extension for SWU (as-builts of all other scope areas not included)
- Prepare Punch Lists

PAGE 3

The design team utilized the expertise of specialty consultants on the design of the Performance Pavilion. The continued involvement of Threshold Acoustics and Schuler Shook is recommended to oversee their scope related to AV infrastructure, electrical systems, and acoustic performance. The Specialty Consultants fee, found in Section 11.1, includes travel for 4 visits to the project site at critical milestones.

This Contract does not include significant value engineering redesign. The proposal does not include permitting fees, as-built drawings (other than required for SWU), H&H Modeling, or surveying services. Upon conclusion of the design phase, the design team identified outstanding items that will need to be addressed prior to proceeding to Bidding & CA. These are identified in the Exhibit B: "21_02_25 LGP Next Steps Memo" dated February 25, 2021.

The following services detailed in Exhibit B are excluded from the Basic Services scope of this Contract:

- Water Street Shared Street Connection + Overhead Electrical Upgrade
- Ozark Gardens
- Service Yard and Shed
- Trailhead Parking
- Picnic Shelters
- New Use for Skate Park
- Stream Restoration & Enhancement
- Remove Cell Tower
- Donor Signage

These services can be provided as an Additional Service for an Additional Services fee if desired by the Client.

...
Please reference Exhibit A: 21_04_15 LGP 100% CD Drawing Set, which includes the limit of work line.

...
The Owner has identified a Construction Budget of TEN MILLION DOLLARS (\$10,000,000.00) for this work.

...
N/A

...
Undetermined at time of execution.

PAGE 4

Undetermined at time of execution.

...
N/A

Procurement is based on a CMAR process or similar with Construction Manager in place with the City of Springdale. During the Bidding Phase, the design team will participate in virtual pre-bid meetings, respond to bidders' questions, and assist with evaluating bids as needed.

...

N/A

...

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Landscape Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Landscape Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

...

N/A

...

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

...

~~1~~ Geotechnical Engineer:

PAGE 5

~~2~~ Civil Engineer:

...

Any Geotechnical Engineering, Surveying services and work required to obtain Permits shall be procured directly by the Owner.

...

§ 1.1.10 The Landscape Architect identifies the following representative in accordance with Section 2.3:

...

Wes Michaels
1824 Sophie Wright Place
New Orleans, LA 70130

Telephone Number: (504) 218-8991

...
§ 1.1.11 The Landscape Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

...
1. ~~Structural Engineer~~ Architect:

...
Trahan Architects

...
Trey Trahan

...
701 Poydras St. #150P

...
New Orleans, LA 70139

...
Telephone Number: (504) 522-9033

...
Email Address: ttrahan@trahanarchitects.com

...
Olsson Inc.

...
Jane Earnhart

...
601 P Street, Suite 200

...
PO Box 84608

...
Lincoln, NE 68501

...

Telephone Number: (402) 474-6311

...

Email Address: jeamhart@olsson.com

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Olsson Inc.

...

See

...

Above.

...

.4 Structural Engineer:

...

Spectrum Design Consultants

...

3606 Hamptstead Lane

...

Rosewell, GA 30075

...

.5 Civil Engineer:

...

Olsson Inc.

See Above.

Ecological Design Group, Inc.

341 S. 3rd St.

Rogers, AR 72756

.6 Acoustics + A/V Systems Consultant:

Threshold Acoustics

141 West Jackson Boulevard, Suite 2080

Chicago, IL 60604

.7 Performance Planning + Performance Lighting Consultant:

Shuler Shook

750 North Orleans, Suite 400

Chicago, IL 60654

...

N/A

PAGE 7

The design team assumes that the Construction Manager will provide an online platform, such as ProCore, for tracking and managing all project related documents such as schedules, RFIs, and submittals. The Construction Manager will provide a virtual platform for OAC meetings. The Construction Manager will provide a construction camera for remotely monitoring construction progress and additional photography as needed to review work in progress between visits to the site. The Construction Manager will ship physical samples to relevant consultants. The Owner will procure all required testing services.

...

§ 1.2 The Owner and Landscape Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Landscape Architect shall appropriately adjust the Landscape Architect's services, schedule for the Landscape Architect's services, and the Landscape Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

...

ARTICLE 2 LANDSCAPE ARCHITECT'S RESPONSIBILITIES

...

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

...

