



AGENDA

Ardsey Village Board of Trustees

8:00 PM - Monday, May 4, 2020

507 Ashford Avenue

BROADCAST LIVE ON VERIZON 32/35 & CABLEVISION 75

While New York remains in a State of Emergency during this pandemic crisis, we strongly encourage residents to participate in our Statutory Meetings by Zoom either by web or by phone. Instructions for remote participation are below. The following is the website and the phone number for participation in this meeting:

Join Zoom Meeting

<https://zoom.us/j/7958421333?pwd=TzB3aWFsZUZTdTFpeE1abTE2SktrUT09>

Meeting ID: 795 842 1333

Password: 04072020

One tap mobile

+19292056099,,7958421333# US (New York)

Dial by your location

+1 929 205 6099 US (New York)

Meeting ID: 795 842 1333

Find your local number: <https://zoom.us/u/aejGhopGjl>

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- 1. ANNOUNCEMENT OF EXIT SIGNS**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MINUTES:**
 - 3.a Meeting Minutes- April 20, 2020

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	4. DEPARTMENT REPORTS
	4.1. LEGAL
	4.2. MANAGER
11	4.2.a Village Manager Report-May 4, 2020
	4.3. TREASURER
12 - 14	4.3.a Abstract -May 4, 2020
	4.4. BUILDING
	No Building Department Report
	4.5. FIRE
	No Fire Department Report
	4.6. POLICE
	No Police Department Report
	4.7. MAYOR'S ANNOUNCEMENTS
	4.8. COMMITTEE & BOARD REPORTS
	5. VISITORS
	6. OLD BUSINESS:
	7. NEW BUSINESS:
15 - 18	7.a Consider a Resolution to Award Bid for Heatherdell Road Sidewalk Improvement & Guiderail Project
19 - 79	7.b Consider a Resolution Authorizing the Village Manager to sign an agreement with Weston & Sampson
80 - 125	7.c Consider a Resolution Authorizing the Village Manager to Sign an Agreement with Calgi Construction Company, Inc.
126 - 128	7.d Consider a Resolution to Establish a Sewer Rent Rate and Adjustment Procedures for FY 2020-2021
129	7.e Consider a Resolution Authorizing the Village Board of Trustees to Approve a Stipend for the Village Treasurer
130 - 133	7.f Consider a Resolution Authorizing the

- 134 - 137
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- 146 - 197
- Issuance of \$42,000 Bonds of the Village of Ardsley, Westchester County, New York, to Pay the Cost of the Reconstruction of the Addyman Square Parking Lot
- 7.g Consider a Resolution Authorizing the Issuance of \$25,000 Bonds of the Village of Ardsley, Westchester County, New York, to Pay for the Cost of the purchase of Police Livescan Equipment
- 7.h Consider a Resolution Authorizing the Issuance of \$897,689 Bonds of the Village of Ardsley, Westchester County, New York, to Pay the Cost of the Reconstruction of Roads
- 7.i Consider a Resolution Authorizing the Issuance of \$124,000 Bonds of the Village of Ardsley, Westchester County, New York, to Pay the Cost of Storm Sewer Improvements at Summit Avenue
- 7.j Consider a Resolution Authorizing the Village Manager to Sign an Inter-Municipal Agreement with Westchester County-Radio Replacement Project

8. CALL FOR EXECUTIVE SESSION

9. ADJOURNMENT OF MEETING

10. NEXT BOARD MEETING:

May 18, 2020

**VILLAGE OF ARDSLEY
BOARD OF TRUSTEES
REGULAR MEETING
MONDAY, APRIL 20, 2020**

Present:	Mayor	Nancy Kaboolian
	Deputy Mayor Trustee	Andy DiJusto
	Trustee	Evan Yager
	Trustee	Joann D’Emilio
	Trustee	Steve Edelstein
	Village Manager	Meredith S. Robson
	Village Attorney	Robert Ponzini
	Village Clerk	Ann Marie Rocco

8:15 p.m. PUBLIC HEARING

Continuation of Public Hearing to Consider the Tentative Budget for the Village of Ardsley for the Fiscal Year Beginning June 1, 2020 through May 31, 2021.

Mayor Kaboolian called to order the Regular Meeting at 8:00 p.m. via Zoom.

I. ANNOUNCEMENT OF EXIT SIGNS

II. PLEDGE OF ALLEGIANCE- Mayor Kaboolian asked we remain standing for a moment of silence for the 743 souls we have lost due to COVID-19 since March 1, 2020.

III. APPROVAL OF MINUTES: Regular Meeting – Monday, April 6, 2020

Trustee DiJusto: RESOLVED, that the Village Board of the Village of Ardsley hereby approves the minutes of the Regular Meeting of Monday, April 6, 2020 as submitted. **Seconded by Trustee Yager and passed unanimously.**

IV. DEPARTMENT REPORTS:

LEGAL REPORT: Village Attorney Robert Ponzini stated there is nothing to report and has been working with staff on various ongoing items with staff.

MANAGER’S REPORT – 04/20/2020

Manager Robson did not have a separate report to provide.

Mayor Kaboolian stated the following:

- We did re-issue the State of Emergency since the last one expired after 30 days. Governor Cuomo extended our New York State pause until May 15, 2020.
- 9A is being repaved.

TREASURER'S REPORT: Village Treasurer, Leslie Tillotson read the Treasurer's Report for April 20, 2020:

Village Treasurer, Leslie Tillotson stated the bills for the past two weeks totaled as follows: From the General Fund: \$193,793.85; from the Trust & Agency Fund: \$2,108.58 and from the Capital Fund: \$225.00

Trustee Yager: RESOLVED, that the Village Board of the Village of Ardsley hereby authorizes the Village Treasurer to make the following payments: From the General Fund: \$193,793.85 from the Trust & Agency Fund: \$2,108.58 and from the Capital Fund: \$225.00. **Seconded by Trustee D'Emilio and passed unanimously.**

ASVAC REPORT: ASVAC Captain Greg Khitrov provided the Board with the March 2020 ASVAC report.

- Extended his thanks for the volunteers at ASVAC, Police, Fire Departments and Village Administration.
- 73 Calls
- 42 Calls for Assisted Living
- Started a tele-triage
- Thanked those who donated PPE
- Treat every call as a COVID-19 call
- Ambulances are disinfected after every call
- Members over 60 and junior members are not riding during the pandemic.
- During pandemic family members are not allowed to come in the ambulance with the patient.
- ASVAC website has been updated with COVID-19 information.
- Member training has continued to continue to stay informed.

FIRE DEPARTMENT REPORT: Police Chief Patrick Lindsay provided the Board with the March 2020 Fire Department report:

- 3/3/2020- Participated in joint training with the Dobbs Ferry Department on vehicle extrication.
- 3/17/2020- Due to the COVID-19 pandemic all meetings, drills, and activities for Fire Department have been cancelled until further notice.
- 3/25/2020 Chief's Lindsay, Murray & Mancini participated in Battalion 14 tele-conference meeting.

Village of Ardsley
Board of Trustees- April 20, 2020

- 21 Calls for the month of March.

Chief Lindsay explained that the Fire Department is open and they are responding to all the calls but the response time is a little different since they will need to know if residents have been exposed to COVID-19 prior to entering the house.

POLICE DEPARTMENT REPORT:

Police Chief, Anthony Piccolino read the following March 2020 Police Report:

- Property Lost or Stolen - \$897.04
- Property Recovered - \$0
- Court fines & fees-\$0
- Alarm fines & fees - \$160
- Meter collection- \$1,920.35
- 78 Parking summonses issued
- 12 UTT summonses issued
- 1 Appearance ticket issued
- 91 Summonses issued

TRAINING:

- Total training for the month of March – 128 hours.

COMMUNITY POLICING:

Due to the current Coronavirus epidemic community policing officers have been reassigned to patrol duties.

COMMUNITY INFORMATION:

Our country is experiencing an unprecedented pandemic. Our residents are being asked to stay home and to practice social distancing. This is not something we're used to or have ever experienced. It's times like this when the true spirit of humanity shines. Neighbors checking on neighbors and parents finding ways to educate and entertain their children.

Our Police Officers and first responders are here to support you and respond to your needs. If you call the police department for service please notify the dispatcher if you or anyone in the household are experiencing any virus symptoms in order to protect our officers and first responders.

During the state of emergency, our department will accept complaints and file reports by phone whenever possible.

Village of Ardsley
Board of Trustees- April 20, 2020

Our hearts go out to those who have been infected with this virus and to the families of those we lost. We stand together with you and will support you in any way we can.

Stay strong. We will get through this together.

CORONAVIRUS 2019:

Prevention:

There is currently no vaccine to prevent COVID-19. The best way to prevent illness is to avoid being exposed to this virus. However, as a reminder, CDC always recommends everyday preventative actions to help the spread of respiratory disease including:

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose & mouth.
- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe.
- Follow CDC's recommendations for using a facemask.

In light of new data about how COVID-19 spreads, along with evidence of widespread COVID-19 illness in communities across the country, CDC recommends that people wear a cloth face covering to cover their nose and mouth in the community setting. This is an additional public health measure people should take to reduce the spread of COVID-19 in addition to (not instead of) social distancing, frequent hand cleaning and other everyday preventive actions. A cloth face covering is not intended to protect the wearer, but may prevent the spread of virus from the wearer to others. This would be especially important in the event that someone is infected but does not have symptoms. A cloth face covering should be worn whenever people must go into public settings (grocery stores, for example). Medical masks such as N-95 respirators are reserved for healthcare workers and other first responders, as recommended by current CDC guidance.

- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing or sneezing.

-If soap and water are not readily available, use an alcohol based hand sanitizer with at least 60% alcohol. Always wash hands with soap and water if hands are visibly dirty.

For information about handwashing, see CDC's Handwashing website:

<https://www.cdc.gov/handwashing/index.html>

For information specific to healthcare, see CDC's Hand Hygiene in Healthcare Settings:

<https://www.cdc.gov/handhygiene/index.html>

These are everyday habits that can help prevent the spread of several viruses. CDC does have specific guidance for travelers.

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<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>

For more information, please visit the CDC website at:
<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>

Chief Piccolino also thanked Village Manager Robson for all her efforts with getting the supplies that are needed for the first responders.

BUILDING DEPARTMENT REPORT: Building Inspector Larry Tomasso provided the Board with the March 2020 Building Department report.

- 5 Building permits
- 9 Application fees
- 8 Certificates of Occupancy
- 2 Plumbing permits
- 3 Electrical permits
- 11 Title Search & Letters of Compliance
- Total revenue \$3,475.50
- 64 Building Inspection
- 10 Zoning Inspections
- 3 Fire Inspections
- 1 Violation notice
- 1 Warning notice

Trustee Yager asked if the Mr. Tomasso could give any updates regarding the gas station on Saw Mill River Rd. and 3 American Legion.

Mr. Tomasso stated that:

- 3 American Legion did obtain their demolition permit but currently they are on hold.
- Gas Station on Saw Mill River Rd- remediation has been completed and we expect to see their site plan application this month.

MAYOR'S ANNOUNCEMENTS:

Mayor Kaboolian announced the following:

- We continue to sit on conference calls 3 days per week with the County.
- The Governor has extended New York pause until May 15, 2020
- County Executive Latimer stated that we have begun to see a flattening of the curve.
- State of the County address that was scheduled for Wednesday night has been postponed.
- The State is looking for plasma donations.

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TRUSTEE DIJUSTO:

Trustee DiJusto thanked everyone who is trying to help out in the Village by wearing masks and gloves.

TRUSTEE YAGER:

Nothing to report

TRUSTEE D'EMILIO:

Trustee D'Emilio announced the following:

- SAYF Coalition will be hosting homework helper via video conference and the social workers will also be doing a video conference teaching mindfulness and coping skills techniques.

TRUSTEE EDELSTEIN:

Nothing to report.

VISITORS:

Village Manager Robson provided synopsis regarding the 2020-2021 Budget:

- Reduced the expenditures approximately \$400,000
- We are using \$200,000 of our debt reserve to help with the tax rate.
- Pushing off some capital projects to future years.
- Keeping revenues the same.
- Our current tax rate is at 9.99. If the Budget passes tonight it will bring the tax rate to 9.94.

The Board also discussed grant money for updating the bathrooms at Pascone Park. All members of the Board were in agreement with this.

Gary Rappaport had the following questions regarding the budget via email:

Is the sewer fund new? Yes.

Is it a new tax? It is a user fee that will cover costs that were and would be paid for through the general fund and therefore, just taxpayers. The user fee will be paid by all users of the collection system, which broadens the base.

Line item? Do you mean line item for sewer? It is its own fund. Now not part of the general fund. I remember an email and it's a good idea but there was not much after that

What fund is \$200k item coming from?

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Do you mean the \$200K from the debt reserve on the front page? The debt reserve is a restricted part of our fund balance.

Is this essentially a no growth budget? The tax rate the Board has discussed since the Tentative Budget was released (and things got crazy with the virus) is actually less than the current year. Current is 9.99 and the one I believe the Board will vote on and approve tomorrow is 9.94.

Trustee D’Emilio: RESOLVED, that the Village Board of the Village of Ardsley hereby closes the Public Hearing to consider the Tentative Budget for the Village of Ardsley for the Fiscal Year Beginning June 1, 2020 through May 31, 2021 at 9:00 p.m. **Seconded by Trustee Edelstein and passed unanimously.**

VI. OLD BUSINESS

1. Consider a Resolution to Adopt the 2020-2021 Village Budget

RESOLUTION TO ADOPT THE 2020-2021 VILLAGE BUDGET

Trustee Edelstein: RESOLVED, that the Village Board of the Village of Ardsley hereby adopts the 2020-2021 Village Budget, effective June 1, 2020 through May 31, 2021 which includes amendments the Front Page Budget Summary and capital plan funding, made part of the 2020-2021 Tentative Budget. **Seconded by Trustee D’Emilio and passed unanimously.**

VII. NEW BUSINESS

VIII. CALL FOR EXECUTIVE SESSION – Legal Advice

IX. ADJOURNMENT OF MEETING

Trustee DiJusto: RESOLVED, that the Village Board of the Village of Ardsley Hereby adjourns the regular meeting of Monday, April 20, 2020, at 9:02 p.m. **Seconded by Trustee Yager and passed unanimously.**

X. NEXT VILLAGE BOARD MEETING: Monday, May 4, 2020 at 8:00 p.m.

Respectfully submitted,

Ann Marie Rocco
Village Clerk

Village of Ardsley
Board of Trustees- April 20, 2020

MANAGER'S REPORT 5/04/20

- 1. PUBLIC SERVICE RECOGNITION WEEK:** May 3-9 is Public Service Recognition Week. As I have done in previous years, I want to acknowledge and celebrate the work done by our municipal employees. For the most part, the work done by our Village staff is done “under the radar” and not recognized nearly enough. Garbage and recycling is collected, police respond to calls, inspections are done, bills are paid, official records are kept and leisure services are provided. This year, in particular, their commitment and dedication to providing service to the community should be profoundly evident. Despite the dangers posed by the current pandemic, most of these services are still being provided, albeit in a very different and perhaps reduced fashion. But services are still being provided, nonetheless ... by employees who may have contracted and recovered from the virus ... by employees who are concerned like everyone else that they may contract the virus ... by employees who are concerned that they may unknowingly bring the virus home to their families ... by employees who are committed to serving the Village despite the risk. There is no satisfactory way to truly express my gratitude! To all of the public employees engaged in providing service to the public at all times, particularly during this immensely difficult period, I say “THANK YOU”!!! You are the very best and I am proud to work with you.
- 2. 9A ROAD IMPROVEMENTS:** We have been notified by the N.Y.D.O.T. that the 9A road improvement project is now complete! Hopefully those who are actually driving these days are enjoying the brand new road conditions.
- 3. CON ED GAS LINE PROJECTS:** We understand that there is a great deal of disruption caused by the Con Ed gas line upgrades being done throughout the Village. We have been trying for some time to get a reliable schedule from Con Ed that we can distribute to the community, but this is a great challenge. We are still working on getting this accomplished so we can provide the information on this project as soon as possible.
- 4. STATE OF EMERGENCY DECLARATION:** The second State of Emergency is in place until May 17th. Depending on the Governor’s Emergency Orders and the emergency conditions at that time, I may extend it again. Please stay safe!

**ABSTRACT FOR VILLAGE BOARD MEETING OF
MAY 4th, 2020**

<u>GENERAL FUND</u>	<u>\$45,788.59</u>
<u>TRUST & AGENCY FUND</u>	<u>\$870.25</u>
<u>CAPITAL FUND</u>	<u>\$464.00</u>

ABSTRACT FOR VILLAGE BOARD MEETING OF MAY 4TH, 2020

Date	Vendor Name	Description	Amount
4/22/2020	APPLIED TACTICAL TECHNOLOGIES,	Bullet proof vest PO Goldstein	768.00
4/30/2020	ARGENTO AND SONS INC	Solenoid	16.50
3/13/2020	AUTO EXCLUSIVE	repairs 2012	4,021.48
4/30/2020	CENTRAL AVE CHRYSLER JEEP	Oil & Filters	43.56
4/30/2020	CENTRAL AVE CHRYSLER JEEP	Shields & Push Pins	119.20
5/1/2020	CENTRAL AVE CHRYSLER JEEP	Shield	180.00
4/22/2020	CON EDISON	Usage through 4/8/20	472.34
4/27/2020	CON EDISON	Usage for 3/11-4/9	300.89
4/22/2020	CON EDISON	Usage for 3-11-20to 4-9-20	697.27
4/27/2020	Con Edison	Usage for 3/13-4/13 Heatherdel	75.47
4/22/2020	CON EDISON	Usage for 3/11/20-4/9/20	1,267.97
4/22/2020	CON EDISON	Usage for 3/11/20-4/9/20	467.42
4/22/2020	DIV. OF REAL ESTATE SVCS.	Annual Fee	1.00
5/1/2020	GABRIELLI TRUCK SALES LTD	Guage Replacement	143.55
1/13/2020	GEORGE MALONE	Cable access director service	791.45
4/30/2020	GRANICUS	reverse 911	3,494.49
1/13/2020	JAMES J HAHN ENGINEERING PC	Milling & Paving	223.52
1/13/2020	JAMES J HAHN ENGINEERING PC	Paving & Milling	83.39
4/30/2020	LITE CONCEPTS	Light Bulbs & Pigtails	145.00
1/31/2020	LONG ISLAND SANITATION EQUIP.	Frieght	14.69
1/31/2020	LONG ISLAND SANITATION EQUIP.	Muffler Mount	17.89
5/1/2020	MEREDITH ROBSON	Cell Phone - April 2020	79.00
3/19/2020	NEW ENGLAND SPORTSWEAR	weapon light	109.00
5/1/2020	OPTIMUM	usage for April	16.80
4/30/2020	PARKWAY PEST SERVICES	Pest Control	150.00
3/12/2020	PARTS AUTHORITY	Various Parts	285.71
4/30/2020	PROSPERO NURSERY	Wildflower Seeds	64.00
4/30/2020	PROSPERO NURSERY	Top Soil	205.00
4/30/2020	PROSPERO NURSERY	Top Soil	205.00
4/30/2020	READERS HARDWARE INC	Hand Spreader	11.99
5/1/2020	RED HAWK FIRE & SECURITY	Alarm Maint.	260.00

4/30/2020	RFC Emergency Lighting	Chief Truck re-letter	407.20
4/30/2020	ROBERT PONZINI	May Monthly Retainer	5,833.00
3/6/2020	SANITATION EQUIPMENT CORP	Remove & Replace floor of Pack	12,704.00
5/1/2020	SANITATION EQUIPMENT CORP	Replace Side Steps	1,082.05
5/1/2020	SANITATION EQUIPMENT CORP	Turn Light	76.19
5/1/2020	SMJT CORP DBA	April 2020 cleaning service Village Hall	1,121.00
5/1/2020	SMJT CORP DBA	Deep Clean Police Station	500.00
5/1/2020	SMJT CORP DBA	Daily Porter Service April	1,716.00
5/1/2020	SMJT CORP DBA	April 2020 cleaning service Fire Dept.	265.00
5/1/2020	SMJT CORP DBA	April 2020 cleaning service Community Center	354.00
4/27/2020	SUEZ WATER WESTCHESTER DISTRIC	Usage for 3/5/20-4/6/20	103.21
4/30/2020	THE RIVERTOWNS ENTERPRISE	Legal Notice Publication	82.63
1/13/2020	THE RIVERTOWNS ENTERPRISE	Final Payment- SAYF Coalition	1,718.00
4/27/2020	VERIZON	Usage for 4/22-5/21	27.86
4/27/2020	VERIZON	Usage for 4/22-5/21	32.76
5/1/2020	VERIZON WIRELESS	usage for 4/13-5/12	499.25
5/1/2020	VERIZON WIRELESS	Usage for 3/24-4/23	126.00
4/27/2020	W.B. MASON CO. INC.	Labels	55.98
5/1/2020	WESTCHESTER COUNTY DEF	February Tipping Fee	4,093.05
4/22/2020	XEROX CORPORATION	Usage for 2/20/20-4/4/20	195.48
4/22/2020	XEROX CORPORATION	Usage for 2/21-3/26	64.35
		General Fund Total	45,788.59

4/22/2020	Woodard & Curran Engineering	Sunshine Elmsford Realty	502.75
4/22/2020	Woodard & Curran Engineering	R. Mohring Fairmont	367.50
		Trust & Agency Fund Total	870.25

1/13/2020	JAMES J HAHN ENGINEERING PC	Heatherdell Sidewalk	172.26
1/13/2020	JAMES J HAHN ENGINEERING PC	Tennis Court Pascone Park	291.74
		Capital Fund Total	464.00

**RESOLUTION TO AWARD BID FOR
HEATHERDELL ROAD SIDEWALK IMPROVEMENT & GUIDERAIL
PROJECT**

WHEREAS, a public notice for the Heatherdell Road Sidewalk Improvement & Guiderail Project was duly advertised in an official newspaper on March 19, 2020; and

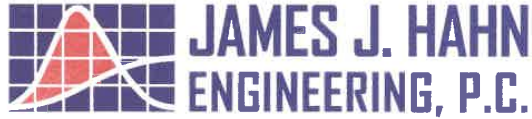
WHEREAS, on April 16, 2020 at 2:00 p.m. via Zoom the Project Engineer in the presence of the Village Manager and Village Clerk, opened eight bids as summarized below;

HEATHERDELL ROAD SIDEWALK IMPROVEMENT & GUIDERAIL PROJECT

CONTRACTOR	BASE BID
Woodland Manor, LLC.	\$356,367.33
Con –Tec Construction Technology	\$478,950.00
Gianfia	\$465,950.00
Landi, Inc.	\$493,580.00
MTS Infrastructure	\$493,472.50
Tony Casale, Inc.	\$358,000.00
Consorti Bros.	\$584,450.00
Paladino Concrete	\$501,525.00

RESOLVED, that the Village Board of the Village of Ardsley hereby awards the bid for the Village to Woodland Manor, LLC., 188 Haviland Drive, Patterson, New York 12563 in the amount of \$356,367.33.

NOW, THEREFORE, BE IT RESOLVED, the Village Board of the Village of Ardsley hereby authorizes the Village Manager to execute a contract with Woodland Manor, LLC., 188 Haviland Drive, Patterson, New York to perform work pertaining to the Heatherdell Road Sidewalk Improvement & Guiderail Project.



Putnam Business Park
1689 Route 22
Brewster, NY 10509

Tel: 845-279-2220
Fax: 845-279-8909
jhahn@hahn-eng.com

MEMORANDUM

To : Meredith S. Robson
Village Manager

From : James J. Hahn, P.E.

Date : April 30, 2020

Subject : Proposed Heatherdell Road Sidewalk Improvement and
Guide Rail Project
Village of Ardsley, NY

On April 16, 2020, eight (8) bids for the referenced project were received at Village Hall and publicly read aloud through an online video service. As requested, we have reviewed the bids in accordance with the project specifications. The bid values were verified and no corrections were necessary.

Under this Contract, the Contractor shall furnish all labor, materials and equipment necessary to install approximately 620 linear feet of guide rail and 860 linear feet of concrete sidewalks along Heatherdell Road between Saw Mill River Road and Revolutionary Road. The work also includes existing sidewalk and curb demolition, slope stabilization, concrete curb construction, and restoration, all in accordance with the plans and specifications, as directed by the Engineer.

The Contractor's names and base bid amounts are as follows:

<u>CONTRACTOR</u>	<u>TOTAL BASE BID</u>
Woodland Manor, LLC	\$ 356,367.33
Tony Casale, Inc.	\$ 358,000.00
Gianfia Corp.	\$ 465,768.23
Con-Tech Construction Technology, Inc.	\$ 478,950.00
MTS Infrastructure, LLC	\$ 493,472.50
Peter J. Landi, Inc.	\$ 493,580.00
Paladino Concrete Creations Corp.	\$ 501,525.00
Consorti Bros. Paving and Sealcoating Inc.	\$ 584,450.00

E N V I R O N M E N T A L A N D C I V I L E N G I N E E R I N G
S T U D I E S • R E P O R T S • D E S I G N

ASCE

AWWA

NSPE


WEF

Meredith S. Robson
Proposed Heatherdell Road Sidewalk Improvement and Guide Rail Project
April 30, 2020
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Based on the bid totals shown above, Woodland Manor, LLC has submitted the lowest bid (see attached bid analysis). They have submitted a responsive bid with satisfactory work references and has been successful in completing similar projects of similar scope.

Therefore, if the Village would like to move forward with the project, we recommend that Woodland Manor, LLC be accepted as the low bidder.

If there are any questions, please do not hesitate to contact me at your earliest convenience.



JH:DH:ay

Enclosure

P:\Village of Ardsley\Heatherdell Sidewalks and Guiderail 2020\Recommendation Letter.doc

Proposed Heatherdell Road Sidewalk Improvement and Guide Rail Project, Village of Ardsley BID ANALYSIS			Bidder: Address: City, State Phone Contact	Woodland Manor LLC DBE MBE 188 Haviland Dr. Patterson, NY 12563 845-363-1361	Tony Casale, Inc. 1185 Saw Mill River Rd Yonkers, NY 10710 914-375-2177	Gianfia Corp. 179 Brady Avenue Hawthorne, NY 10532 914-358-4601	Con-Tech Construction Technology Inc. 1961 Route 6 - Box 12 - Suite R-3 Carmel, NY 10512 914-455-3100 ext 1	MTS Infrastructure, LLC 135 Lafayette Avenue White Plains, NY 10603 914-242-3583	Peter J. Landi, Inc. 13 Bradhurst Ave. Hawthorne, NY 10532 914-909-5210	Paladino Concrete Creations Corp. 315 N. Mac Quisten Parkway Mt Vernon, NY 10550 914-699-0907	Consorti Bros Paving and Sealcoating Inc. 208 South Plank Road Newburgh, NY 12550 845-566-8010								
SPEC. SECT	ITEM	UNIT	EST. QUANT.	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
ACBF	Adjust Catch Basin Frame	EA	5	\$ 1,648.84	\$ 8,244.20	\$ 255.00	\$ 1,275.00	\$ 1,000.00	\$ 5,000.00	\$ 500.00	\$ 2,500.00	\$ 1,100.00	\$ 5,500.00	\$ 1,500.00	\$ 7,500.00	\$ 750.00	\$ 3,750.00	\$ 2,000.00	\$ 10,000.00
AVB	Adjust Valve Box	EA	4	\$ 986.05	\$ 3,944.20	\$ 150.00	\$ 600.00	\$ 75.00	\$ 300.00	\$ 150.00	\$ 600.00	\$ 800.00	\$ 3,200.00	\$ 250.00	\$ 1,000.00	\$ 200.00	\$ 800.00	\$ 200.00	\$ 800.00
BBC	Bituminous Base Course	TON	60	\$ 200.00	\$ 12,000.00	\$ 185.00	\$ 11,100.00	\$ 250.00	\$ 15,000.00	\$ 280.00	\$ 16,800.00	\$ 180.00	\$ 10,800.00	\$ 200.00	\$ 12,000.00	\$ 250.00	\$ 15,000.00	\$ 400.00	\$ 24,000.00
BBGR	Box Beam Guide Rail	LF	620	\$ 64.20	\$ 39,804.00	\$ 77.00	\$ 47,740.00	\$ 63.00	\$ 39,060.00	\$ 107.00	\$ 66,340.00	\$ 91.00	\$ 56,420.00	\$ 85.00	\$ 52,700.00	\$ 85.00	\$ 52,700.00	\$ 85.00	\$ 52,700.00
BTC	Bituminous Top Course	TON	45	\$ 195.55	\$ 8,799.75	\$ 185.00	\$ 8,325.00	\$ 250.00	\$ 11,250.00	\$ 300.00	\$ 13,500.00	\$ 185.00	\$ 8,325.00	\$ 225.00	\$ 10,125.00	\$ 295.00	\$ 13,275.00	\$ 400.00	\$ 18,000.00
CB	Catch Basin	EA	1	\$ 4,244.21	\$ 4,244.21	\$ 5,500.00	\$ 5,500.00	\$ 2,500.00	\$ 2,500.00	\$ 6,850.00	\$ 6,850.00	\$ 2,750.00	\$ 2,750.00	\$ 6,800.00	\$ 6,800.00	\$ 5,500.00	\$ 5,500.00	\$ 10,000.00	\$ 10,000.00
CC	Concrete Curb	LF	860	\$ 42.86	\$ 36,859.60	\$ 44.00	\$ 37,840.00	\$ 75.00	\$ 64,500.00	\$ 57.00	\$ 49,020.00	\$ 70.00	\$ 60,200.00	\$ 48.00	\$ 41,280.00	\$ 55.00	\$ 47,300.00	\$ 50.00	\$ 43,000.00
CLF	Chain Link Fence (4' High)	LF	850	\$ 35.87	\$ 30,489.50	\$ 43.00	\$ 36,550.00	\$ 35.00	\$ 29,750.00	\$ 50.00	\$ 42,500.00	\$ 55.00	\$ 46,750.00	\$ 80.00	\$ 68,000.00	\$ 50.00	\$ 42,500.00	\$ 80.00	\$ 68,000.00
CPP	Corrugated Polyethylene Pipe (15" Dia.)	LF	20	\$ 337.21	\$ 6,744.20	\$ 60.00	\$ 1,200.00	\$ 250.00	\$ 5,000.00	\$ 80.00	\$ 1,600.00	\$ 45.00	\$ 900.00	\$ 200.00	\$ 4,000.00	\$ 100.00	\$ 2,000.00	\$ 300.00	\$ 6,000.00
CSG	Crushed Stone or Gravel (3/4" Gravel)	CY	10	\$ 100.00	\$ 1,000.00	\$ 66.00	\$ 660.00	\$ 95.00	\$ 950.00	\$ 100.00	\$ 1,000.00	\$ 100.00	\$ 1,000.00	\$ 90.00	\$ 900.00	\$ 120.00	\$ 1,200.00	\$ 100.00	\$ 1,000.00
CSG	Crushed Stone or Gravel (Item 304)	CY	85	\$ 68.75	\$ 5,843.75	\$ 56.00	\$ 4,760.00	\$ 95.00	\$ 8,075.00	\$ 78.00	\$ 6,630.00	\$ 100.00	\$ 8,500.00	\$ 150.00	\$ 12,750.00	\$ 110.00	\$ 9,350.00	\$ 100.00	\$ 8,500.00
CSR	Concrete Sidewalks and Ramps (5" thick with galvanized reinforcement)	SF	5,450	\$ 15.13	\$ 82,458.50	\$ 14.50	\$ 79,025.00	\$ 23.74	\$ 129,383.00	\$ 17.00	\$ 92,650.00	\$ 24.50	\$ 133,525.00	\$ 22.00	\$ 119,900.00	\$ 18.00	\$ 98,100.00	\$ 20.00	\$ 109,000.00
DMH	Drain Manhole (Access manhole and concrete slab)	EA	1	\$ 5,744.21	\$ 5,744.21	\$ 5,500.00	\$ 5,500.00	\$ 2,500.00	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ 2,600.00	\$ 2,600.00	\$ 2,800.00	\$ 2,800.00	\$ 2,500.00	\$ 2,500.00	\$ 10,000.00	\$ 10,000.00
DR	Demolition and Removals	LS	1	\$ 17,494.21	\$ 17,494.21	\$ 32,000.00	\$ 32,000.00	\$ 15,000.00	\$ 15,000.00	\$ 10,800.00	\$ 10,800.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 60,000.00	\$ 60,000.00	\$ 100,000.00	\$ 100,000.00
ESC	Erosion & Sediment Control	LS	1	\$ 5,300.00	\$ 5,300.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 13,080.00	\$ 13,080.00	\$ 15,000.00	\$ 15,000.00	\$ 7,000.00	\$ 7,000.00	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00
MPT	Maintenance and Protection of Traffic	LS	1	\$ 17,800.00	\$ 17,800.00	\$ 11,000.00	\$ 11,000.00	\$ 71,500.23	\$ 71,500.23	\$ 70,290.00	\$ 70,290.00	\$ 35,000.00	\$ 35,000.00	\$ 40,000.00	\$ 40,000.00	\$ 75,000.00	\$ 75,000.00	\$ 40,000.00	\$ 40,000.00
PM	Pavement Markings	LF	1,150	\$ 2.38	\$ 2,737.00	\$ 2.50	\$ 2,875.00	\$ 2.00	\$ 2,300.00	\$ 3.00	\$ 3,450.00	\$ 2.35	\$ 2,702.50	\$ 3.50	\$ 4,025.00	\$ 3.00	\$ 3,450.00	\$ 3.00	\$ 3,450.00
R	Restoration	NP	NP	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT
RC	Reinforced Concrete (Haunch)	CY	50	\$ 900.00	\$ 45,000.00	\$ 1,000.00	\$ 50,000.00	\$ 750.00	\$ 37,500.00	\$ 1,050.00	\$ 52,500.00	\$ 800.00	\$ 40,000.00	\$ 1,150.00	\$ 57,500.00	\$ 550.00	\$ 27,500.00	\$ 600.00	\$ 30,000.00
RM	Reinforcement Mat	SF	1,700	\$ 2.80	\$ 4,760.00	\$ 0.50	\$ 850.00	\$ 4.00	\$ 6,800.00	\$ 2.00	\$ 3,400.00	\$ 4.00	\$ 6,800.00	\$ 4.00	\$ 6,800.00	\$ 3.00	\$ 5,100.00	\$ 2.00	\$ 3,400.00
SCP	Saw Cutting Pavement	NP	NP	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT	NON-PAYMENT
TSS	Furnish and Install Topsoil and Seed	SF	3,000	\$ 1.90	\$ 5,700.00	\$ 1.00	\$ 3,000.00	\$ 1.00	\$ 3,000.00	\$ 3.00	\$ 9,000.00	\$ 5.50	\$ 16,500.00	\$ 2.50	\$ 7,500.00	\$ 1.50	\$ 4,500.00	\$ 5.00	\$ 15,000.00
UFG	Unclassified Excavation, Filling, and Grading	CY	120	\$ 95.00	\$ 11,400.00	\$ 110.00	\$ 13,200.00	\$ 95.00	\$ 11,400.00	\$ 112.00	\$ 13,440.00	\$ 100.00	\$ 12,000.00	\$ 50.00	\$ 6,000.00	\$ 100.00	\$ 12,000.00	\$ 180.00	\$ 21,600.00
TOTAL BASE BID					\$ 356,367.33		\$ 358,000.00		\$ 465,768.23		\$ 478,950.00		\$ 493,472.50		\$ 493,580.00		\$ 501,525.00		\$ 584,450.00

Contract

 **AIA® Document B132™ – 2019**

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

AGREEMENT made as of the 5 day of May in the year 2020
(In words, indicate day, month, and year.)

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

The Village of Ardsley
507 Ashford Avenue
Ardsley, NY 10502

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

Weston & Sampson, PE, LS, LA, PC
1 Winners Circle, Suite 130
Albany, NY 12205

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

Ardsley, NY New Public Works Facility
Heatherdell Road
Ardsley, NY 10502

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

Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

The project program is described in the November 2, 2016 Draft Report and the October 30, 2017 Final Report.

§ 1.1.2 The Project's physical characteristics:

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

The Project will include administrative and staff facilities, parks and general-purpose shops, vehicle maintenance facilities, and enclosed vehicle wash facility, vehicle and equipment storage areas, storage mezzanines, a salt storage shed, fueling facilities, perimeter fencing, parking areas, etc. The Project will include approximately 27,500 sq. ft. of enclosed space, plus 2,500 sq. ft salt storage shed. The existing access easement across the site will be accommodated.

§ 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.)

Refer to Attachment "C"

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

.1 Design phase milestone dates, if any:

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Refer to Attachment "D" for additional information regarding the sequence and duration of Design and Construction Phases and Tasks.

.2 Construction commencement date:

Refer to Attachment "D"

.3 Substantial Completion date or dates:

Refer to Attachment "D"

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement method for the Project:
(Identify method such as competitive bid or negotiated contract.)

Multiple Prime Contractors

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction are set forth below:
(Identify any requirements for fast-track scheduling or phased construction and, if applicable, list number and type of bid/procurement packages.)

None

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

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E235-2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E235-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E235-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

Meredith Robson, Village Manager
Village of Ardsley
507 Ashford Avenue
Ardsley, NY 10502

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

Dominic Calgi, President
Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603

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

.1 Construction Manager:

(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1.)

Dominic Calgi, President
Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603

.2 Land Surveyor:

.3 Geotechnical Engineer:

.4 Civil Engineer:

.5 Other consultants and Contractors:

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

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

Daniel Tenney, AIA, Primary Representative
Weston & Sampson
85 Devonshire Street, 3rd Floor
Boston, MA 02109

Jeff Budrow, P.E., NYS PE, LS, LA, PC Officer
Weston & Sampson
1 Winners Circle, Suite 130
Albany, NY 12205

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address, and other contact information.)

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§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Geotechnical, Site/Civil and Structural Engineers, Landscape Architect, Surveyor, and Industrial Equipment Designer. Provided by Weston & Sampson personnel as part of Basic Services, except as provided under 1.1.10.3, above.

.2 Mechanical Engineer:

M/E Engineering, P.C.
433 State Street, Suite 410
Schenectady, NY 12305

.3 Electrical Engineer:

M/E Engineering, P.C.
433 State Street, Suite 410
Schenectady, NY 12305

§ 1.1.12.2 Consultants retained under Supplemental Services:

If requested by Owner, Independent Cost Estimator at the cost set forth in Exhibit "A"
TCi (Tortora Consulting, Inc.)
165 Middlesex Turnpike, Suite 106
Bedford, MA 01730

See Attachment "A" for additional information regarding Basic and Optional Services

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

N/A

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

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§ 1.4 The term "Contractors" refers to persons or entities who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager. The term "Contractors" is used to refer to such persons or entities, whether singular or plural. The term does not include the Owner's own forces, or Separate Contractors, which are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™-2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 The 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 Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

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

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million dollars (\$ 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.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

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

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Three Million dollars (\$ 3,000,000.00) per claim and Three Million dollars (\$ 3,000,000.00) in the aggregate.

§ 2.6.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an

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additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. This schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

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

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

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

§ 3.2 Schematic Design Phase Services

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

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement 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 Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project.

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The Architect shall reach an understanding with the Owner and Construction Manager 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, to the Owner and Construction Manager, 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 Construction Manager's review and 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 with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.2.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate such revisions in the Design Development Phase.

§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.3 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 Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.3.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

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§ 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 Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the 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, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager 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 agreements between the Owner and Contractors; and (3) the Conditions of the Contracts for Construction (General, Supplementary and other Conditions); and (4) a project manual that includes the Conditions of the Contracts for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.4.5 Upon receipt of the Construction Manager's information and an estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

§ 3.5.2.2 The Architect shall assist the Owner and 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 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and
- .4 organizing and conducting the opening of 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 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

§ 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 and Construction Manager in obtaining proposals by:

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- .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 Architect shall, as an Additional Service, consider requests for substitutions, consult with the Construction Manager, and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2019, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and the Construction Manager (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractors through the Construction

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

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

§ 3.6.2.5 Unless the Owner and Contractors designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A232-2019, the Architect, with the assistance of the Construction Manager, shall render initial decisions on Claims between the Owner and Contractors as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 Not more frequently than monthly, the Architect shall review and certify an application for payment. Within seven days after the Architect receives an application for payment forwarded from the Construction Manager, the Architect shall review and certify the application as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Architect shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Architect shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
- .2 Where there is more than one Contractor responsible for performing different portions of the Project, the Architect shall review the Project Application and Project Certificate for Payment, with the Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed, and certified. The Architect shall certify the total amount due all Contractors collectively and shall issue a Project Certificate for Payment in the total of such amounts.