§ 2.2 The Landscape Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects-Landscape Architects practicing in the same or similar locality under the same or similar circumstances. The Landscape 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 Landscape Architect shall identify a representative authorized to act on behalf of the Landscape Architect with respect to the Project.

...

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

...

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

...

§ 2.5.1 Commercial General Liability with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2,000,000.00) for each occurrence and Four Million Dollars and Zero Cents (\$ 4,000,000.00) in the aggregate for bodily injury and property damage.

...

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Landscape Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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§ 2.5.3 The Landscape Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

...

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$) each accident, One Million Dollars and Zero Cents (\$ 1,000,000.00) each employee, and One Million Dollars and Zero Cents (\$ 1,000,000.00) policy limit.

...

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2,000,000.00) per claim and Two Million Dollars and Zero Cents (\$ 2,000,000.00) in the aggregate.

...

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

...

§ 2.5.8 The Landscape Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

...

ARTICLE 3 SCOPE OF LANDSCAPE ARCHITECT'S BASIC SERVICES

...

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

...

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

...

§ 3.1.2 The Landscape Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Landscape Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Landscape Architect shall provide prompt written notice to the Owner if the Landscape 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 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 Landscape Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Landscape Architect's written approval.

...

§ 3.1.5 The Landscape Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Landscape Architect shall respond to applicable design requirements imposed by those authorities and entities. Refer to Section 1.1.1 of this document for exclusions from the Landscape Architect's scope of work and responsibilities regarding Permit procurement and fees.

...

§ 3.1.6 The Landscape 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. Refer to Section 1.1.1 of this document for exclusions from the Landscape Architect's scope of work and responsibilities regarding permit procurement and fees.

§ 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, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

...

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

...

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

...

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

...

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

...

§ 3.2.5.2 The 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 other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

...

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

...

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

...

§ 3.4 Construction Documents Phase Services

...

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

...

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

...

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

...

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

...

§ 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.

...

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. Landscape Architect shall assist the Construction Manager in Construction Manager's established bidding process.

...

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

...

§ 3.5.2.2 The Landscape Architect shall assist the ~~Owner~~ Construction Manager in bidding the Project by:

...

~~.1 facilitating the distribution of Bidding Documents to prospective bidders;~~

...

~~.2—organizing and conducting a pre-bid conference for prospective bidders;~~

...

~~.3—~~.2 preparing responses to questions from prospective bidders and providing clarifications ~~clarifications;~~ and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and addenda.

...

~~.4—organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.~~

...

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Landscape Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

...

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

...

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

...

~~.1—facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;~~

...

~~2 organizing and participating in selection interviews with prospective contractors;~~

...

~~3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,~~

...

~~4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

...

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Landscape Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

...

~~§ 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™ 2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201 2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~

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§ 3.6.1.2 The Landscape Architect shall advise and consult with the Owner during the Construction Phase Services. The Landscape Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Landscape 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 Landscape Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Landscape Architect shall be responsible for the Landscape Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

...

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Landscape Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Landscape Architect issues the final Certificate for Payment.

...

§ 3.6.2.1 The Landscape Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Landscape 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 Landscape Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known

deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

...

§ 3.6.2.2 The Landscape Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Landscape Architect considers it necessary or advisable, the Landscape Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Landscape 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 Landscape Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

...

§ 3.6.2.3 The Landscape 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 Landscape Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

...

§ 3.6.2.4 Interpretations and decisions of the Landscape 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 Landscape 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 Landscape 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 A201–2017, the Landscape Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

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

...

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

...

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

...

§ 3.6.4.1 The Landscape Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Landscape Architect's action in reviewing submittals shall be taken within fourteen (14) calendar days, 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 Landscape Architect's professional judgment, to permit adequate review. The Landscape Architect shall review and respond to all Requests for Interpretation/Information (RFI) within seven (7) calendar days.

...

§ 3.6.4.2 The Landscape 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 Landscape Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Landscape 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 Landscape Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Landscape Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Landscape Architect. The Landscape Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Landscape Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

...

§ 3.6.4.4 Subject to Section 4.2, the Landscape Architect shall review and respond to requests for information about the Contract Documents. The Landscape 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 Landscape 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 Landscape Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

...

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

...

§ 3.6.5.1 The Landscape Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Landscape 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 Landscape Architect shall maintain records relative to changes in the Work.

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§ 3.6.6.1 The Landscape Architect shall:

...

.3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,

...

.4—issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Landscape Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

...

§ 3.6.6.2 The Landscape 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 Substantial Completion has been achieved, the Landscape 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 Landscape Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

...