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

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

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

§ 3.6.4 Submittals

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

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractors' submittals such as Shop Drawings, Product Data and Samples, that the Construction Manager has reviewed, recommended for approval, and transmitted to the Architect. The Architect's review of the submittals shall only be for the limited

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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 Contractors' responsibilities. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractors to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractors' design professionals, provided the submittals bear such professionals' seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 After receipt of the Construction Manager's recommendations, and subject to the provisions of Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect, in consultation with the Construction Manager, shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the Construction Manager.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect, assisted by the Construction Manager, shall:

- .1 conduct inspections to determine the date of Substantial Completion and the date of final completion;
- .2 issue a Certificate of Substantial Completion prepared by the Construction Manager;
- .3 review written warranties and related documents required by the Contract Documents and received from the Contractors, through the Construction Manager; and
- .4 after receipt of a final Contractor's Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner and Construction Manager to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the lists submitted by the Construction Manager and Contractors of Work to be completed or corrected.

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§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid each of the Contractors, 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 Contractors, through the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractors under the Contract Documents.

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

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

Supplemental Services	Responsibility <i>(Architect, Owner or Not Provided)</i>
§ 4.1.1.1 Assistance with selection of Construction Manager	Not Provided
§ 4.1.1.2 Programming	Architect
§ 4.1.1.3 Multiple preliminary designs	Architect
§ 4.1.1.4 Measured drawings	Not Provided
§ 4.1.1.5 Existing facilities surveys	Architect
§ 4.1.1.6 Site evaluation and planning	Architect
§ 4.1.1.7 Building Information Model management responsibilities	Architect
§ 4.1.1.8 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.9 Civil engineering	Architect
§ 4.1.1.10 Landscape design	Architect
§ 4.1.1.11 Architectural interior design	Architect
§ 4.1.1.12 Value analysis	Owner
§ 4.1.1.13 Cost estimating	Architect
§ 4.1.1.14 On-site project representation	Owner
§ 4.1.1.15 Conformed documents for construction	Architect
§ 4.1.1.16 As-designed record drawings	Not Provided
§ 4.1.1.17 As-constructed record drawings	Architect
§ 4.1.1.18 Post-occupancy evaluation	Architect
§ 4.1.1.19 Facility support services	Not Provided
§ 4.1.1.20 Tenant-related services	Not Provided
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.22 Telecommunications/data design	Not Provided

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§ 4.1.1.23	Security evaluation and planning	Architect
§ 4.1.1.24	Commissioning	Architect
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.26	Historic preservation	Not Provided
§ 4.1.1.27	Furniture, furnishings, and equipment design	Architect
§ 4.1.1.28	Other services provided by specialty Consultants	Not Provided
§ 4.1.1.29	Other Supplemental Services	Not Provided

§ 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.)

§ 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 E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)

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contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6
- .7
- .8
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10
- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .12 Assistance to the Initial Decision Maker, if other than the Architect.

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

- .1
- .2
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractors' 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, Construction Manager or Contractors and making subsequent revisions to Instruments of Service resulting therefrom.

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractors
- .2 See Exhibit "A"- Designer Services () visits to the site by the Architect during construction
- .3 Three (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 Three (3) 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 anticipated date of Substantial Completion identified in the Initial Information, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within thirty (30) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties and responsibilities as described in AIA Document C132-2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. The Owner shall provide the Architect with a copy of the scope of services in the agreement executed between the Owner and the Construction Manager, and any subsequent modifications to the Construction Manager's scope of services in the agreement.

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§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and the Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractors to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

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

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

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

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

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E235™-2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

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

§ 5.10 The Owner shall 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.

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

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

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§ 5.13 The Owner shall communicate with the Contractors and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the 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 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

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

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;

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- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

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ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232–2019, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner’s officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect’s obligation to indemnify and hold the Owner and the Owner’s officers and employees harmless does not include a duty to defend. The Architect’s duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

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

§ 8.2 Mediation

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

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

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

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

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

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

§ 8.3 Arbitration

(Paragraphs deleted)

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

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

.1 Termination Fee:

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

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

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

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 A232-2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Architect and Construction Manager.

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

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

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

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

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

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

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

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

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

- .2 Percentage Basis
(Insert percentage value)

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

- .3 Other
(Describe the method of compensation)

As specified in Attachment "A"- Designer Services

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

As specified in Attachment "A"- Designer Services

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

As specified in Attachment "A"- Designer Services, or as a negotiated sum for specific additional services.

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

§ 11.5
(Paragraphs deleted)

§ 11.6
(Paragraph deleted)

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

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Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;

(Paragraphs deleted)

- .8 Other similar Project-related expenditures, if authorized in advance in writing by the Owner.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred.

§ 11.9 Architect's Insurance

If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 11.10.2 Progress Payments

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

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

5 % Five percent per annual

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

§ 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.

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ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

§ 12.1 Any claim made by the Architect arising out of any alleged act or omission by the Owner, its Board of Trustees, officers, agents, or employees in the execution or performance of this Agreement shall be made against the Owner and not against any Trustee, officer, agent or employee in his/her individual capacity. No Trustee, officer, agent, or employee of Owner shall have any personal liability whatsoever pursuant to or by reason of this Agreement.

§ 12.2 If at any time, any term or provision of this Agreement shall be found to be invalid or unenforceable, the remaining provisions hereof shall, to the fullest extent permitted by the law, remain in full force and effect.

§ 12.3 No failure on the part of either party to exercise and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by either party of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy.

§ 12.4 Written notice required under this Agreement shall be validly and sufficiently served upon the Owner and Architect provided they are made (a) three (3) business days after mailing by registered or certified mail, return receipt requested; (b) one (1) business day after delivering to a nationally recognized next-day messenger service, provided the sending party selects and pre-pays for next business day delivery; or (c) on the date of the notice is hand delivered during business hours to the following addresses:

If to the Architect: 1 Winners Circle, Suite 130, Albany, NY 12205
If to the Owner: 507 Ashford Avenue, Ardsley, NY 10502

Notices may be given by Owner's or Architect's agents and attorneys on Owner's or Architect's behalf, as the case may be. For purposes of this paragraph, the term "business day" shall be any day which is not a Saturday, Sunday or holiday observed by the Federal or State government.

§ 12.5 The signatories to this Agreement hereby represent and affirm that they are authorized to enter into this Agreement and to make the indemnification agreements and other representations contained herein and to bind the party for whom they are executing this Agreement.

§ 12.6 No payment made by the Owner shall impair or in any way prejudice any right or remedy which the Owner may have against the Architect for nonperformance under or breach of any of the provisions of this Agreement. No action or failure to act by the Owner shall constitute a waiver of any right of the Owner, nor shall any action or failure to act on the part of the Owner constitute an approval of or acquiescence in any breach of this Agreement.

§ 12.7 The Architect acknowledges that Owner may contract with other professionals for services which may be similar to or the same as those set forth in this Agreement and the existence of such contracts shall in no manner diminish Architect's responsibility to provide the services required pursuant to this Agreement.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B132™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Adviser Edition
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:

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

Init.

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3 Exhibits:

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

AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:
(Insert the date of the E235-2019 incorporated into this Agreement.)

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

4 Other documents:

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

Attachment "A"- Designer Services
Attachment "B"- Facility Program
Attachment "C"- DPW Planning Budget
Attachment "D"- DPW Preliminary Schedule
Attachment "E"- NY Terms of Conditions

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

OWNER *(Signature)*

(Printed name and title)

ARCHITECT *(Signature)*

Jeffrey Budrow, P.E., PC Officer

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

Init.

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

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PAGE 1

AGREEMENT made as of the 5 day of May in the year 2020

...

The Village of Ardsley
507 Ashford Avenue
Ardsley, NY 10502

...

Weston & Sampson, PE, LS, LA, PC
1 Winners Circle, Suite 130
Albany, NY 12205

...

Ardsley, NY New Public Works Facility
Heatherdell Road
Ardsley, NY 10502

...

Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603

PAGE 2

The project program is described in the November 2, 2016 Draft Report and the October 30, 2017 Final Report.

...

The Project will include administrative and staff facilities, parks and general-purpose shops, vehicle maintenance facilities, and enclosed vehicle wash facility, vehicle and equipment storage areas, storage mezzanines, a salt storage shed, fueling facilities, perimeter fencing, parking areas, etc. The Project will include approximately 27,500 sq. ft. of enclosed space, plus 2,500 sq. ft salt storage shed. The existing access easement across the site will be accommodated.

...

Refer to Attachment "C"

PAGE 3

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Refer to Attachment "D" for additional information regarding the sequence and duration of Design and Construction Phases and Tasks.

...

Refer to Attachment "D"

...

Refer to Attachment "D"

...

Multiple Prime Contractors

...

None

...

Meredith Robson, Village Manager
Village of Ardsley
507 Ashford Avenue
Ardsley, NY 10502

...

Dominic Calgi, President
Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603
PAGE 4

Dominic Calgi, President
Calgi Construction Company, Inc.
56 Lafayette Avenue, Suite 350
White Plains, NY 10603

...

Daniel Tenney, AIA, Primary Representative
Weston & Sampson
85 Devonshire Street, 3rd Floor
Boston, MA 02109

...

Jeff Budrow, P.E., NYS PE, LS, LA, PC Officer
Weston & Sampson
1 Winners Circle, Suite 130
Albany, NY 12205
PAGE 5

Geotechnical, Site/Civil and Structural Engineers, Landscape Architect, Surveyor, and Industrial Equipment Designer. Provided by Weston & Sampson personnel as part of Basic Services, except as provided under 1.1.10.3. above.

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...

M/E Engineering, P.C.
433 State Street, Suite 410
Schenectady, NY 12305

...

M/E Engineering, P.C.
433 State Street, Suite 410
Schenectady, NY 12305

...

If requested by Owner, Independent Cost Estimator at the cost set forth in Exhibit "A"
TCi (Tortora Consulting, Inc.)
165 Middlesex Turnpike, Suite 106
Bedford, MA 01730

See Attachment "A" for additional information regarding Basic and Optional Services

...

N/A
PAGE 6

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

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million dollars (\$ 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.

...

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

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Three Million dollars (\$ 3,000,000.00) per claim and Three Million dollars (\$ 3,000,000.00) in the aggregate.

PAGE 13

§ 4.1.1.1	Assistance with selection of Construction Manager	<u>Not Provided</u>
§ 4.1.1.2	Programming	<u>Architect</u>
§ 4.1.1.3	Multiple preliminary designs	<u>Architect</u>
§ 4.1.1.4	Measured drawings	<u>Not Provided</u>
§ 4.1.1.5	Existing facilities surveys	<u>Architect</u>
§ 4.1.1.6	Site evaluation and planning	<u>Architect</u>
§ 4.1.1.7	Building Information Model management responsibilities	<u>Architect</u>
§ 4.1.1.8	Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.9	Civil engineering	<u>Architect</u>

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§ 4.1.1.10	Landscape design	<u>Architect</u>
§ 4.1.1.11	Architectural interior design	<u>Architect</u>
§ 4.1.1.12	Value analysis	<u>Owner</u>
§ 4.1.1.13	Cost estimating	<u>Architect</u>
§ 4.1.1.14	On-site project representation	<u>Owner</u>
§ 4.1.1.15	Conformed documents for construction	<u>Architect</u>
§ 4.1.1.16	As-designed record drawings	<u>Not Provided</u>
§ 4.1.1.17	As-constructed record drawings	<u>Architect</u>
§ 4.1.1.18	Post-occupancy evaluation	<u>Architect</u>
§ 4.1.1.19	Facility support services	<u>Not Provided</u>
§ 4.1.1.20	Tenant-related services	<u>Not Provided</u>
§ 4.1.1.21	Architect's coordination of the Owner's consultants	<u>Not Provided</u>
§ 4.1.1.22	Telecommunications/data design	<u>Not Provided</u>
§ 4.1.1.23	Security evaluation and planning	<u>Architect</u>
§ 4.1.1.24	Commissioning	<u>Architect</u>
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.26	Historic preservation	<u>Not Provided</u>
§ 4.1.1.27	Furniture, furnishings, and equipment design	<u>Architect</u>
§ 4.1.1.28	Other services provided by specialty Consultants	<u>Not Provided</u>
§ 4.1.1.29	Other Supplemental Services	<u>Not Provided</u>

PAGE 15

- ~~.6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~.7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;~~
- ~~.8 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

- ~~.10 Evaluation of the qualifications of entities providing bids or proposals;~~

...

- ~~.1 Reviewing a Contractor's submittal out of sequence from the Project submittal schedule approved by the Architect;~~
- ~~.2 Responding to the Contractors' requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractors 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;~~

...

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractors
- .2 See Exhibit "A"- Designer Services () visits to the site by the Architect during construction
- .3 Three (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 Three (3) inspections for any portion of the Work to determine final completion

...

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§ 4.2.5 If the services covered by this Agreement have not been completed within thirty (30) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 19

Litigation in a court of competent jurisdiction

PAGE 20

~~§ 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 issues of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

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

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

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As specified in Attachment "A"- Designer Services

...

As specified in Attachment "A"- Designer Services

...

As specified in Attachment "A"- Designer Services, or as a negotiated sum for specific additional services.

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§ 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 Phase	percent (%)
Procurement Phase	percent (%)
Construction Phase	percent (%)
<hr/>			
Total Basic Compensation	one hundred percent (100	%)

The Owner acknowledges that with an accelerated Project delivery or multiple bid package process, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

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

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

...

N/A
PAGE 23

- ~~.8~~ If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- ~~.9~~ All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses;
- ~~.11~~ Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
- ~~.12~~ Other similar Project-related expenditures.
- ~~.8~~ Other similar Project-related expenditures, if authorized in advance in writing by the Owner.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred.

...

N/A

...

Contract

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

...

5 % Five percent per annual
PAGE 24

§ 12.1 Any claim made by the Architect arising out of any alleged act or omission by the Owner, its Board of Trustees, officers, agents, or employees in the execution or performance of this Agreement shall be made against the Owner and not against any Trustee, officer, agent or employee in his/her individual capacity. No Trustee, officer, agent, or employee of Owner shall have any personal liability whatsoever pursuant to or by reason of this Agreement.

§ 12.2 If at any time, any term or provision of this Agreement shall be found to be invalid or unenforceable, the remaining provisions hereof shall, to the fullest extent permitted by the law, remain in full force and effect.

§ 12.3 No failure on the part of either party to exercise and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by either party of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy.

§ 12.4 Written notice required under this Agreement shall be validly and sufficiently served upon the Owner and Architect provided they are made (a) three (3) business days after mailing by registered or certified mail, return receipt requested; (b) one (1) business day after delivering to a nationally recognized next-day messenger service, provided the sending party selects and pre-pays for next business day delivery; or (c) on the date of the notice is hand delivered during business hours to the following addresses:

_____ If to the Architect: 1 Winners Circle, Suite 130, Albany, NY 12205

_____ If to the Owner: 507 Ashford Avenue, Ardsley, NY 10502

Notices may be given by Owner's or Architect's agents and attorneys on Owner's or Architect's behalf, as the case may be. For purposes of this paragraph, the term "business day" shall be any day which is not a Saturday, Sunday or holiday observed by the Federal or State government.

§ 12.5 The signatories to this Agreement hereby represent and affirm that they are authorized to enter into this Agreement and to make the indemnification agreements and other representations contained herein and to bind the party for whom they are executing this Agreement.

§ 12.6 No payment made by the Owner shall impair or in any way prejudice any right or remedy which the Owner may have against the Architect for nonperformance under or breach of any of the provisions of this Agreement. No action or failure to act by the Owner shall constitute a waiver of any right of the Owner, nor shall any action or failure to act on the part of the Owner constitute an approval of or acquiescence in any breach of this Agreement.

§ 12.7 The Architect acknowledges that Owner may contract with other professionals for services which may be similar to or the same as those set forth in this Agreement and the existence of such contracts shall in no manner diminish Architect's responsibility to provide the services required pursuant to this Agreement.

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Attachment "A"- Designer Services
Attachment "B"- Facility Program
Attachment "C"- DPW Planning Budget
Attachment "D"- DPW Preliminary Schedule
Attachment "E"- NY Terms of Conditions

...

_____ Jeffrey Budrow, P.E., PC Officer

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Certification of Document's Authenticity AIA® Document D401™ – 2003

I, _____, 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 11:55:42 ET on 05/01/2020 under Order No. 6225076763 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, 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)

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Attachment A - Contract for Designer Services



Weston & Sampson, PE, LS, LA, PC
1 Winners Circle, Suite 130, Albany, NY 12205
tel: 518-463-4400

ATTACHMENT A Contract for Designer Services Village of Ardsley – Department of Public Works Scope of Services and Fee May 2020

DESIGNER SERVICES

General Description of the Project: The project includes the design of a new Department of Public Works facility at Heatherdell Road in the Village of Ardsley. The building program as currently understood includes the construction of approximately 27,564 gross square feet of enclosed space, to accommodate office and utility spaces, employee facilities, Highway and Public Works shops and storage, incidental Sanitation and Parks storage, Vehicle Maintenance, a vehicle wash facility and vehicle and equipment storage. All customary Mechanical, Electrical and Plumbing work, as well as the design of existing and new Industrial equipment (for shops and vehicle maintenance) is included. The identification and design of hazardous materials abatement and the demolition of existing structures is included. Exterior site elements may include a fueling facility, covered salt storage, open storage and materials handling areas, staff and public parking, semi-enclosed vehicle and equipment storage, security fencing and operable vehicle gates, etc. The building superstructure(s) will be designed to allow the future installation of photovoltaic panels by others.

The initial facility programming, an initial development budget and a project implementation schedule have been developed separately. These are included as Attachments B, C and D to this Agreement.

It is understood that the Village intends to provide the independent services of a Construction Manager as Advisor for the final design, procurement and construction of the project.

Task A – Investigation Phase / Proof of Concept

A.1 Site Layout / Building Footprint

Update Plan Development: Prepare an updated building and site plan based on comments received by the Village.

Design Narratives: The drawings shall be supplemented with narratives for describing the general scope of civil/site, structural, mechanical (fire protection, plumbing and HVAC) and electrical work, and Industrial equipment.

The Consultant shall submit to the Village for approval one (1) half size

Attachment A - Contract for Designer Services

set and an electronic copy of said confirmed design documents on or before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Consultant shall have obtained from the Village an extension of time in writing.

Task A will also include the following sub-tasks to support the development of the site layout and building footprint, and to identify additional activities needed for the final development of the Project:

- A.2 Code & Zoning Review
- A.3 Identification of Required Permits and Approvals
- A.4 Confirm Utility Availability and Access – Water, Gas, Power and Communications
- A.5 Coordinate with completion of Property Survey, including Wetlands Delineation
- A.6 Confirm Preliminary SEQR Evaluation
- A.7 Coordination with Available Funding Sources, Bonding
The Consultant will consult and coordinate with the Village with regard to the availability of design-phase and construction funding for the project, as may affect the proposed project schedule and method(s) of procurement.
- A.8 Hazardous Materials Survey and Testing
- A.9 Geotechnical Investigation and Report
- A.10 Working Meetings - two (2)
The Consultant shall attend a kick-off meeting with the Village to review and confirm the project goals, the scope of tasks to be undertaken, procedural protocols, and the nature and schedule of deliverables. Another working meeting will be held which may include meetings with Authorities Having Jurisdiction for Zoning, Building Code or other regulatory compliance.

Task A also includes the following sub-tasks which have either been completed or which will be undertaken as additional services as future project conditions may require.

- A.10 *Preliminary Subsurface Investigation (Completed)*
- A.11 *Traffic Study and Impact (Additional Service, as needed)*
- A.12 *DPW Logistics Analysis (Additional Service, as needed to confirm the suitability of the Heatherdell Avenue site for DPW location and operations.*
- A.13 *Preparation of Long Environmental Assessment Form (LEAF) as*

Attachment A - Contract for Designer Services

required for SEQR compliance (Additional Service, as may be required)

A.14 Coordinate with Owner's Procurement of Construction Manager

The Consultant will assist the Village in developing a scope of work and procurement strategy for the independent engagement of a Construction Manager As Advisor for the subsequent development and implementation of the project.