§ 4.1 Supplemental Services

...

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

Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

...

N/A

...

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

...

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As designed record drawings	
§ 4.1.1.16 As constructed record drawings	
§ 4.1.1.17 Post occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	

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§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

...

~~§ 4.1.2 Description of Supplemental Services~~

...

~~§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.~~

...

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

...

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

...

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

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

...

~~§ 4.2 Landscape Architect's Additional Services~~

...

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

...

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

- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Landscape Architect is party thereto;

- .11 Assistance to the Initial Decision Maker, if other than the Landscape Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Landscape Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Landscape Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Landscape Architect of the Owner's determination. The Owner shall compensate the Landscape Architect for the services provided prior to the Landscape Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Landscape Architect;

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

- ~~.1 — () reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor~~

- ~~.2 — () visits to the site by the Architect during construction~~

- ~~.3 — () inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents~~

- ~~.4 — () inspections for any portion of the Work to determine final completion.~~

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and

Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Landscape Architect incurs additional cost in providing those Construction Phase Services.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within Eighteen (18) months of the date of this Agreement, through no fault of the Landscape Architect, extension of the Landscape Architect's services beyond that time shall be compensated as Additional Services.

...

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Landscape Architect. The Owner and the Landscape 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 Landscape Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Landscape Architect's services.

...

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

...

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

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

...

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

...

§ 5.12 The Owner shall include the Landscape Architect in all communications with the Contractor that relate to or affect the Landscape Architect's services or professional responsibilities. The Owner shall promptly notify the

Landscape Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Landscape Architect's consultants shall be through the Landscape Architect.

...

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

...

§ 5.14 The Owner shall provide the Landscape 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.

...

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

...

§ 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 Landscape Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Landscape Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

...

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

...

§ 6.3 In preparing estimates of the Cost of Work, the 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 recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

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

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~~§ 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.~~

...

- .4 in consultation with the Landscape Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

...

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

...

§ 7.1 The Landscape Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

...

§ 7.2 The Landscape Architect and the Landscape 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 Landscape Architect and the Landscape Architect's consultants.

...

§ 7.3 The Landscape Architect grants to the Owner a nonexclusive license to use the Landscape Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Landscape Architect shall obtain similar nonexclusive licenses from the Landscape Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and

suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Landscape Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

...

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Landscape Architect and Landscape 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 Landscape 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.

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§ 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 Landscape Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Landscape Architect and the Landscape Architect's consultants.

...

§ 8.1.1 The Owner and Landscape Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Landscape 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 Landscape Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Landscape 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 Landscape 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.

...

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

...

[X] Arbitration pursuant to Section 8.3 of this Agreement

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If the Owner and Landscape Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

...

§ 8.3.4.3 The Owner and Landscape 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 Landscape Architect under this Agreement.

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

...

§ 9.2 If the Owner suspends the Project, the Landscape Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Landscape Architect shall be compensated for expenses incurred in the interruption and resumption of the Landscape Architect's services. The Landscape 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 Landscape Architect, the Landscape Architect may terminate this Agreement by giving not less than seven days' written notice.

...

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

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

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Landscape Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Landscape Architect the following fees:

None.

.2 Licensing Fee if the Owner intends to continue using the Landscape Architect's Instruments of Service:

None.

§ 9.9 The Owner's rights to use the Landscape Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

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

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

...

§ 10.6 Unless otherwise required in this Agreement, the Landscape 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 Landscape Architect shall have the right to include photographic or artistic representations of the design of the Project among the Landscape Architect's promotional and professional materials. The Landscape Architect shall be given reasonable access to the completed Project to make such representations. However, the Landscape Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Landscape Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Landscape Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

...

§ 10.8 If the Landscape Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

...

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

...

For Basic Services included in the scope of this agreement, the Owner shall pay the Landscape Architect a fee of TWO HUNDRED THOUSAND FIFTEEN ONE HUNDRED FIFTY DOLLARS (\$215,150.00).

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For the services provided by Specialty Consultants that will accompany the Basic Services, the Owner shall pay the Landscape Architect a fee of THIRTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$33,500.00).

...

Therefore, the total fees the Owner shall pay the Landscape Architect for Bidding and Construction Administration services included in this Agreement comes to a total of TWO HUNDRED THOUSAND FORTY-EIGHT SIX HUNDRED FIFTY DOLLARS (\$248,650.00).

...