Prior to proceeding to Task B, the Consultant shall present the confirmed and updated Proof of Concept documents to the Village.

Task B – Concept Design

B.1 Concept Building and Site Design

B.2 Develop Outline Specifications and Identify Key Products and Materials

B.3 Develop MEP Performance Criteria

B.4 Develop Inventory of Owner-Supplied Items and Procurement Plan

B.5 Design Budget

Based on the confirmed Concept Design, the consultant shall update the internal conceptual cost estimate for the preferred building alternative. The estimate shall be based on square foot costs from similar projects and shall identify potential soft costs associated with the project including design contingencies, construction contingencies, architectural and engineering design fees, construction management fees, and escalation. All costs shall be projected to the anticipated mid-year of construction. This estimate will be reviewed with the Owner and the Construction Manager in order to validate the scope of the project, quantities, materials and systems, base costs, overhead and premium costs, bidding requirements, anticipated market conditions, etc.

B.6 Develop Milestone Schedule for Project Implementation

B.7 Working Meeting – One (1)

B.8 Submit Basis-of-Design Report, confirming items B.1 through B.6, above.

Task C – Presentation to Village Board

C.1 Concept Design Drawings

C.2 Concept Design Budget

C.3 Implementation Schedule

Attachment A - Contract for Designer Services

Task D – Final Design

D.1 Final Design Review and Confirmation - allow (1) meeting
The Consultant shall attend one (1) meeting with the Village to confirm the final scope of the project design, including a detailed review and update of the project's operational and space requirements, the vehicle fleet and equipment inventory, current and future staffing, site requirements, etc.

D.2 Schematic Design

Utilizing the preferred site and preferred alternative, the consultant shall create schematic level plans of sufficient detail to show all interior spaces, exterior spaces, and operational adjacencies. Documents shall consist of single line conceptual level drawings including:

- a. Existing conditions plan
- b. Site Construction/Layout Plan
- c. Grading, drainage and utility plans
- d. Architectural floor plans
- e. Mezzanine plans
- f. Building elevations
- g. Architectural typical wall section
- h. Industrial Equipment plan showing general equipment locations and descriptions for Fueling system, Vehicle Wash and general Department shops. (Vehicle Maintenance equipment assessment and design can be provided as an Additional Service).

Schematic Design Narratives: The drawings shall be supplemented with narratives for civil/site, sewerage disposal systems, geotechnical / foundation, structural, mechanical (HVAC and plumbing), electrical, and fire protection.

The Consultant shall submit to the Village for approval five (5) half size sets and an electronic copy of said schematic design documents on or before the date or time for submission specified.

During the Schematic Design process, the consultant shall meet with local permitting authorities to review the proposed program and identify any permitting limitations which need to be addressed by the design.

Independent Cost Estimate: As an Additional Service, a Schematic Design cost estimate will be completed by a separate independent cost estimating consultant hired by Weston & Sampson, and will be reconciled with the estimate prepared by the Construction Manager.

The Consultant shall attend up to one (1) meeting per month with the

Attachment A - Contract for Designer Services

Village Working Group to discuss the progress of the project. The Consultant shall attend periodic meetings with the Village Board to review the progress of the project.

D.2a Village Review

Following the approval of the plans and outline specifications, the Consultant shall incorporate all changes required by the Village in the working drawings and specifications and shall prepare and transmit to the Village one printed set and electronic copies of the Schematic Design Documents, including any updates to the Basis-of-Design, for approval.

D.3 Design Development

The Consultant shall utilize the confirmed schematic design plans to prepare design development documents consisting of plans, outline specifications (60% level) and other documents to fix and describe the size and character of the project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate to enable the Village to understand the progress and development of the Project. Items to be provided directly by the Village outside of the General Contract for Construction will be identified. Such plans, outline specifications, and related design criteria shall be subject to the written approval of the Village. The Consultant shall submit to the Village for approval one (1) half size set and an electronic copy of said Design Development documents on or before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Consultant shall have obtained from the Village an extension of time in writing.

D.3a Village Review

Following the approval of the plans and outline specifications, the Consultant shall incorporate all changes required by the Village in the working drawings and specifications and shall prepare and transmit to the Village one printed set and electronic copies of the Design Development Documents, including any updates to the Basis-of-Design, for approval.

D.4 Construction Documents

The Consultant shall utilize the approved Design Development documents to complete working plans and specifications in sufficient detail to permit firm bids in open competition for construction of the project. Said plans and specifications shall be based on the approved design, outline specifications and construction cost estimate.

Upon completion of the 100% Construction Documents, the Consultant shall furnish to the Village for approval one (1) half-size set and an electronic copy of the said plans and specifications.

Attachment A - Contract for Designer Services

D.4a Final Cost Projection

The Consultant shall prepare an updated construction cost estimate at the 85% design level. The estimate shall include a breakdown of costs by major building systems and components. The estimate shall be reviewed with the Village prior to proceeding with the continued development of the Construction Documents.

D.4b Village Review

Following the approval of the plans, specifications and construction cost estimate, the Consultant shall incorporate all changes required by the Village in the working drawings and specifications and shall prepare and transmit to the Village one printed set and electronic copies of Construction Contract Documents for approval.

Prior to proceeding to Task E, the Consultant shall present the final Construction Documents to the Village. A review period is incorporated in the proposed project schedule.

Task E – Advertising, Bidding and Award

- E.1 Assist Village in Preparation of Bid Packages
- E.2 Advertisement (by CM)
- E.3 Pre-Bid Conference
- E.4 General Bid Opening
- E.5 Review of Bidders and Recommendation to Award (assist CM)

Upon approval of Construction Contract Documents, the Consultant shall assist the Village and its Construction Manager in assembling the final Construction Contract Documents in a manner suitable for New York State public procurement, including bid documents and advertisements for receipt of and general bids from construction contractors, and coordinate with the Construction Manager with the preparation of all addenda. The Consultant shall attend a pre-bid conference with potential bidders, and shall assist the Construction Manager in obtaining bids, conduct a qualification review of the low bidder and participate in the Construction Manager's recommendations as to the award of the construction contract by the Village.

If the bid of the lowest responsible and eligible bidder exceeds the Fixed Limit of Construction Cost, if any, the Village shall have the option to (a) give written approval of an increase in such Fixed Limit, (b) re-bid the Contract within a reasonable period of time, or (c) instruct the Consultant in writing to provide such revised Construction Contract Documents as the Village may require to bring the cost within the Fixed Limit. In the case of (c), the Consultant may, in connection with such revisions, make reasonable adjustments in the scope of the Construction Contract or quality of the work allowed therein subject to the written approval of the Village, which approval shall not be unreasonably withheld. The

Attachment A - Contract for Designer Services

Consultant shall be entitled to reasonable additional compensation for such services.

Task F. Services During Construction

Upon receiving approval from the Village to proceed to Construction, the Consultant shall provide the following basic services for the project for an anticipated construction schedule of approximately 64 weeks (14 – 15 months). The construction schedule shall begin when the Village issues a Notice to Proceed to the most responsible and responsive general contractor or executes a contract with said general contractor, whichever comes first. Early procurement packages, including but not limited to hazardous materials abatement, structures demolition, and general site preparation may require adjustments to the anticipated construction sequencing and duration.

- F.1 Upon receiving approval from the Village to proceed to Construction, the Consultant shall provide the following basic services for the project for an anticipated construction schedule of 12 months (to be verified during design phase).
- F.2 Attend a pre-construction conference to discuss the general project requirements with the Contractor and the Village.
- F.3 Attend regularly scheduled construction meetings with the contractor and Village on a weekly basis. As appropriate to the stage and progress of construction, these meetings may be held remotely by teleconference or videoconference. For the purpose of this proposal, the Consultant's services are budgeted over a 14–15 month construction duration (to Substantial Completion) and a 1-month close-out period. If the contractor fails to complete the project within this time frame, the Consultant shall be entitled to additional compensation for the continuation of the services listed above.
- F.4 Review and approve contractor shop drawings, product submittals, and samples. Review of the shop drawings, product submittals, and samples shall be for the submitted items only and such reviews shall be to determine if the submitted items are in general conformance with the design intent of the contract documents. The Consultant will review submittals two times: once upon original submission and a second time if the Consultant requires a revision or corrections. The Consultant shall be reimbursed the amounts charged by the Consultant for performing any review of a submittal for the third time or greater. Language will be included in the specifications advising the Contractor that they are responsible for reimbursing the Village for these additional charges.
- F.5 Review and respond to project requests for information during construction.
- F.6 Review contractor payment requisitions and advise the Village if the

Attachment A - Contract for Designer Services

payment request is representative of the progress of work.

- F.7 Review change order requests and issue construction change directives as necessary. All formal approvals of change orders or construction change directives are subject to Village approval.
- F.8 Conduct periodic observations for each major discipline including geotechnical, civil, structural, architectural, industrial equipment, mechanical, electrical, plumbing and fire protection (MEP/FP) to become generally familiar with the progress and quality of the Work. The Consultant shall report in writing to the Village any deviations observed at the time the periodic observation was conducted. The following is a summary of the anticipated periodic observations:
- Geotechnical (ten (10) field visits)
 - Observe subgrade below foundation elements prior to backfill (anticipate seven (7) field visits)
 - Observe subgrade below slab-on-grade prior to slab placement (anticipate three (3) field visits)
 - Provide unit price for additional visits, as needed
 - Civil (Four (4) field visits)
 - Observe limits of erosion / sedimentation control elements prior to site clearing/grading
 - Observe subgrade limits upon completion of grading activities
 - Observe drainage installation
 - Observe subgrade prior to installation of MHA pavement
 - Provide unit price for additional visits as needed.
 - Structural (Five (6) field visits)
 - Observe footing reinforcement prior to concrete placement
 - Observe foundation wall reinforcement prior to concrete placement (anticipate three (3) field visits)
 - Observe subgrade preparation (including vapor barrier, wire mesh reinforcement, and construction/control joint dowels) prior to slab concrete placement.
 - Observe structural steel upon completion of steel erection
 - Architectural (eight (8) field visits)
 - Anticipate that monthly field visits will begin once structure has been erected
 - Industrial Equipment (three (3) field visits)
 - One site walk with the Owner/Contractor to finalize equipment locations.
 - One to be completed at mid-point of industrial equipment installation.
 - One to be completed following construction completion
 - MEP/FP (six (6) field visits to be conducted by MEP/FP construction administration representative)
 - Observe work at completion of underground work
 - Observe work during rough installation
 - Observe work at completion of rough installation

Attachment A - Contract for Designer Services

- Observe work prior to installation of ceiling tiles
 - Observe general progress of work between rough and final
- F.9 Conduct substantial completion and final site visits/walk-throughs. Upon conducting a final walk-through, issue final construction affidavits indicating that the work has been generally completed in accordance with the contract documents to the best of the Consultant's knowledge, information, and belief based on periodic observations of the Work.
- F.10 Monitor submission of close-out documentation from the contractor including operation & maintenance manuals, warranties, as-built drawings (prepared by the contractor), and final certificate of completion.

EXCLUSIONS

- Cost Estimates will be initially based on the established working budget, originally dated 8feb19 and subsequent updates, and will be coordinated with independent estimates as may be provided by the Owner's Construction Manager. A third-party independent estimate may be provided as an Additional Service.
- This scope of work assumes that certain Bid Alternates will be incorporated into the design documents to allow the Village to accommodate prevailing bidding conditions and maximize the scope of the project in accordance with the Village's approved budget. The scope assumes that the work of the bid alternates can be achieved through plan notes and specification notes and assumes that site elements and building components / systems will not require multiple design options in order to implement a bid alternate. Services associated with multiple design options can be provided as an additional service if requested by the Village.
- The permitting tasks will be initiated during the Schematic Design Phase. These tasks will progress and conclude at varying times during the design period based on the particular requirements of each regulatory agency.
- A formal Wetlands Report is not included in this scope of work but can be provided as an Additional Service if required.
- Services for verification or reporting or the SEQR determination for the proposed development are not included in this scope of work but can be provided as an Additional Service if required.
- Design and permitting of wetlands crossings, replication and permitting, and the design of associated roadways and structures are not included in this scope of work but can be provided as an Additional Service if required.
- This scope of work excludes design of specialty sustainable design components (e.g. photovoltaics, geothermal, etc.). The design will take into consideration the future incorporation of items such as photovoltaics by designing the building structure to accept future loads for a photovoltaic installation.
- This scope does not include pursuing LEED certification.
- This scope of work excludes full time on-site geotechnical field

Attachment A - Contract for Designer Services

observations for the installation of specialty foundations and/or ground improvements for standard foundation elements.

- This scope of work includes the geotechnical exploration and analysis of steep slope area at the Eastern side of the site, but does not include the design of special building foundations or retaining structures as may be necessary to accommodate construction on such slopes.
- It is understood that all permit fees will be waived or paid for by the Village.
- Services do not include detailed design for any off-site temporary facilities. The Consultant will assist the Village with the development of general planning and layouts for necessary off-site temporary facilities.

FEES FOR BASIC SERVICES

TASK	FEE
Task A – Review, Confirmation and Coordination	\$ 17,500
Task B – Concept Design	\$ 51,000
Task C – Presentation to Village Board	\$ 9,250
Task D - Construction Documents	\$ 653,500
Task E – Advertisement, Bidding and Award	\$ 33,750
Task F – Services During Construction	\$ 304,500
TOTAL:	\$ 1,069,500

☞ Incidental project expenses, including printing, mailing, travel costs, etc., are included in the fees stated above.

- Certain tasks are not included under Basic Services, above. These include:

BUDGET FEES FOR ADDITIONAL / SPECIAL SERVICES

TASK	BUDGET
1. Independent Cost Estimate	\$ 42,750
2. 3 rd Party HVAC Commissioning	\$ 35,000
3. Design of wetlands crossing, roadways and associated permitting	TBD
4. Design of retaining walls or foundations at steep-slope areas	TBD

ADDITIONAL ATTACHMENTS:

- B. DPW PRELIMINARY FACILITY PROGRAM
- C. DPW PLANNING BUDGET
- D. DPW PRELIMINARY SCHEDULE

- END OF DOCUMENT -

Attachment B - Master Programming Summary

Village of Ardsley NY											created	5-Oct-18	FACILITY PROGRAM
DEPARTMENT OF PUBLIC WORKS											updated	22-Jan-19	
Space Needs Program - Summary Matrix													
Division	Space Name	Tag	personnel assigned	room seating Capacity	Existing Spaces <i>(not inventoried)</i>			Programmed Spaces				Ref #	Notes
					Area	Room Tags	Area	Length	Width	Clg. Ht			
OFFICE AND UTILITY													
Public	Vestibule/Waiting/Reception Area	P.1		2			48	8	6			may not be needed; keep space for vestibule	
Administration	Director and Ass't Director's Office	A.1	2	4			216	12	18				
	Copy/File Room	A.2					80	8	10				
	General Admin Storage	A.3					80	8	10				
	Active & Archive storage	A.4					196	14	14				
	Men's and Women's Toilets	A.5		2			160	8	20			Women's room sized for (1) shower + 4 lockers	
	Conference Room / backup Village EOC	A.6			12		384	16	24				
Utility	Telephone/Data Room	U.1					21	3	7			deep closet with double doors	
	Mechanical, Electrical	U.2					180	10	18			size will vary with system selections	
	Janitor Closet	U.3					25	5	5				
							1,390						
							Grossing factor	15%	209				
							Circulation	20%	278				
							Total		1,877				
EMPLOYEE FACILITIES													
	Men's Locker/Shower/Toilet	EF.1		16			352	16	22			allow (16) full-height and (4) half-height lockers	
	Women's Locker/Shower/Toilet						0					Combined with Women's toilet, above	
	Mudroom (Wet Gear)	EF.2					48	6	8				
	Muster Room	EF.3		20			360	18	20				
	Kitchen	EF.4					140	10	14				
	Safety Equipment Storage	EF.5					14	2	7			PPE storage closet	
	Storm Event (nap) Room	EF.6					168	12	14			room for 4 single beds, bunked for (8)	
Utility	(captured under Office & Utility)						0						
							1,082						
							Grossing factor	10%	108				
							Circulation	20%	216				
							Total		1,407				
HIGHWAY / DPW													
Shops and Storage	General Workshop	SS.1					252	14	18				
	Parts & Materials Storage	SS.2					400	20	20				
	Carpentry Tool Crib	SS.3					120	10	12				
	General Tool Crib	SS.4					120	10	12				
	Carpentry Materials Storage	SS.5					128	8	16				
	Sign Storage	SS.7					128	8	16				
								1,148					
							Grossing factor	10%	115				
							Circulation	10%	115				
							Total		1,378				
SANITATION													
Storage only	Hand Tools and PPE Storage	S.1					120	10	12		C1.07	4 current employees	
							120						
							Grossing factor	15%	18				
							Circulation	20%	24				
							Total		162				

Attachment B - Master Programming Summary

PARKS													
Storage only	General Parks Storage	P.1							240	12	20	exact storage needs TBD	
									240				
									Grossing factor	15%	36		
									Circulation	20%	48		
									Total		324		
VEHICLE MAINTENANCE													
	Welding Shop	VM.1							264	22	12	may be open area in repair bay(s)	
	Hydraulic Hose Shop	VM.2							80	8	10	lockable cage area convenient to exterior door	
	Maintenance Bays - full size (2)	VM.3	2						2420	22	55	Double Bay with single large OH door	
	Maintenance Bays - short (1)	VM.4							750	25	30		
	Maintenance Workshop	VM.5							264	22	12	may be open area in repair bay(s)	
	Tire Storage	VM.6							150	6	25	12 truck tires, 16 Police tires, etc.	
	Parts Storage	VM.7							960	24	40		
	Fluids Room	VM.8							360	15	24		
	Mechanic's Office	VM.9		3					180	12	15	includes small reference/manuals area	
	Mechanics' unisex toiletToilet	VM.10							56	7	8		
									5,484				
									Grossing factor	10%	548		
									Circulation	10%	548		
									Total		6,581		
TOTAL CONDITIONED INTERIOR SPACE									NET	9,464			
Not including Wash Bay or Vehicle & Equipment Storage									GROSS	11,728			
VEHICLE WASH													
	Vehicle Wash Bay	VW.1							1375	25	55	20	
	Wash Bay Equipment	VW.2							100	10	10	10	
									1,475				
									Grossing factor	5%	74		
									Circulation	0%	-		
									Total		1,549		
VEHICLE AND EQUIPMENT STORAGE													
	Highway / DPW	S.1							8112			See "Vehicles & Equipment" tab	
	Sanitation	S.2							2820			See "Vehicles & Equipment" tab	
	Equipment Storage	S.3							2675			Some can be on Mezzanine, some under a canopy	
									13,607				
									Grossing factor	5%	680		
									Circulation	0%	-		
									Total		14,287		
TOTAL CONSTRUCTED SPACE									total Net usable area	24,546		efficiency	
Not including Salt Shed									total Gross building area	27,564	TARGET	89%	
SITE ELEMENTS													
STRUCTURES	Salt Shed	SS.1							2448	36	68	18	1,000 tons optimal (shown), 500 workable
SURFACES AND	Employee Parking								6175	325	19		See projected FTE, seasonal and future staff count
EQUIPMENT	Public Parking								350	350	1		Quantity to be verified

Attachment B - Master Programming Summary

	Knock-down pad							1375	25	55		Typically adjacent to Wash Bay
	Fueling Facility							2400	40	60		nominal size, plus access
	Standby Generator							600	20	30		approx pad / clearance dim. Capacity to be verified
	Pad for future brine spreaders and tanks							320	8	40		approx pad / clearance dim. Capacity to be verified
	Material		Type									
BULK STORAGE	Item 4		bin					480	20	24		
	Topsoil		bin					480	20	24		
	Gravel		bin					480	20	24		
	Mulch		bin					480	20	24		
	<i>offsite</i> Waste Organics											offsite - to be retained
	<i>offsite</i> Waste soil											offsite - to be retained
	<i>offsite</i> Millings											offsite - to be retained
	Mobile Storage Trailers							600	10	20		(3) required
	General Storage (container?)							600	15	40		
	Cones & Barricades		yard					400	20	20		covered storage preferred
	New curbing		yard					200	10	20		
	Catch Basins, Manholes		yard					800	20	40		covered storage recommended
	Pipe, hydrants, grates & frames		yard					800	20	40		covered storage recommended
	Light Poles		yard					250	10	25		covered storage recommended
	Snow storage		yard					0				
RECYCLING	Paints & Chemicals		container					64	8	8		container size and clearances TBD
(Public drop-off)	Oils		container					64	8	8		container size and clearances TBD
WASTE	General Purpose Dumpster		dumpster					72	12	6		assume (2) x 6yd, general purpose
	Scrap Metal Dumpster		dumpster					176	8	22		assume (1) 20-yd, for repair shop

Attachment C- DPW Planning Budget

Attachment "C"
Village of Ardsley, NY
New Department of Public Works Facility
Heatherdell Road
Preliminary Planning Budget
Total Project Cost

Original
Updated 12-Dec-18
05-May-20

<u>New Construction</u>	Area	Size (SF)	2020 Cost/SF (w/ markups)	Cost
	Administration / Employee Facilities	3,284	\$ 369	\$ 1,211,418
	Shops	1,864	\$ 259	\$ 483,074
	Vehicle Maintenance	6,581	\$ 259	\$ 1,705,532
	Vehicle Wash	1,549	\$ 490	\$ 759,173
	Vehicle/Equipment Storage	14,287	\$ 205	\$ 2,926,263
	Added Cost for Specialty Foundations (based on 1st floor area)	27,565	\$ 20	\$ 547,303
	New Construction Subtotal:	27,565		\$ 7,632,764
	Building Cost per SF:	\$ 277		
			Place a "x" here if included	
	Industrial Equipment			
	- Wash Equipment (manual)	\$ 72,000	x	\$ 72,000
	- Wash Equipment - Undercarriage Wash	\$ 45,500	x	\$ 45,500
	- Heavy Duty Vehicle Lift (Fixed)	\$ 104,500	x	\$ 104,500
	- Heavy Duty Vehicle Lift (Fixed)	\$ 104,500		
	- Heavy Duty Vehicle Lift (Portable)	\$ 93,300	x	\$ 93,300
	- Light Duty Vehicle Lift (16,000 lb capacity minimum)	\$ 34,300	x	\$ 34,300
	- Light Duty Vehicle Lift (16,000 lb capacity minimum)	\$ 34,300		
	- Bridge Crane	\$ 84,000	x	\$ 84,000
	- Overhead Lubrication System	\$ 111,800	x	\$ 111,800
	- Miscellaneous Shop and Support Equipment	\$ 95,601	x	\$ 95,601
	- Storage Shelving / Benches / Racks	\$ 76,600	x	\$ 76,600
	- Exhaust Removal System (2 units)	\$ 37,700	x	\$ 37,700
	Industrial Equipment Subtotal:			\$ 755,299
	Fuel System			
	- Fuel System Equipment 1 - 5,000 Gallon Diesel Tank + Dispenser, etc.	\$ 171,800	x	\$ 171,800
	- Freight, Misc Accessories, SS Form, Pad, Island	\$ 113,655	x	\$ 113,655
	- Bollards	\$ 17,400	x	\$ 17,400
	- Tank/System Testing	\$ 4,900	x	\$ 4,900
	- Tank Setting & Crane	\$ 7,300	x	\$ 7,300
	- Canopy and Foundations	\$ 130,100		
	- Fire Suppression	\$ 44,500		
	- Permits	\$ 2,100	x	\$ 2,100
	- Startup & Closeout	\$ 15,200	x	\$ 15,200
	Fuel System Subtotal:			\$ 332,353
	Building & Equipment Total:		ANTICIPATED BIDS	\$ 8,720,416

Attachment C- DPW Planning Budget

Attachment "C"
Village of Ardsley, NY
New Department of Public Works Facility
Heatherdell Road
Preliminary Planning Budget
Total Project Cost

		Original Updated		12-Dec-18 05-May-20
Mezzanines (allowance pending final plan)	4,000	\$ 117	\$	468,000
Open Canopy Storage	-	94	\$	-
Abatement and Demolition of Structures (Lump Sum allowance)	1	65,000	\$	65,000
Site Development (acres) - assumes level site with no contamination, existing structures/utilities, etc.	2	421,400	\$	842,799
Utility Relocation (allowance)	1	75,000	\$	75,000
New Greenburgh Access Roadways/Driveways (linear feet)	250	165	\$	41,250
Wetlands crossing structures, etc	1	25,000	\$	25,000
Rough Grading (Cut & Fill) (in Cubic Yards)	7,500	15	\$	112,500
Ledge Removal (in Cubic Yards)	100	110	\$	11,000
Retaining Wall (in Square Feet, Face, at building or downslope)	800	100.00	\$	80,000
Salt Storage Shed	2,448	115.00	\$	281,520
		Subtotal Bldg, Equip, & Site:		\$ 10,722,485
		Design Contingency (6%):		\$ 643,349
		Escalation - 1 Year (4% per year):		\$ 454,633
		Total Construction:		\$ 11,820,468
		Total Construction Cost/SF:		429
Village of Ardsley, NY				
Budget Total Project Cost				
<u>Owner's Soft Costs</u>				
A&E Fees (design, bid, const.)	\$ 1,069,500	(Projected cost)		
Owner's CM as Advisor Fees	\$ 453,800	(Projected cost)		
Independent Cost Estimating	\$ 42,750			
Furnishings (FFE)	\$ 25,000	allowance		
Communic. / Low Voltage System	\$ 35,000	allowance		
Legal Costs	\$ 5,000	allowance		
Commissioning	\$ 35,000	allowance		
Construction Test & Inspections	\$ 45,000	allowance		
Owner Contingency	\$ 118,205	(Assume 1% of Const. Value)		
Construction Contingency (6%)	\$ 709,228	allowance		
		Total Soft Costs:		\$ 2,500,733
		TOTAL PROJECT COST		\$ 14,321,201

Attachment D - DPW Preliminary Schedule

Village of Ardsley, New York

PROPOSED NEW PUBLIC WORKS FACILITY

Heatherdell Road, Ardsley

ATTACHMENT D

DESIGN SERVICES created 17-Jan-19 updated 5-May-20 UPDATED TIMELINE

Task	2020		
	May	June	July
A. Investigation Phase / Proof of Concept			
A.1 Site Layout / Footprint	█	█	█
A.2 Code & Zoning Review	█	█	█
A.3 Identify Permits & Approvals	█	█	█
A.4 Preliminary Subsurface Investigation (completed)	█	█	█
A.5 Hazmat Survey & Testing	█	█	█
A.6 DPW Logistics Analysis	█	█	█
A.7 Traffic Study & Impact	█	█	█
A.8 Utility Availability & Access	█	█	█
A.9 Review Funding Sources/Bonds	█	█	█
A.10 Preliminary SEQR Evaluation	█	█	█
A.11 Geotechnical Investigation and Report	█	█	█
A.12 Geotechnical Peer Review	█	█	█
A.13 Geotechnical Borings	█	█	█
B. Concept Design			
B.1 Concept Building and Site Design	█	█	█
B.2 Concept Design Budget	█	█	█
B.3 Updated Milestone Schedule	█	█	█
C. Presentation to Village Board			
C.1 Concept Design, Budget and Implementation Schedule	█	█	█

Task	Duration	2021												2022												
		July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January	February	March				
D. Final Design 26 weeks																										
D.1 Review & Confirmation	2 weeks	█	█																							
D.2 Schematic Design	6 weeks	█	█	█	█	█	█																			
D.3a Village Review	2 weeks			█	█																					
D.4 Design Development	6 weeks				█	█	█	█	█	█																
D.4a Village Review	2 weeks					█	█																			
D.5 Construction Documents	6 weeks								█	█	█	█	█													
D.5a Village Review	2 weeks									█	█															
E. Advertisement, Bidding and Award 6 weeks																										
█																										
F. Construction Phase 52 - 64 weeks																										
Demolition	4 weeks																									
Site Preparation	8 weeks																									
Building Construction	52 weeks																									

Attachment E - Terms and Conditions

WESTON & SAMPSON PE, LS, LA, PC GENERAL TERMS AND CONDITIONS

1. It is understood that the Proposal attached hereto and dated May 1, 2019 is valid for a period of ninety (90) days. Upon the expiration of that period of time or the delay or suspension of the services, WESTON & SAMPSON reserves the right to review the proposed basis of payment and fees, to allow for changing costs as well as to adjust the period of performance to conform to work loads. References herein to WESTON & SAMPSON are understood to refer to WESTON & SAMPSON PE, LS, LA, PC.
2. Invoices will be submitted periodically (customarily on a monthly basis), and terms are net cash, due and payable upon receipt of invoice. If the OWNER fails to make any payment due to WESTON & SAMPSON for services and expenses within thirty (30) days after receipt of WESTON & SAMPSON'S statement therefor, WESTON & SAMPSON may, after giving seven (7) days' written notice to the OWNER, suspend services under this Agreement. Unless payment is received by WESTON & SAMPSON within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, WESTON & SAMPSON shall have no responsibility to the OWNER for delay or damage caused the OWNER because of such suspension of services.
3. WESTON & SAMPSON will serve as the professional representative of the OWNER as defined by the Proposal or under any Agreement and will provide advice, consultation and services to the OWNER in accordance with generally accepted professional practice consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. Therefore, estimates of cost, approvals, recommendations, opinions, and decisions by WESTON & SAMPSON are made on the basis of WESTON & SAMPSON'S experience, qualifications and professional judgment. Accordingly, WESTON & SAMPSON does not warrant or represent that bids or negotiated prices will not vary from the OWNER'S budget for the project, or from any estimate of the Cost of the Work evaluation prepared or agreed to by WESTON & SAMPSON. WESTON & SAMPSON makes no warranty or guarantee, express or implied, regarding the services or work to be provided under this Proposal or any related Agreement. Notwithstanding any other provision of these General Terms and Conditions, unless otherwise subject to a greater limitation, and to the fullest extent permitted by law, the total liability in the aggregate, of WESTON & SAMPSON and their officers, directors, employees, agents, and independent professional associates, and any of them, to OWNER and any one claiming by, through or under OWNER, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of in any way related to WESTON & SAMPSON's services, the project, or this Agreement, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of WESTON & SAMPSON or WESTON & SAMPSON's officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the greater of \$50,000 or the total compensation received by WESTON & SAMPSON hereunder and OWNER hereby releases WESTON & SAMPSON from any liability above such amount. WESTON & SAMPSON shall have no upfront duty to defend the OWNER but shall reimburse defense costs of the OWNER to the same extent of its indemnity obligation herein.
4. Where the Services include subsurface exploration, the OWNER acknowledges that the use of exploration equipment may alter or damage the terrain, vegetation, structures, improvements, or the other property at the Site and accepts the risk. Provided WESTON & SAMPSON uses reasonable care, WESTON & SAMPSON shall not be liable for such alteration or damage or for damage to or interference with any subterranean structure, pipe, tank, cable, or other element or condition whose nature and location are not called to WESTON & SAMPSON'S attention in writing before exploration begins.
5. WESTON & SAMPSON and its consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous waste in any form at the project site. Accordingly, the OWNER agrees to assert no claims against WESTON & SAMPSON, its principals, agents, employees and consultants, if such claim is based, in whole or in part, upon the negligence, breach of contract, breach of warranty, indemnity or other alleged obligation of WESTON & SAMPSON or its consultants, and arises out of or in connection with the detection, assessment, abatement, identification or remediation of hazardous materials, pollutants or asbestos at, in,

Attachment E - Terms and Conditions

under or in the vicinity of the project site identified in the Proposal. OWNER shall defend, indemnify and hold harmless WESTON & SAMPSON, its principals, agents, employees, and consultants and each of them, harmless from and against any and all costs, liability, claims, demands, damages or expenses, including reasonable attorneys' fees, with respect to any such claim or claims described in the preceding sentence, whether asserted by OWNER or any other person or entity. WESTON & SAMPSON shall not be liable for any damages or injuries of any nature whatsoever, due to any delay or suspension in the performance of its services caused by or arising out of the discovery of hazardous substances or pollutants at the project site.

6. WESTON & SAMPSON agrees to purchase at its own expense, Worker's Compensation insurance, Comprehensive General Liability insurance, and Engineer's Professional Liability insurance and will, upon request, furnish insurance certificates to OWNER reflecting WESTON & SAMPSON's standard coverage. WESTON & SAMPSON agrees to purchase whatever additional insurance is requested by OWNER (presuming such insurance is available, from carriers acceptable to WESTON & SAMPSON) provided OWNER reimburses the premiums for additional insurance.
 7. As a part of this Agreement, OWNER without cost to WESTON & SAMPSON agrees to do the following in a timely manner so as not to delay the services of WESTON & SAMPSON:
 - a. Designate in writing a person to act as OWNER'S representative with respect to work to be performed under this Agreement, such person to have complete authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by the Agreement.
 - b. Through its officials and other employees who have knowledge of pertinent conditions, confer with WESTON & SAMPSON regarding both general and special considerations relating to the Project.
 - c. Assist WESTON & SAMPSON by placing at the disposal of WESTON & SAMPSON, all available information pertinent to the Project including previous reports and other data relative to design or construction of Project.
 - d. Furnish or cause to be furnished to WESTON & SAMPSON all documents and information known to OWNER that relate to the identity, location, quantity, nature or characteristics of any hazardous waste at, on or under the site. In addition, OWNER will furnish or cause to be furnished such other reports, data, studies, plans, specifications, documents and other information on surface and subsurface site conditions required by WESTON & SAMPSON for proper performance of its services.
 - e. WESTON & SAMPSON shall be entitled to rely, without liability, on the accuracy and completeness of information and documents provided by the OWNER, OWNER'S CONSULTANTS and CONTRACTORS and information from public records, without the need for independent verification.
 - f. Pay for all application and permit fees associated with approvals and permits for all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
 - g. Arrange for and make all provisions for WESTON & SAMPSON and its agents to enter upon public and private lands as required for WESTON & SAMPSON to perform its work under this Agreement.
 - h. Furnish WESTON & SAMPSON with all necessary topographic, property, boundary and right-of-way maps.
 - i. Cooperate with and assist WESTON & SAMPSON in all additional work that is mutually agreed upon.
 - j. Pay WESTON & SAMPSON for work performed in accordance with terms specified herein.
8. The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. If the Project is suspended or abandoned in whole or in part for more than three (3) months, WESTON & SAMPSON shall be compensated for all services performed prior to receipt of written notice from OWNER of such

Attachment E - Terms and Conditions

suspension or abandonment, together with the other direct costs then due. If the Project is resumed after being suspended for more than three (3) months, WESTON & SAMPSON'S compensation shall be equitably adjusted. In the event of termination by either party, WESTON & SAMPSON shall be compensated for all services performed prior to receipt of written termination, together with other direct costs then due, including WESTON & SAMPSON's independent consultants, and for the services necessary to affect termination.

9. The OWNER and WESTON & SAMPSON waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by any property or other insurance in effect whether during or after the project. The OWNER and WESTON & SAMPSON shall each require similar waivers from their contractors, consultants and agents.
10. All Drawings, diagrams, plans, specifications, calculations, reports, processes, computer processes and software, operational and design data, and all other documents and information produced in connection with the project as instruments of service, regardless of form, shall be confidential and the property of WESTON & SAMPSON, and shall remain the sole and exclusive property of WESTON & SAMPSON whether the project for which they are made is executed or not. The OWNER shall not have or acquire any title to or ownership rights in any of the documents or information prepared by WESTON & SAMPSON. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by the OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other Projects. Any reuse without written verification or adaptation by WESTON & SAMPSON for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to WESTON & SAMPSON or to WESTON & SAMPSON's independent consultants, and OWNER shall indemnify and hold harmless WESTON & SAMPSON and WESTON & SAMPSON's independent consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle WESTON & SAMPSON to further compensation at rates to be

agreed upon by OWNER and WESTON & SAMPSON.

11. The substantive laws of the State of New York shall govern any disputes between WESTON & SAMPSON and the OWNER arising out of the interpretation and performance of this Agreement.
12. WESTON & SAMPSON and the OWNER agree that any disputes arising under this Agreement and the performance thereof shall be subject to nonbinding mediation as a prerequisite to further legal proceedings.
13. WESTON & SAMPSON shall not be required to sign any documents, no matter by who requested, that would result in WESTON & SAMPSON having to certify, guaranty, or warrant the existence of conditions that would require knowledge, services or responsibilities beyond the scope of this Agreement.
14. 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 WESTON & SAMPSON. WESTON & SAMPSON'S services hereunder are being performed solely for the benefit of the OWNER, and no other entity shall have any claim against WESTON & SAMPSON because of this Agreement or WESTON & SAMPSON'S performance of services hereunder.
15. Notwithstanding anything to the contrary contained herein, OWNER and ENGINEER agree that their sole and exclusive claim, demand, suit, judgment or remedy against each other shall be asserted against each other's corporate entity and not against each other's shareholders, A/E's, directors, officers or employees.
16. To the extent they are inconsistent or contradictory, express terms of this Proposal take precedence over these General Terms and Condition. It is understood and agreed that the services or work performed under this Proposal or any Agreement are not subject to any provision of any Uniform Commercial Code. Any terms and conditions set forth in OWNER'S purchase order, requisition, or other notice or authorization to proceed are inapplicable to the services under this Proposal or any related Agreement, except when specifically provided for in full on the face of such purchase order, requisition, or notice or authorization and specifically accepted in writing by WESTON & SAMPSON. WESTON & SAMPSON'S acknowledgement of receipt of any purchase order, requisition, notice or authorization,

Attachment E - Terms and Conditions

or WESTON & SAMPSON'S performance of work subsequent to receipt thereof, does not constitute acceptance of any terms or conditions other than those set forth herein.

17. If any provision of this Agreement shall be finally determined to be invalid or unenforceable in whole or in part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

Approved by:

OWNER Name

Signature Date

Printed Name and Title

Document3



Certificate of Insurance
WESTAND-01
CERTIFICATE OF LIABILITY INSURANCE

MDONOVAN

DATE (MM/DD/YYYY)
4/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: Ames & Gough, 859 Willard Street, Suite 320, Quincy, MA 02169. CONTACT NAME: boston@amesgough.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Continental Insurance Company A(XV) 35289, INSURER B: National Fire Insurance Company of Hartford A(XV) 20478, INSURER C: Nautilus Insurance Company A+, XV 17370, INSURER D: Valley Forge Insurance Company A(XV) 20508, INSURER E: Lexington Insurance Company A, XV 19437.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER: THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with 7 columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation and Employers' Liability, and Professional Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Additional Insured GL Endorsement Form #CNA75079XX 01/16, if applicable. All Coverages are in accordance with the policy terms and conditions.

RE: New Public Works Facility at Hetherdell Road, Ardsley, NY 10502 Village of Ardsley its Mayor, Trustees, Administrator, officers, employees, and volunteers shall be included as additional insured with respects to General, Auto, and Umbrella Liability where required by written contract.