As a courtesy, the Landscape Architect has already procured the services estimate for the required Surveying services to accompany the Large-Scale Development Permit for the project, the Owner shall pay the estimated service fee of ELEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$11,250.00) based on the Change Order proposal from Blew & Associates, P.A. dated 8/27/2021 (Exhibit C: "21_08_27 Change Order #2"). This fee is not included in the Basic Services fee above

and is an additional cost to the Owner. The fee is the sole responsibility of the Owner, and the Owner will be contracted with Blew & Associate, P.A. The Landscape Architect will invoice the Owner directly for the fees charged for the services outlined in Exhibit C.

Zero (0.00) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

N/A

§ 11.2 For the Landscape Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Landscape Architect as follows:

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Landscape Architect as follows:

Work that is considered Additional Services shall be compensated at hourly rates listed in Exhibit D: 2022 SMM Hourly Rates or at a fixed fee negotiated with the Owner.

§ 11.4 Compensation for Supplemental and Additional Services of the Landscape Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Landscape Architect plus Five percent (5.00%), or as follows:

(Insert amount of, or basis for computing, Landscape Architect's consultants' compensation for Supplemental or Additional Services.)

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

Schematic Design Phase	percent-(	%)
Design Development Phase	percent-(	%)
Construction Documents	percent-(	%)
Phase		
Procurement Phase	percent-(	%)

Construction Phase	percent (	%)
Total Basic Compensation	one hundred percent (	100 %)

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

...

~~§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.~~

...

§ 11.7 The hourly billing rates for services of the Landscape Architect and the Landscape Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Landscape Architect's and Landscape Architect's consultants' normal review practices.

...

Exhibit D: "2022 SMM Hourly Rates"

...

<u>Principal</u>	<u>\$200.00</u>
<u>Project Manager</u>	<u>\$150.00</u>
<u>Associate</u>	<u>\$125.00</u>
<u>Designer</u>	<u>\$80.00</u>
<u>Administrative</u>	<u>\$65.00</u>
<u>Intern</u>	<u>\$40.00</u>

...

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

...

~~.1 Transportation and authorized out-of-town travel and subsistence;~~

...

~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~

...
~~.3~~—3—Permitting and other fees required by authorities having jurisdiction over the ~~Project;~~Project,
including but not limited to permit fees, survey services, and testing services;

...
~~.4~~—2—Printing, reproductions, plots, and standard form documents;

...
~~.5~~—3—Postage, handling, and delivery;

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

...
~~.7~~—4—Renderings, physical models, mock-ups, professional photography, and presentation materials
requested by the Owner or required for the Project;

...
~~.8~~—5—If required by the Owner, and with the Owner's prior written approval, the Architect's consultants'
expenses of professional liability insurance dedicated exclusively to this Project, or the expense of
additional insurance coverage or limits in excess of that normally maintained by the Architect's
consultants;

...
~~.9~~—6—All taxes levied on professional services and on reimbursable expenses;

...
~~.10~~—Site office expenses;

...
~~.11~~—7—Registration fees and any other fees charged by the Certifying Authority or by other entities as
necessary to achieve the Sustainable Objective; and,

...
~~.12~~—8—Other similar Project-related expenditures.

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

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§ 11.9 Landscape Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Landscape Architect normally maintains, the Owner shall pay the Landscape Architect for the additional costs incurred by the Landscape Architect for the additional coverages as set forth below:

...

(Insert the additional coverages the Landscape Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Landscape Architect.)

...

N/A

...

§ 11.10 Payments to the Landscape Architect

...

§ 11.10.1.1 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.

...

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Landscape Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Landscape Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Landscape Architect's invoice. Amounts unpaid Ninety (90) 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 Landscape Architect.

...

1 % One Percent

...

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

...

N/A

...

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

...

.1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Landscape Architect

...

~~.2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

...

)

...

(Insert the date of the E203 2013 incorporated into this agreement.)

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~~.3~~ .2 Exhibits:

...

[X] Other Exhibits incorporated into this Agreement:

...

Exhibit A: 21_04_15 LGP 100% CD Drawing Set

...

Exhibit B: 21_02_25 LGP Next Steps Memo

...

Exhibit C: 21_08_27 Change Order #2

...

Exhibit D: 2022 SMM Hourly Rates

...

OWNER (Signature)

Patsy Christie, Director

LANDSCAPE ARCHITECT (Signature)

Wes Michaels, Principal

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Wes Michaels, 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 17:36:40 ET on 03/14/2022 under Order No. 2114278039 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™ - 2017, 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)