CERTIFICATE HOLDER: Village of Ardsley, 507 Ashford Avenue, Ardsley, NY 10502. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: Michael Walshy



Certificate of Insurance

CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 6056861029

I. CNA PARAMOUNT

A. Policyholder Notices

Endm't Number	Form Title	Form Number	Form Edition
	Policy Holder Notice - Countrywide	CNA62820XX	02-15
	Notice To Policyholders Jurisdictional Inspections	CNA62823XX	07-17
	Policy Holder Notice - Florida	CNA62826FL	09-12
	Policy Holder Notice - Florida	CNA62827FL	09-12
	Policy Holder Notice - South Carolina	CNA62852SC	09-12
	Policy Holder Notice - South Carolina	CNA62853SC	09-12
	Policy Holder Notice - Countrywide	CNA74722XX	01-15
	Policy Holder Notice - Countrywide - Premium Basis Used on Liability Schedules	CNA75144XX	04-15
	Policy Holder Notice - Countrywide	CNA89319XX	06-17
	IMP INF Economic And Trade Sanctions Condition	G145041A	05-03

B. Policy Terms & Conditions

	Policy Declarations	CNA62639XX	09-12
	Schedule of Forms and Endorsements	CNA62640XX	09-12
	Common Terms and Conditions	CNA62642XX	10-15

II. POLICY COVERAGE PARTS

A. First Party Terms & Conditions

	First Party Glossary of Defined Terms	CNA62641XX	10-15
	First Party Terms and Conditions	CNA62647XX	10-15

B. Business Property

	Business Property Coverage Part Declarations	CNA62643XX	09-12
	Business Property Schedule of Coverages and Limits	CNA62645XX	10-15
	Business Property Schedule of Locations	CNA62644XX	10-15



Certificate of Insurance

CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 6056861029

Endm't Number	Form Title	Form Number	Form Edition
1	Loss Payee or Mortgagee Schedule	CNA62728XX	10-15
	Business Property Coverage Part	CNA62648XX	10-15
2	Sinkhole Loss Endorsement - Florida	CNA62702FL	10-15
3	Earthquake Coverage Endorsement	CNA62705XX	10-15
4	Flood coverage Endorsement	CNA62716XX	10-15
5	Architects and Engineers Property Extension Endorsement	CNA81058XX	10-15
6	Windstorm or Hail - Direct Damage and Time Element Deductible Endorsement	CNA81063XX	10-15
7	Flood Redefinition Endorsement	CNA81069XX	10-15
8	Massachusetts Tenant Relocation Expense Coverage Endorsement	CNA81387MA	10-15

D. Inland Marine

	Inland Marine Coverage Part Declarations	G55232-XX	12-11
	Contractors Equipment Declaration-Policy Level	G300665B	11-09
	Contractors Equipment Declaration-Add Cov and Ext	G300666B	11-09
	Commercial Inland Marine Conditions	CM0001	09-04
	Loss Payable Provision	G15028A	08-89
	Contractors Equipment Coverage Form	G44080H	11-09

F. General Liability

	General Liability Coverage Part Declarations	CNA74694XX	01-15
	Additional Declarations - General Liability Schedule of Locations and Coverages	CNA75126XX	01-15
	Commercial General Liability Coverage Part	CG0001	04-13
9	Architects, Engineers and Surveyors General Liability Extension Endorsement	CNA74858XX	01-15
10	General Aggregate Limit - Per Project Endorsement	CNA75061XX	01-15
11	Designated Unmanned Aircraft Coverage Endorsement	CNA80839XX	04-15



Certificate of Insurance

CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 6056861029

Endm't Number	Form Title	Form Number	Form Edition
12	Additional Insured - Owners, Lessees or Contractors - Scheduled Person or Organization Endorsement	CG 20 10	04-13
13	Additional Insured - Owners, Lessees or Contractors - Completed Operations Endorsement	CG 20 37	04-13
14	Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement	CNA75079XX	10-16
15	Deductible Applicable to Damages Endorsement	CNA75119XX	01-15
16	Deductible Applicable to Damages Endorsement - Supplemental Schedule Attachment	CNA75120XX	01-15
17	Pollution Exclusion Amendatory Endorsement	CNA74843XX	01-15
18	Fungi / Mold / Mildew / Yeast / Microbe Exclusion Endorsement	CNA74708XX	01-15
19	Employment-Related Practices Exclusion Endorsement	CNA74761XX	01-15
20	Testing or Consulting Errors and Omissions Exclusion Endorsement	CNA74775XX	01-15
21	Contractors - Professional Liability Exclusion Endorsement	CNA74801XX	01-15
22	Construction Wrap-Up Program Exclusion Endorsement	CNA74863XX	01-15
23	Exterior Finish System Products/Completed Operations Property Damage Exclusion Endorsement	CNA74892XX	01-15
24	Other Insurance Exclusion Endorsement	CNA74928XX	01-15
25	Engineers, Architects or Surveyors Professional Liability Exclusion Endorsement	CNA74980XX	01-15
26	Exclusion - Access or Disclosure of Confidential or Personal Information and Data-Related Liability - with Limited Bodily Injury Exception Endorsement	CNA75089XX	01-15





Certificate of Insurance

CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 6056861029

Endm't Number	Form Title	Form Number	Form Edition
27	Amendment - Infringement of Copyright, Patent, Trademark Trade Secret or Other Intellectual Property Rights or Laws Endorsement	CNA75116XX	01-15
	Notice of Cancellation to Certificateholders	CNA87741XX	12-16

G. Employee Benefits Liability

	Employee Benefits Liability Coverage Part Declarations	CNA74693XX	01-15
	Additional Declarations - Employee Benefits Liability Schedule of Locations and Coverages	CNA75133XX	01-15
	Employee Benefits Liability Coverage Part - Occurrence	CNA74721XX	01-15
29	Prior Acts, Errors or Omissions Endorsement	CNA75047XX	01-15
30	Employee Benefits Liability - Amended Definition of Executive Officer Endorsement	CNA86269XX	10-16

III. POLICY ENDORSEMENTS

31	Amendment to Policy Declarations- Named Insured Endorsement	CNA62700XX	09-12
	Coordination of Deductibles	G123098C	12-06
	Economic And Trade Sanctions Condition	G144291A	03-03
32	Broad Named Insured Endorsement	CNA75108XX	01-15
33	Bridge Endorsement	CNA62646XX	01-15
34	Cancellation / Non-Renewal - Massachusetts	CNA62814MA	09-12
35	Amendatory Endorsement - Florida	CNA62815FL	11-18
36	Amendatory Endorsement - Massachusetts	CNA62815MA	10-15
37	Calculation of Premium Endorsement	CNA74726XX	01-15
38	Bridge Endorsement	CNA85485XX	05-16
39	Asbestos Exclusion Endorsement	CNA74719XX	01-15



Certificate of Insurance

CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 6056861029

Endm't Number	Form Title	Form Number	Form Edition
40	Nuclear Energy Liability Exclusion Endorsement (Broad Form)	CNA74727XX	01-15
41	Cap on Losses from Certified Acts of Terrorism Endorsement	CNA81503XX	02-15



**RESOLUTION TO AUTHORIZE THE VILLAGE MANAGER TO SIGN
AN AGREEMENT WITH WESTON & SAMPSON**

RESOLVED, that the Village Board of the Village of Ardsley hereby authorizes the Village Manager to execute an agreement with Weston & Sampson, 55 Walkers Brook Drive, Suite 100, Reading, MA 01867 for Engineering/Architectural Services related to the Highway Garage Building Project.

**RESOLUTION AUTHORIZING THE VILLAGE MANAGER TO SIGN AN
AGREEMENT WITH
CALGI CONSTRUCTION COMPANY, INC.**

RESOLVED, that the Village Board of the Village of Ardsley hereby authorizes the Village Manager to sign an agreement with the Calgi Construction Company, Inc. located at 56 Lafayette Avenue, Suite 350, White Plains, New York 10603, for Construction Management Services related to the Highway Garage Building project.

 **AIA** Document C132™ – 2009**Standard Form of Agreement Between Owner and Construction Manager as Adviser**

AGREEMENT made as of the ³⁰ ^{April} day of [^] in the year 2020
(In words, indicate day, month and year.)

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

Village of Ardsley
507 Ashford Ave.
Ardsley, NY 10502

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

Calgi Construction Company, Inc.
56 Lafayette Ave, Ste 350
White Plains, New York 10603

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

Village of Ardsley New DPW
Heatherdell Road, Ardsley, NY

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

Weston & Sampson, PE, LS, LA, PC Secondary Address of: 85 Devonshire Street
1 Winners Circle, Suite 130 Boston, MA 02109
Albany, NY 12205

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition.

AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

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1

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

Not Applicable

§ 1.1.1 The Owner's program for the Project:

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

New Public Works and Parks Garage Facility

§ 1.1.2 The Project's physical characteristics:

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

The project will include but is not limited to administrative and staff facilities, parks and general purpose shops, vehicle maintenance facilities, an enclosed vehicle wash facility, vehicle and equipment storage areas, storage mezzanines, a salt storage shed, fueling facilities, perimeter fencing and parking areas.

The Project will include approximately 27,500 sq. ft. of enclosed space, plus a 2,500sf salt storage shed. The existing access easement across the site will be accommodated.

§ 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.)

TBD

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any: TBD

.2 Commencement of construction: TBD

Init.

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User Notes:

(1178101112)

2

.3 Substantial Completion date or milestone dates: TBD

.4 Other: Not Applicable

§ 1.1.5 The Owner intends the following procurement method for the Project:
(Identify method such as competitive bid, negotiated Contract or multiple Prime Contracts.)

Public Bidding-Multiple Prime Contractors

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

Not Applicable

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

(List name, address and other information.)

Meredith Robson, Village Manager

Village of Ardsley

507 Ashford Ave

Ardsley, NY 10573

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other information.)

Richard Thompson, General Foreman & Daniel Tenney, Architect

Village of Ardsley

3 Elm Street

Ardsley, NY 10502

Weston & Sampson

85 Devonshire Street

Boston, MA 02109

§ 1.1.10 Unless provided by the Construction Manager, the Owner will retain the following consultants and contractors: , if needed:

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

.1 Land Surveyor:

Provided by Weston & Sampson

.2 Geotechnical Engineer:

Provided by Weston & Sampson

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.3 Civil Engineer: [Provided by Weston & Sampson](#)

.4 Other:
(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)
[Not Applicable](#)

§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.4:
(List name, address and other information.) For Pre-Construction Services

[David Chen, Estimator](#)
[Calgi Construction Company, Inc.](#)
[56 Lafayette Ave., Ste. 350](#)
[White Plains, NY 10603](#)

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:
(List any specific requirements and personnel to be included in the staffing plan, if known.)

[See Exhibit A](#)

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

.1 Cost Estimator:
(List name, legal status, address and other information.)
[Not Applicable \(In House\)](#)

.2 Other consultants:
[Not Applicable](#)

§ 1.1.14 The Construction Manager's consultants retained under Additional Services:
[Not Applicable](#)

§ 1.1.15 Other Initial Information on which the Agreement is based:
[Not Applicable](#)

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§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the schedules, ^{by mutual agreement, if needed.} the Construction Manager's services and the Construction Manager's compensation.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

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

* See Rider for 2.2.1 - 2.2.8

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. ^{as revised} The Construction Manager shall not be responsible for actions taken by the Architect.

§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

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

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

one million dollars (\$1,000,000) two million dollars (\$2,000,000)

§ 2.6.1 Comprehensive General Liability with policy limits of not less than [^] (\$) for each occurrence and [^] in the aggregate for bodily injury and property damage.

§ 2.6.2 ~~Automobile Liability covering owned and rented vehicles operated by the Construction Manager with policy limits of not less than ---(\$---) combined single limit and aggregate for bodily injury and property damage.~~ See Rider

§ 2.6.3 ~~The Construction Manager may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability; provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.~~ See Rider

§ 2.6.4 ~~Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than ---(\$).~~ See Rider

§ 2.6.5 Professional Liability covering the Construction Manager's negligent acts, errors and omissions in its performance of services with policy limits of not less than [^] (\$) per claim and in the aggregate.
one million dollars (\$1,000,000)

§ 2.6.6 ~~The Construction Manager shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.~~

*See Rider for 2.6.6 - 2.7

ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

§ 3.1 Definition

and Exhibit A

The Construction Manager's Basic Services consist of those described in Sections 3.2 [^] and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, and allocation of construction activities among the Multiple Prime Contractors. **If there is any conflict between the terms of this Agreement and Exhibit A, this agreement shall control.**

§ 3.2 Preconstruction Phase

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§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

§ 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

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

§ 3.2.5 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.6 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and highlight items that could affect the Project's timely completion.

§ 3.2.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement. The Construction Manager shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

§ 3.2.8 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that design details adversely affect constructability, cost or schedules.

§ 3.2.9 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.2.10 The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

§ 3.2.11 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for

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selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

§ 3.2.12 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.2.13 The Construction Manager shall expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.

§ 3.2.14 The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 3.2.15 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.2.16 The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and for quasi governmental authorities for inclusion in the Contract Documents.

§ 3.2.17 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval.

§ 3.2.18 The Construction Manager shall submit the list of prospective bidders for the Architect's review and the Owner's approval.

§ 3.2.19 The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Construction Manager shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids.

§ 3.2.21 The Construction Manager shall ^{prepare for approval of} assist the Owner in ~~preparing~~ Construction Contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Multiple Prime Contractors.

§ 3.2.22 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and ^{the} Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and terminates ^{on the date the Architect issues} the final Certificate for Payment. ^{thirty (30) days after}

§ 3.3.2 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

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~~§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction; Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232-2009, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement. See Rider~~

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, ^{the} Architect, and ^{the} Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action, if any, to the Owner and ^{the} Architect.

~~§ 3.3.6 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors. See Rider~~

§ 3.3.7 Utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

^{with the contractor} ^{in consultation with the Architect,}

§ 3.3.8 The Construction Manager ^{shall} schedule ^{all} tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Construction Manager shall endeavor to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled. ^{The Construction Manager shall also take reasonable actions to attempt to prevent installation of work and equipment that fail to conform to the Contract Documents.}

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner.

§ 3.3.11 The Construction Manager shall develop cash flow reports and forecasts for the Project.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by ^{the} Multiple Prime Contractors for progress and final payments.

§ 3.3.12.2 Not more frequently than monthly, the Construction Manager ^{shall} review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for

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- Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Construction Manager determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager 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 for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.3.13 The Construction Manager shall review the safety programs developed by each of the Multiple Prime Contractors solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any safety programs not included in the Work of the Multiple Prime Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Multiple Prime Contractors, Subcontractors, agents or employees of the Contractors or Multiple Prime Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect ^{and the Owner} about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1. Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager 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 of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The

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Construction Manager shall be responsible for the Construction Manager'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 Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section 4.3.1.7.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval. The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

§ 3.3.20 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require. **If requested by the Owner, copies of the daily logs for the prior week shall be filed with the Owner each Monday.**

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

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding Submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs; **(if not already filed with the Owner pursuant to Section 3.3.20);**
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and
- .11 Any other items the Owner may require:

§ 3.3.20.2 In addition, for Projects constructed on the basis of the Cost of the Work, the Construction Manager shall include the following additional information in its progress reports:

- .1 Contractor's work force report;
- .2 Equipment utilization report;
- .3 Cost summary, comparing actual costs to updated cost estimates; and
- .4 Any other items as the Owner may require:

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§ 3.3.21 Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

§ 3.3.23 With the Architect and the Owner's maintenance personnel, the Construction Manager shall observe the Contractor's or Multiple Prime Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.24 When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with the Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.25 When the Work or designated portion thereof is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractor. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Contractor or Multiple Prime Contractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in conducting final inspections.

§ 3.3.26 The Construction Manager shall forward to the Owner, with a copy to the Architect, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.27 The Construction Manager shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment or final Application for Payment and final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

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

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

*See Rider 3.3.30 - 3.3.32

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Construction Manager shall provide the listed Additional Services only if specifically designated in the table below

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as the Construction Manager's responsibility, and the Owner shall compensate the Construction Manager as provided in Section 11.2.
(Designate the Additional Services the Construction Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility (Construction Manager, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Measured drawings	Review Only	
§ 4.1.2 Architectural interior design (B252™-2007)	Review Only	
§ 4.1.3 Tenant-related services	N/A	
§ 4.1.4 Commissioning (B211™-2007)	Supervisory Only	
§ 4.1.5 LEED® certification (B214™-2007)	N/A	
§ 4.1.6 Furniture, furnishings, and equipment design (B253™-2007)	N/A	

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

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating this Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.3 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement;
- .3 Preparation of documentation for alternate bid or proposal requests proposed by the Owner;
- .4 ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto;
- .6 Providing consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such Work;
- .7 Assistance to the Initial Decision Maker, if other than the Architect; or
- .8 Service as the Initial Decision Maker.

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

- .1 Services in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work when the Architect is serving as the Initial Decision Maker.

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- .2 To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (†) the date of Substantial Completion of the Work or (2) ~~the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.~~
- .3 Services required in an emergency to coordinate the activities of a Contractor or Multiple Prime Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.13.

§ 4.3.3 If the services covered by this Agreement have not been completed within ^{twenty} (24) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager'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 the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce any lien rights, if any.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and ^{the} Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. ^{as revised} The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and ^{the} Architect, and any further modifications to the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

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

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

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Construction Manager. Upon the Construction Manager's request, the Owner shall furnish ^{may} copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Construction Manager to furnish them as an Additional Service, when the Construction Manager requests such services and demonstrates that they are

reasonably required by the scope of the Project. ~~The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services 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 Construction Manager and Architect if the Owner becomes aware of any fault or defect in Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Construction Manager's services.

§ 5.12 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. ~~When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.~~

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

§ 5.14 Before executing the Contract for Construction, the Owner shall coordinate the Construction Manager's duties and responsibilities set forth in the Contract for Construction with the Construction Manager's services set forth in this Agreement. ~~The Owner shall provide the Construction Manager a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.~~

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead and profit. ~~The Cost of the Work includes the compensation of the Construction Manager and the Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any.~~ ^{does not include} The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a person or entity familiar with the construction industry. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager.

§ 6.3 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another.

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§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

ARTICLE 7 COPYRIGHTS AND LICENSES

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Construction Manager intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

~~See Rider~~

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager 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 A232-2009, General Conditions of the Contract for Construction. The Owner or the Construction Manager, 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 Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage. See Rider~~

§ 8.1.4 The Construction Manager and ^{the} 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.~~

*See Rider for 8.1.5 - 8.1.6

§ 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 Construction Manager's services, the Construction Manager 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.~~

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

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

~~§ 8.2.4~~ ^{8.1.7} If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction [in the County of Westchester in the State of New York](#)
- Other: *(Specify)*

~~§ 8.3~~ Arbitration

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

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~~§ 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 Construction Manager 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 Construction Manager under this Agreement.~~

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

~~§ 9.3 If the Owner suspends the Project for more than ^{consecutive}90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager may terminate this Agreement by giving not less than ^{fourteen}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. See Rider~~

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

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

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

~~§ 9.7.1 In the event of termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services performed, costs incurred by reason of such termination and reasonable overhead and profit on Preconstruction services not completed during the Preconstruction Phase.~~

~~§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services performed and costs incurred by reason of such termination, along with reasonable overhead and profit on services not completed during the Construction Phase.~~

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ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, ~~except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2009, General Conditions of the Contract for Construction, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

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

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

§ 10.6 Unless otherwise required in this Agreement, the Construction Manager 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, **provided the Construction Manager shall notify the Owner of any hazardous materials or toxic substances it finds or about which it is made aware of.**

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

§ 10.8 If the Construction Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) ^{its}employees, (2) ^{those}who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) ^{its}consultants and contractors whose contracts include similar restrictions on the use of confidential information **or (4) as may be required by law, court order or subpoena.**

* See Rider for 10.8.1- 10.10

ARTICLE 11 COMPENSATION

§ 11.1 For the Construction Manager’s Basic Services described under Article 3, the Owner shall compensate the Construction Manager as follows:

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:
(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

See Exhibit A

§ 11.1.2 For Construction Phase Services in Section 3.3:
(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

See Exhibit A

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

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

See Exhibit A "Reimbursable Expenses and Additional Services"

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

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

See Exhibit A "Reimbursable Expenses and Additional Services"

§ 11.4 Compensation for Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus percent (0 %), or as otherwise stated below:

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.

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

See Exhibit A "Reimbursable Expenses and Additional Services"

Employee or Category

Rate (\$0.00)

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager's consultants directly related to the Project, as follows: See Exhibit A "Reimbursable Expenses"

- .1 Transportation and authorized out-of-town travel and subsistence; ~~excluding travel to and from the Project Site~~
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web (see Exhibit A) sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Professional photography, and presentation materials requested by the Owner;
- .8 Construction Manager's consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Construction Manager's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager's consultants plus ^{zero} percent (0 %) of the expenses incurred.

§ 11.7 Payments to the Construction Manager

§ 11.7.1 An initial payment of ^{zero} (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

-%

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

* See Rider for 12.1 - 12.3

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document C132™-2009, Standard Form Agreement Between Owner and Construction Manager as Adviser **as revised**
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
N/A
- .3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
N/A
- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)
Exhibit A and Exhibit B attached

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

Village of Ardley

Calgi Construction Company, Inc.

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

Dominic Calgi, President

(Printed name and title)

(Printed name and title)

Init.

AIA Document C132™ – 2009 (formerly B801™CMA – 1992). Copyright © 1973, 1980, 1992 and 2009 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 07:57:56 on 10/14/2010 under Order No.0034549106_1 which expires on 10/26/2010, and is not for resale.
User Notes:

20

(1178101112)

RIDER TO AGREEMENT DATED APRIL 30, 2020
BY AND BETWEEN VILLAGE OF ARDSLEY
AND
CALGI CONSTRUCTION COMPANY, INC.

The following clauses amend, supplement or replace the corresponding clauses or portions of clauses in the main body of the Standard Form of Agreement between Owner and Construction Manager, AIA Document C132-2009 (the “Agreement”)

The “Standard Form of Agreement Between Owner and Construction Manager”, AIA Document C132-2009 attached hereto (the “Agreement”) shall govern the relationship between Owner and Construction Manager except as amended and supplemented by this Rider. The purpose of this Rider is to amend and supplement (and, in some cases, void portions of) this Agreement. Accordingly, this Agreement is hereby amended and supplemented (or voided) as hereinafter set forth and, except as hereby amended and supplemented (or voided), shall remain in full force and effect.

Article 2

- **Add a new §2.2.1 to read:**
The Construction Manager accepts the relationship of trust and confidence established between it and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish its skill and judgment in cooperation with and in reliance upon the services of an architect. The Construction Manager agrees to furnish business administration, supervision and construction management services in accord with the standards in the industry, consistent with the interests of the Owner, in accordance with the rights and obligations set forth in this Agreement. The Construction Manager shall be responsible for services as defined as the responsibility of the Construction Manager and provided hereunder whether or not such services are provided directly by the Construction Manager or by any consultants or subcontractors hired by the Construction Manager. The Construction Manager will perform all duties and services and make all decisions without unreasonable delay and will give this Project such priority in its office as is necessary to cause the construction management services hereunder to be timely and properly performed.
- **Add a new §2.2.2 to read:**
The Construction Manager acknowledges that the Project may be changed, supplemented or amended from time to time by or with the approval of the Owner without invalidating this Agreement and that all such work shall be executed under the terms and conditions of this Agreement.
- **Add a new §2.2.3 to read:**
The Construction Manager acknowledges that it will receive, examine and become familiar with the scope of the work for the Project and will visit the Project sites once the scope is determined and before the final budget is established.
- **Add a new §2.2.4 to read:**
The Construction Manager acknowledges that Owner has contracted with other professionals for services which may be similar to or the same as those set forth in this Agreement and the existence of such contracts shall in no manner diminish Construction Manager’s responsibility to provide the services required pursuant to this Agreement.

- **Add a new §2.2.5 to read:**
The Owner's approval, acceptance, use of or payment for all or any part of the Construction Manager's services hereunder shall in no way diminish or limit the Construction Manager's obligations and liabilities or the Owner's rights, except to the extent expressly stated herein.
- **Add a new §2.2.6 to read:**
All notices required to be made in writing hereunder shall be given, made or served by (i) mailing the same by registered or certified mail, return receipt requested, or by overnight or express mail service, (ii) by delivering the same by hand or by messenger or courier service, (iii) by sending the same by facsimile transmissions or (iv) by sending the same by electronic means such as email transmissions addressed to designated representatives of the Owner and the Construction Manager. Notices may be given by the Owner's or the Construction Manager's agents and attorneys on the Owner's or the Construction Manager's behalf. The effective date of all notices shall be: (i) the date of delivery or the date such delivery is refused, if delivery is by hand, messenger or courier service; (ii) the date of facsimile transmission, only as shown by a confirmation; (iii) if mailed by an overnight or express mail service, the first business day following deposit with such service; (iv) if mailed by certified or registered mail, the third business day following deposit in the mail; or (v) the first business day following electronic transmission documented by receipt of Delivery. For purposes of this paragraph, the term "business day" shall be any day which is not a Saturday, Sunday or holiday observed by the Owner.
- **Add a new §2.2.7 to read:**
The Construction Manager shall deliver to the Owner, with reasonable promptness after receipt thereof, copies of all written communications received by the Construction Manager from any and all persons with respect to any significant or material delays, defaults or increased costs, actual or potential.
- **Add a new §2.2.8 to read:**
The Construction Manager will attend meetings as requested by the Owner and will report on cost and constructability.
- **§2.6.2 - Revise to read as follows:**
Automobile Liability covering owned, non-owned, borrowed, hired and rented vehicles operated by the Construction Manager, its employees, consultants and/or agents, subject to statutory motor vehicle law, with policy limits of not less than one million dollars (\$1,000,000) combined single limit and aggregate for bodily injury and property damage.
- **§2.6.3 - Revise to read as follows:**
Excess/Umbrella Liability Insurance on an occurrence form in amounts comparable to amounts being carried by persons undertaking similar work in Ardsley, New York but in no event less than five million dollars (\$5,000,000) per occurrence and in the aggregate.
- **§2.6.4 - Revise to read as follows:**
Workers' Compensation at statutory limits and Employers Liability Insurance for operations in New York State with a policy limit (to the extent permitted by law) of not less than one million dollars (\$1,000,000).
- **Add a new §2.6.6 to read:**
With respect to the insurance requirements of this Section 2.6, the following shall apply:
- **Add a new §2.6.6.1 to read:**
The Construction Manager shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner (including its Mayor, Trustees, Administrator, officers, employees, and volunteers) as an

additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies. See Exhibit B. Said coverage shall be primary coverage for the Owner, its Mayor, Trustees, Administrator, officers, employees, and volunteers.

- **Add a new §2.6.6.2 to read:**
The Construction Manager shall maintain such insurance in full force and effect and uninterrupted during the term of this Agreement and for three (3) years from the date of completion of the Project or three (3) years from the termination of the Construction Manager's services under this Agreement, whichever is earlier.
- **Add a new §2.6.6.3 to read:**
All insurance shall be issued by reputable insurance companies, licensed and admitted to do business in the State of New York and having a rating of "A-", or better and a financial class of "VIII" or better (or the then equivalent of such ratings) as rated by A.M. Best's Insurance Guide (or any successor publication of comparable standing).
- **Add a new §2.6.6.4 to read:**
The effective date of each insurance policy must pre-date the commencement of the Construction Manager's services pursuant to this Agreement.
- **Add a new §2.6.6.5 to read:**
All insurance policies shall be written on an occurrence basis, if available, and on a claims-made basis only if occurrence basis insurance is not available.
- **Add a new §2.6.6.6 to read:**
The insurance required to be maintained by this Agreement shall be primary and non-contributory to any other insurance that may be in effect.
- **Add a new §2.6.6.7 to read:**
All insurance policies must contain a provision giving the Owner thirty (30) days written notice of cancellation of the policy or a material change in coverage.
- **Add a new §2.6.6.8 to read:**
In the event any of such insurance policies are canceled or not renewed, the Construction Manager shall provide a substitute insurance policy(ies) with terms and conditions and in amounts which comply with the terms of this Agreement and, specifically with regard to "claims made" policies, which provide for retroactive coverage to the date of cancellation or nonrenewal to fill any gaps in coverage which may exist due to the cancellation or nonrenewal of the prior "claims made" policy(ies). With respect to all "claims made" policies which are renewed, the Construction Manager shall provide coverage retroactive to the date of commencement of work under this Agreement. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for three (3) years from the date of completion of the Project or three (3) years from the termination of the Construction Manager's services, whichever is earlier.
- **Add a new §2.6.6.9 to read:**
The Construction Manager agrees to indemnify the Owner for all deductibles applicable to insurance furnished by the Construction Manager, unless such deductible is the result of a willful act, omission, error, recklessness or negligence of the Owner, the Owner's officers, directors, agents, consultants or employees.
- **Add a new §2.6.6.10 to read:**
The Construction Manager acknowledges that failure to procure and/or maintain the insurance required in this Section 2.6 constitutes a material breach of this Agreement and subjects it to liability for damages, indemnification and all other legal remedies available to the Owner.

- **Add a new §2.6.6.11 to read:**
At the Owner's request, the Construction Manager shall provide a copy of the declaration page of the liability and excess policies with a list of endorsements and forms. If so requested, the Construction Manager will provide a copy of the policy endorsements and forms.
- **Add a new §2.6.7 to read:**
The Construction Manager hereby grants to the Owner a waiver of any right to subrogation which any insurer of said Construction Manager may acquire against the Owner by virtue of the payment of any loss under such insurance. The Construction Manager agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Owner has received a waiver of subrogation endorsement from the insurer.

Article 3

- **Revise §3.3.3 to read:**
The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.. Such on-site administration shall include but not be limited to:
 1. coordinates any utility interruptions with the Owner;
 2. on-site, day-to-day inspection and supervision of all work in process, including second shift (if stipulated and included in the final fee), holiday and weekend work;
 3. collects all bonds and insurance certificates from the Multiple Prime Contractors and forwards same to the Owner;
 4. coordinate all site stored material locations and contractor staging;
 5. greets, escorts and logs all authorized visitors to the Project site and prevents unauthorized visitors from entering the Project site to the extent reasonably possible with on-site staff;
 6. maintains a daily log of activities on the Project site;
 7. logs and maintains all project samples on Project site;
 8. maintains documentation and photographs of Project progress;
 9. coordinates punch list inspections and execution of punch list items.
- **Revise §3.3.6 to read:**
The Construction Manager, in consultation with the Architect, shall schedule and conduct pre-construction meetings with the Multiple Prime Contractors, consultants, and the Owner. The meetings shall include a review of Project management, Project schedule, and Project procedures. The Construction Manager will, during the construction phase, regularly conduct at least one weekly meeting at the job site with the Multiple Prime Contractors to cause the Prime Contractors to coordinate construction activities and discuss Project progress, and shall hold additional meetings as may be necessary. The Construction Manager shall prepare and promptly distribute accurate minutes to the Owner, the Architect and the Multiple Prime Contractors.
- **Add a new §3.3.30 to read:**
The Construction Manager will coordinate and maintain electronic photographic records of construction activities and Project progress on a monthly basis.
- **Add a new §3.3.31 to read:**
The Construction Manager will assist in resolving disputes among contractors, subcontractors, material men, and any others working at the Project site (including the Owners' employee and consultants). The Construction Manager shall maintain good records of such disputes and their resolution in accordance with industry standards.
- **Add a new §3.3.32 to read:**

If any employee assigned by the Construction Manager to the Project is not acceptable to the Owner, such employee shall be replaced by the Construction Manager within seven (7) days of the Owner's objection in writing. All personnel assigned to the Project by the Construction Manager shall be required to fully cooperate with personnel assigned to the Project by the Owner and the Architect and in the event the personnel fail to so cooperate, the Construction Manager shall reassign such personnel from their duties on the Project when requested by the Owner.

Article 4:

- **Revise §4.3.2 to read:**
Upon recognizing the need to perform the following Additional Services to avoid delay in the Construction Phase, the Construction Manager shall notify the Owner in writing with reasonable promptness, and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following services until either the Construction Manager receives the Owner's written authorization or more than 10 days have elapsed since the Construction Manager provided written notice to the Owner of the need for such services. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Construction Manager, and the Owner shall have no further obligation to compensate the Construction Manager for those services:

Article 8:

- **Revise §8.1.1 to read:**
The Owner and Construction Manager shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in the Supreme Court of the State of New York in the County of Westchester 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 Construction Manager agree that neither arbitration nor mediation shall be required before filing an action in the Supreme Court of the State of New York in the County of Westchester.
- **Revise §8.1.3 to read:**
The Construction Manager shall defend, indemnify and hold the Owner and the Owner's officers, elected and appointed officials and employees harmless from and against damages, losses, ~~and~~ judgments, costs and expenses (including reasonable attorneys' fees) recoverable under applicable law arising from claims by third parties, but only to the extent they are caused by the intention, reckless and/or negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of this Agreement. The Construction Manager's duty to indemnify the Owner under this provision shall survive the expiration and/or termination of this Agreement.
- **Add a new §8.1.5 to read:**
In the event of any dispute between the Owner and the Construction Manager or the Construction Manager and any other person with respect to the Project, the Construction Manager shall continue to perform its duties under this Agreement without interruption or delay, pending the resolution of the dispute and the Construction Manager shall not directly or indirectly stop or delay the performance of the Project. In the event of a dispute between the Owner and the Construction Manager, the Owner shall continue payments to the Construction Manager pursuant to this Agreement, except for any item(s) in dispute.
- **Add a new §8.1.6 to read:**
Any claim made by the Construction Manager arising out of any alleged act or omission by the Owner, its elected or appointed officials, officers, agents or employees in the execution or performance of this Agreement shall be made against the Owner and not against any elected or appointed official, trustee, officer, agent or employee. No elected or appointed official, trustee,

officer, agent or employee of Owner shall have any personal liability whatsoever pursuant to or by reason of this Agreement.

Article 9:

- **§9.4- Add the following sentences to the end of the provision:**
Upon determination of a court of competent jurisdiction that termination of the Construction Manager for cause was wrongful, such termination shall be automatically deemed converted to a termination for convenience and the Construction Manager's remedy for such termination shall be limited to compensation for services performed prior to termination, together with any reimbursable expenses then due.

Article 10:

- **Add a new §10.8.1 to read:**
The Construction Manager shall treat all information relating to the Project and all information supplied to it by the Owner or the Architect as confidential and proprietary information of the Owner or the Architect and the Construction Manager shall not directly or indirectly cause or permit its release to the public or make any public announcement or public release without the Owner's prior written authorization.
- **Add a new §10.9 to read:**
In performing its obligations under this Agreement, the Construction Manager shall be an independent contractor and neither the Construction Manager nor any of its employees, consultants or subcontractors shall be or be deemed to be an employee of the Owner.
- **Add a new §10.10 to read:**
The Construction Manager shall be prohibited from bidding on any contracts which will be let as a part of the Project.

Article 12:

- **Add a new §12.1 to read:**
The signatories to this Agreement hereby represent and affirm that they are authorized to enter into this Agreement and to make the indemnification agreements and other representations contained herein and to bind the party for whom they are executing this Agreement.
- **Add a new §12.2 to read:**
Notwithstanding anything to the contrary in this Agreement, except for emergency situations, any Additional Services of the Construction Manager shall be approved by the Owner, in advance, in writing.
- **Add a new §12.3 to read:**
No payment made by the Owner shall impair or in any way prejudice any right or remedy which the Owner may have against the Construction Manager for nonperformance under or breach of any of the provisions of this Agreement. No action or failure to act by the Owner shall constitute a waiver of any right of the Owner, nor shall any action or failure to act on the part of the Owner constitute an approval of or acquiescence in any breach of this Agreement.

EXHIBIT A



CONSTRUCTION MANAGEMENT
OWNER'S REPRESENTATIVE
CONSULTING
GENERAL CONTRACTING

CALGI CONSTRUCTION COMPANY, INC.
56 Lafayette Avenue, Suite 350
White Plains, New York 10603
TEL: 914-666-9423
FAX: 914-761-2457
www.calgiconstruction.com

ATTACHMENT A
CONSTRUCTION MANAGER'S SERVICES
SCOPE OF SERVICES & FEES
Village of Ardsley
NEW DPW FACILITY & RELATED SITE WORK
APRIL 2020

CONSTRUCTION MANAGER SERVICES

The Project: The "project" is the construction of a new Department of Public Works (DPW) Facility of approximately 27, 500 SF. The new facility will include but is not limited to: administrative and staff facilities, park and general purpose shops, vehicle maintenance facilities, an enclosed vehicle wash facility, vehicle and equipment storage areas, storage mezzanines, salt storage shed, related site work, fueling facilities, perimeter fencing, parking areas. *The "project" also includes the abatement and demolition of existing structures as well as the construction of a new access road specifically for the Town of Greenburgh.**

Construction Management services for the initial planning, programming and developmental budgeting for the "project" were and are being performed for the Village of Ardsley under separate agreements. These Tasks include the services of Weston & Sampson, Engineers and Architects. The Tasks are summarized as follows:

- Task A: Investigation Phase & Proof of Concept
- Task B: Concept Design & Budgeting
- Task C: Presentation to Village Board:
 - Concept Design Drawing
 - Concept Design Budgeting
 - Implementation Schedule

*** New Access Road / Demolition of Existing Structures**

In light of the recent introduction of the new access road to accommodate the Town of Greenburgh we believe that it would be in the best interest of the Village to proceed with the bidding and installation of the new access road as a "separate" project prior to the bidding and construction of the new DPW Facility. The benefits of having the new access road in place prior to the construction of the new DPW Facility are that The Town of Greenburgh will be able to safely access their site directly without trafficking through the new DPW site and in turn, the construction process, staging and logistics

necessary for the construction of the new DPW Facility can proceed safely and without interruption by Town of Greenburgh vehicles. Additionally, we believe that it would also be in the best interest of the Village to include the abatement and demolition of the existing structures in this “separate” project as well. The benefit of this is that with the existing structures removed, the Prime Contractors for the new DPW Facility can proceed immediately with construction. .

The overall benefit of incorporating both the New Access Road and the Demolition of the Existing Structures into a “separate” project is time related. All of this work can proceed concurrently with the completion of the final construction documents for New DPW Facility as well as during the bidding and award phase for the New DPW Facility.

Final Phases

The “Project” is now entering its final Phases as noted below. The Construction Management services required for these final Phases are categorized as follows:

- Pre-Construction Phase
- Construction & Project Close-Out Phase

Pre-Construction Phase Services:

- Schematic Design (S/D)
- Design Development (D/D)
- Final Construction Documents (C/D)
- Budgeting for all three (3) Design phases
- Scheduling for all three (30 Design phases
- Necessary Approvals
- Public Bidding
- Bid Evaluation, Bidder Qualification Review, Bonds and Insurance Review
- Award, Contracts
- Pre-Construction Meeting with Primes

Construction Phase Services:

- Management, Coordination and Oversight of the Construction of the new DPW Facility.
- Project Close-Out

CONSTRUCTION MANAGER FEES

Construction Management (CM) Fees for this project are based on the total direct cost of the assigned personnel that we believe will be required to provide the necessary Construction Management Services as noted above. These fees are inclusive of all Overhead, Insurances, Fringe Benefits, Taxes, Worker’s Compensation and Fees. There are no other multipliers that will be added to these hourly rates.

Pre-Construction Phase Services: Design/Budgeting/Bidding/Contract Award
Anticipated time frame: May 1, 2020 thru to February 1, 2021

Throughout the Pre-Construction Phase, we anticipate multiple meetings with the Village, Weston & Sampson and their Design Team at various stages throughout this phase working with both in the finalization of the Bid Specifications in preparation of public bidding: i.e. progress schedules, bid packages, “front end” documentation, AIA contract forms, general conditions, bid alternates, unit prices, etc. all in accordance with our standard CM Services attached.

Calgi will be preparing the Schematic Design, Design Development and Construction Document budgets and estimates to ensure that the “project” remains within the approved funding. Our review of the documents at the various design stages completed by Weston & Sampson will encompass constructability, value engineering, systems review, and availability of construction materials as well as construction methods. During this time frame we anticipate multiple meetings with the Village and Weston & Sampson as well as presentations to the Village Board for design and budgeting approvals.

Once out to public bidding, Calgi will be in the lead during the bidding phase working with Weston & Sampson and their Design Team as needed in the development of addenda, pre-bid meetings, tracking and responding to RFI’s, opening and review of bids, review and interview of the apparent successful bidders, recommendation of award to the Village as well as securing the bidders certificates of insurance, bonds, etc. all in order to issue the necessary contracts working with the Village’s attorney.

Pre-Construction Phase Fees:

Assigned Staff and Commitment: Part Time Basis:

Project Executive	159 hrs. Total
Project Manager	45 hrs. Total
Project Estimator / Scheduler	390 hrs. Total
Contract Administration	112 hrs. Total

Total Lump Sum Fee – Pre-Construction Phase:

Eighty three thousand seven hundred dollars and no cents (\$ 83,700.00)

(NOTE: Our Pre-Construction Phase fees allows for the bidding and award of the “Separate Project” for the New Access Road and Demolition of Existing Structures)

Construction / Project Close-Out Phase Services:

- Phase 1: “Separate Project” -New Access Road & Demolition of Existing Structures
- Phase 2: Construction of New DPW Facility and Related Site Work

Throughout the Construction / Project Close - Out Phase Calgi will be directly responsible for the daily management and coordination of the various prime contractors. In that regard, we will be conducting construction oversight, convening weekly job meetings, reviewing prime contractor shop drawings and forwarding them to Weston & Sampson for approvals, reviewing and approving prime contractor payment requests, preparing monthly Executive Summary reports for presentation at Village Board meetings, etc.

Our primary goal during the Construction and Project Close-Out Phase is to ensure that the performance and commitment of the various prime contractors are all in the best interest of the Village. Our Services for this Phase encompasses the full gamut of our standard CM Services attached.

Phase 1: Installation of Access Road & Demolition of Existing Structures
Anticipated time frame: October 26, 2020 thru to December 31, 2020

We anticipate a Part Time On-Site Project Manager for the duration of Phase 1 when work is underway. Additionally, we have allowed for necessary part time main office assistance relative to scheduling, change order reviews, contract administration, etc.

Anticipated time frame: *October 26, 2020 thru to December 31, 2020*

Staff and Commitment: Part Time & Full Time Basis:

Project Executive	Part Time – Main Office
Project Manager	Part Time – 20 hours /week On-Site
Project Estimator / Scheduler	Part Time – Main Office
Contract Administration	Part Time – Main Office

Total Lump Sum Fee – Phase 1- New Access Road and Demolition of Existing Structures:

Thirty four thousand five hundred dollars and no cents (\$ 34,500.00)

Phase 2: Construction of New DPW Facility and Related Site Work
Anticipated time frame: February 8, 2021 thru to February 11, 2022

We anticipate a Full Time On-Site Project Manager for the duration of Phase 2 when work is underway. Additionally, we have allowed for necessary part time main office assistance relative to scheduling, change order reviews, contract administration, etc.

Anticipated time frame: *February 8, 2021 thru to February 11, 2022*

Staff and Commitment: Part Time & Full Time Basis:

Project Executive	Part Time – Main Office
Project Manager	Full Time – 40 hours /week On-Site
Project Estimator / Scheduler	Part Time – Main Office
Contract Administration	Part Time – Main Office

Total Lump Sum Fee – Phase 2:

Three thirty five thousand six hundred dollars and no cents (\$ 335,600.00)

Summary Construction Phase Fees:

Phase 1: <i>New Access Road & Demolition of Existing Structures</i>	\$ 34,500.00
Phase 2: <i>Construction of New DPW Facility and Related Site Work</i>	<u>\$ 335,600.00</u>
TOTAL CONSTRUCTION PHASE FEE	\$ 370,100.00



Summary of Lump Sum CM Fees:

Phase	Fee
Pre-Construction Phase	\$ 83,700.00
Construction & Clos-Out Phase	\$ <u>370,100.00</u>
Total Fees	\$ <u>453,800.00</u>

Four hundred fifty three thousand eight hundred dollars and no cents

(\$ 453,800.00)

Additional Services

For Additional Services beyond the scope of this proposal the hourly rates noted below shall apply. These rates are inclusive of all Overhead, Insurances, Fringe Benefits, Taxes, Worker's Compensation and Fees. These rates are for the duration of the project. *There are no other multipliers that will be added to these hourly rates.*

Current hourly rates for Calgi Personnel:

Title	Hourly Rate
Project Principal	\$ 160.00/hr.
Project Executive	\$ 145.00/hr.
Project Manager	\$ 135.00/hr.
Asst. Project Manager	\$ 125.00/hr.
Project Estimator	\$ 110.00/hr.
Project Scheduler	\$ 110.00/hr.
Contract Administration	\$ 65.00/hr.

Reimbursable Expenses

The following reimbursable expenses are not covered in our CM Fees. These expenses would only be at the request of the Village. Should these expenses become necessary, they would be billed at cost plus 15%.

- Structural, Mechanical, Electrical Adjunct Consultant charges (if necessary).
- Hazardous materials investigations and survey (if necessary).
- Code Consultant charges (if necessary).
- Travel & Tolls - beyond 50 miles of project site. **NOT** travel to and from project site).
- Outside testing services (if necessary).
- Printing of drawings and specifications
- Overnight deliveries

EXHIBIT B

EXHIBIT B



CALGCON-01

JBRUNO

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/1/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Levitt-Fuirst Associates, LTD 520 White Plains Road 2nd Floor Tarrytown, NY 10591	CONTACT NAME: PHONE (A/C, No, Ext): (914) 457-4200 FAX (A/C, No):(914) 457-4200 E-MAIL ADDRESS: info@levittfuirst.com
INSURED Calgi Construction Co., Inc. 56 Lafayette Avenue Suite 350 White Plains, NY 10603	INSURER(S) AFFORDING COVERAGE
	INSURER A : Southwest Marine & General Insurance Company 12294
	INSURER B : New York State Insurance Fund 36102
	INSURER C : Sentinel Insurance Company 11000
	INSURER D :
	INSURER E :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS							
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Prof Liab \$1MM GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	PK2020CML00052	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 1,000,000							
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000							
							MED EXP (Any one person) \$ 5,000							
							PERSONAL & ADV INJURY \$ 1,000,000							
							GENERAL AGGREGATE \$ 2,000,000							
							PRODUCTS - COMP/OP AGG \$ 1,000,000							
							\$							
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB CLAIMS-MADE DED RETENTION \$	X	X	EX2020CML00021	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 5,000,000							
							AGGREGATE \$ 5,000,000							
							\$							
							B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N If yes, describe under DESCRIPTION OF OPERATIONS below N N/A			6870430	6/29/2019	6/29/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
														E.L. EACH ACCIDENT \$ 1,000,000
														E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
														E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Inland Marine			16SBAPQ0246	6/5/2019	6/5/2020	Equipment 15,000							
C	Commercial Property			16SBAPQ0246	6/5/2019	6/5/2020	BPP 124,600							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Village of Ardsley its Mayor, Trustees, Village Manager, officers, employees, and volunteers shall be included as additional insured with respects to General, and Umbrella Liability where required by written contract. General, and Umbrella Liability is primary and non-contributory as required per written contract. A Waiver of Subrogation and 30 Day Notice of Cancellation is provided in accordance with the policy terms and conditions.

CERTIFICATE HOLDER Village of Ardsley 507 Ashford Ave Ardsley, NY 10502	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization whom you are required to include as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be: <ol style="list-style-type: none"> 1. Currently in effect or becoming effective during the term of this policy; and 2. Executed prior to the "occurrence." 	Any insured location.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 37 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization whom you are required to include as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be: 1. Currently in effect or becoming effective during the term of this policy; and 2. Executed prior to the "occurrence."	Any insured location.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

With respect to coverage provided under this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions** is replaced by the following:

8. Transfer Of Rights Of Recovery Against Others To Us And Blanket Waiver Of Subrogation

- a.** If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after the loss to impair those rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b.** If required by a written "insured contract" executed prior to the "occurrence" or offense, we waive any right of recovery we may have against any person or organization named in such "insured contract", because of payments we make for injury or damage arising out of your operations or "your work" for that person or organization.

All other terms, definitions, conditions and exclusions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DELUXE COMMERCIAL LIABILITY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE – EXTENSIONS OF COVERAGE

Coverages	
Additional Insured	Fire, Explosion, Sprinkler Leakage Or Lightning Legal Liability Coverage
Additional Insured – Vendors	Incidental Medical Services Coverage
Blanket Waiver Of Subrogation	Liberalization
Broadened Bodily Injury	Non Employment Discrimination
Broadened Named Insured	Non-owned Watercraft Coverage
Duties In The Event Of An Occurrence, Offense, Claim Or Suit	Personal And Advertising Injury
Expected Or Intended Injury	Supplementary Payments – Increased Limits
Fellow Employee Coverage	Unintentional Failure To Disclose Hazards
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Coverage extensions under this section only apply in the event that no other specific coverage for these extensions is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted in this endorsement.

1. Additional Insured

Paragraph 2. of **Section II – Who Is An Insured** is amended by the addition of the following:

- e. Any person or organization is included as an additional insured, but only to the extent such person or organization is held liable for "bodily injury", "property damage" or "personal and advertising injury" caused by your acts or omissions. With respect to the insurance afforded to such insured, all of the following additional provisions apply:
- (1) You and such person or organization have agreed in a written "insured contract" that such person or organization be added as an additional insured under this policy;
 - (2) The "bodily injury", "property damage" or "personal and advertising injury" for which said person or organization is held liable occurs subsequent to the execution of such "insured contract";
 - (3) The most we will pay is the lesser of either the Limits of Insurance shown in the Declarations or the Limits of Insurance required by the "insured contract";

- (4) Such person or organization is an insured only with respect to:
- (a) Their ownership, maintenance, or use of that part of the premises, or land, owned by, rented to, or leased to you, except such person or organization is not an insured with respect to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization;
 - (b) Your ongoing operations performed for that insured;
 - (c) Their financial control of you, except such person or organization is not an insured with respect to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization;
 - (d) The maintenance, operation or use by you of equipment leased to you by such person or organization;
 - (e) Operations performed by you or on your behalf and for which a state or political subdivision has issued a permit, provided such operations are not performed for such state or political subdivision, and are not included within the “products-completed operations hazard”;
- (5) This insurance does not apply to “bodily injury”, “property damage”, “personal and advertising injury”, “occurrence” or offense:
- (a) Which takes place at a particular premise after you cease to be a tenant of that premises;
 - (b) Which takes place after all work, including materials, parts or equipment furnished in connection with such work to be performed by or on behalf of the additional insured at the site of the covered operations, has been completed;
 - (c) Which takes place after that portion of “your work” out of which the injury or damage arises has been put to its intended use by any other person or organization other than another contractor or subcontractor engaged in performing operations for a principal as part of the same project;
 - (d) Which takes place after the expiration of any equipment lease to which (4)(d) above applies;
- (6) With respect to architects, engineers or surveyors, coverage does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering or failure to render any professional services by or for you, including:
- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications;
 - (b) Supervisory, inspection, architectural or engineering services.

However, if an Additional Insured endorsement is attached to this policy that specifically names a person or organization as an insured, then this subsection 2.e. does not apply to such person or organization.

2. Additional Insured – Vendors

Unless the “products-completed operations hazard” is excluded from this policy, paragraph 2. of **Section II – Who Is An Insured** is amended by the addition of the following:

- f. Any vendor of yours is included as an additional insured, but only with respect to “bodily injury” or “property damage” caused by “your products” which are distributed or sold in the regular course of the vendor’s business, subject to the following additional exclusions:
- (1) The insurance afforded to the vendor does not apply to:
 - (a) “Bodily injury” or “property damage” for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b) Any express warranty unauthorized by you;
 - (c) Any physical or chemical change in the product made intentionally by the vendor;
 - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed by the vendor in full compliance with the manufacturer's written instructions at the vendor's premises in connection with the sale of the product;
 - (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - (h) "Bodily injury" or "property damage" arising out of the liability of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf.
- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products or any ingredient, part or container, entering into, accompanying or containing such products.

However, if an Additional Insured – Vendors endorsement is attached to this policy that specifically names a person or organization as an insured, then this subsection 2.f. does not apply to that person or organization.

3. Blanket Waiver Of Subrogation

Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Commercial General Liability Conditions** and **Section IV – Products/Completed Operations Liability Conditions** is replaced by the following:

Transfer Of Rights Of Recovery Against Others To Us And Blanket Waiver Of Subrogation

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after the loss to impair those rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. If required by a written "insured contract" executed prior to the "occurrence" or offense, we waive any right of recovery we may have against any person or organization named in such "insured contract", because of payments we make for injury or damage arising out of your operations or "your work" for that person or organization.

4. Broadened Named Insured

Paragraph 3. of **Section II – Who Is An Insured** is replaced by the following:

Any organization that you own at the inception of this policy, or newly acquire or form during the policy period, and over which you maintain during the policy period majority ownership or majority interest, will qualify as a Named Insured if:

- a. There is no other similar insurance available to that organization;
- b. The first Named Insured shown in the Declarations has the responsibility of placing insurance for that organization; and
- c. That organization is incorporated or organized under the laws of the United States of America.

However:

- a. Coverage under this provision is afforded only until the next occurring annual anniversary of the beginning of the policy period shown in the Declarations, or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

The final paragraph of **Section II – Who Is An Insured** is replaced by the following:

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company that is not shown as a Named Insured in the Declarations. However, this does not apply to a limited liability company that meets all of the conditions of **Section II – Who Is An Insured**, above.

5. Broadened Bodily Injury

Paragraph 3. of **Section V – Definitions** is replaced by the following:

"Bodily injury" means bodily injury, disability, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

6. Duties In The Event Of An Occurrence, Offense, Claim Or Suit

Paragraph 2.a. of **Section IV – Commercial General Liability Conditions** is replaced by the following:

a. You must see to it that we or any licensed agent of ours are notified of a general liability "occurrence" or offense which may result in a claim as soon as practicable after it becomes known to:

- (1) You, if you are an individual;
- (2) Your partner or member, if you are a partnership or joint venture;
- (3) Your member, if you are a limited liability company;
- (4) Your executive officer if you are an organization other than a partnership, joint venture or limited liability company; or
- (5) Your authorized representative or insurance manager.

Knowledge of an "occurrence" or offense by persons other than those listed above does not imply that those listed above also have such knowledge.

b. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

7. Expected Or Intended Injury

Paragraph 2.a. **Expected Or Intended Injury** of the **Exclusions** provision of **Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured.

This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

8. Fellow Employee Coverage

Paragraph 2.a.(1) of **Section II – Who Is An Insured** is replaced by the following:

- (1) "Personal and advertising injury":

However subsections (a), (b), (c) and (d) remain unchanged.

9. Fire, Explosion, Sprinkler Leakage Or Lightning Legal Liability Coverage

The final paragraph of the **Exclusions** provision of **Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, explosion, sprinkler leakage or lightning to premises while:

- (1) Rented to you;
- (2) Temporarily occupied by you with the permission of the owner; or
- (3) Managed by you under a written agreement with the owner.

A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

Paragraph **6. of Section III – Limits Of Insurance** is replaced by the following:

Subject to paragraph **5.** above, the Damage to Premises Rented To You Limit shown in the Declarations, for “property damage” to any one premises while rented to you, or in the case of damage by fire, explosion, sprinkler leakage, or lightning while rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner, is the greater of:

- a. \$1,000,000 Any One Premises; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

Subsections **4.b.(1)(a)(ii)** and **4.b.(1)(a)(iii)** of paragraph **4.b. Excess Insurance** of the **Other Insurance** condition of **Section IV – Commercial General Liability Conditions** is replaced by the following:

- (ii) That is Fire, Explosion, Sprinkler Leakage, or Lightning insurance for premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner;
- (iii) That is insurance purchased by you to cover your liability as a tenant for “property damage” to premises rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner;

Paragraph **9.a. of Section V – Definitions** is replaced by the following:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, explosion, sprinkler leakage, or lightning to premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner, is not an “insured contract”;

10. Incidental Medical Services Coverage

Section I – Coverages is amended to include the following additional coverage:

We will pay for “bodily injury” arising out of the rendering of or failure to render the following treatment or services by an “employee” or “volunteer worker” for an accident occurring during the policy period:

- a. First aid treatment including cardiopulmonary resuscitation (CPR); and
- b. Medical, surgical, dental, x-ray, or nursing service or treatment, or the furnishing of food or beverages in connection therewith; and the furnishing or dispensing of drugs, or medical, dental, or surgical supplies or appliances.

However, this coverage does not apply to any insured or to any entity engaged in the business or occupation of providing the services or treatments described in **a.** and **b.** above.

Paragraph **e. Employer’s Liability** of the **Exclusions** provision of **Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability** does not apply to psychological injury arising out of the services described above.

11. Liberalization

Section IV – Commercial General Liability Conditions is amended by the addition of the following condition:

Liberalization

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

12. Non Employment Discrimination Liability

Unless “personal and advertising injury” is excluded from this policy, the following applies:

Paragraph **14. of Section V – Definitions** is amended by the addition of the following:

“Personal and advertising injury” also means injury, including consequential “bodily injury” arising out of “discrimination”.

Section V – Definitions is amended by the addition of the following:

“Discrimination” means the unlawful treatment of a person or class of persons because of their specific race, color, religion, gender, age or national origin in comparison to one or more persons who are not members of the specified class.

Paragraph **2. Exclusions of Section I – Coverages, Coverage B – Personal And Advertising Injury Liability** is amended by the addition of the following exclusions:

This insurance does not apply to:

“Discrimination” directly or indirectly related to the past employment, employment or prospective employment of any person or class of persons by any insured;

“Discrimination” directly or indirectly related to the sale, rental, lease or sublease or prospective sale, rental, lease or sublease of any dwelling or permanent lodging by or at the direction of any insured;

“Discrimination”, if insurance thereof is prohibited by law; or

Fines, penalties, specific performance, or injunctions levied or imposed by a governmental entity, governmental code, law, or statute because of “discrimination”.

13. Non-owned Watercraft Coverage Extension

Paragraph **2.g.(2)** of the **Aircraft, Auto Or Watercraft** exclusion of **Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

This exclusion does not apply to:

(1) A watercraft you do not own that is:

(a) Less than 50 feet long; and

(b) Not being used to carry persons or property for a charge;

14. Personal And Advertising Injury Liability

Unless “personal and advertising injury” is excluded from this policy, the following applies:

Paragraph **e. Contract Liability** of the **Exclusions** provision of **Section I – Coverages, Coverage B – Personal And Advertising Injury Liability** is deleted.

15. Supplementary Payments – Increased Limits

Paragraphs **1.b., 1.d., and 1.e.** of **Supplementary Payments – Coverages A and B of Section I – Coverages** are replaced by the following:

b. The cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or “suit”, including substantiated loss of earnings up to \$500 a day because of time off from work.

e. All court costs taxed against the insured in the “suit”.

16. Unintentional Failure To Disclose Hazards

Paragraph **6. Representations** of **Section IV – Commercial General Liability Conditions** is amended by the addition of the following:

d. If you unintentionally fail to disclose any hazards existing at the inception date of this policy, we will not deny coverage under this Coverage Form because of such failure.

However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

All other terms, definitions, conditions and exclusions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

RESOLUTION

**ESTABLISHING A SEWER RENT RATE AND ADJUSTMENT PROCEDURES
FOR FY 2020-2021**

WHEREAS, Article 14-F of the New York General Municipal Law authorizes municipalities to establish a system of user fees, or sewer rents; and

WHEREAS, in the exercise of such statutory authority, the Board has adopted a local law establishing a system of sewer rents using water consumption as a basis for calculating same; and

WHEREAS, the Village Manager has provided the proposed sewer rent rate for FY 2020-21 to the Board of Trustees, that being \$ 1.89 /CCF of water consumption; and

WHEREAS, as required by law, the Board has conducted a public hearing on May 18, 2020 wherein all interested parties were given an opportunity to be heard; and

WHEREAS, the Board further desires to establish the policy and procedures for the sewer rent program and for sewer users to appeal their bill;

Now, therefore, be it

RESOLVED, that the Board of Trustees hereby establishes the sewer rent rate for FY 2020-21 at \$1.89/CCF of water consumption.

FURTHER RESOLVED, the Board of Trustees hereby establishes the following process and procedures for Sewer rent and adjustments or changes to sewer bills:

1. Sewer users shall pay an amount based on actual water consumption as determined by the water source using a water meter or other measuring device, or an estimated amount if the water source is unable to obtain a reading.
2. Ardsley will be using a third-party billing company to administer the billing for sewer rents. Such billing shall be done in a manner prescribed by the contract with the third-party billing company.
3. Sewer bills shall be billed on a quarterly basis.
4. Sewer payments shall be paid to the Village Ardsley or pursuant to the protocols in the third-party billing contract. Sewer bills will be sent to the address real estate bills would be sent. The failure of a system owner to receive a bill shall not excuse nonpayment thereof, nor shall it act as a waiver of a penalty imposed herein prescribed.
5. A sewer user that intends to convey property shall notify the Village or entity to which billing authority has been delegated sufficiently in advance of the closing title for a final sewer rent bill and provide new ownership information.
6. System users may be afforded the option of receiving e-bills or direct deposit of payments subject to the terms contained in the contract with the third-party billing company.

Village of Ardsley Board of Trustees Meeting-May 4, 2020

7. Any adjustments granted, issued or agreed upon with regard to actual water consumption shall be indicated to sewer users and reflected in the next succeeding bill.
8. All bills shall become due and payable without penalty within 25 days of issuance.
9. A penalty of Five dollars (\$5.00) will be charged for any bill under Fifty dollars (\$50.00) that remains unpaid after 25 days. A 10% penalty will be charged for any bill over Fifty Dollars (\$50.00) that remains unpaid after 30 days. An additional penalty of 1% shall be added to any bill in each succeeding month or any portion of a month in which the sewer rent continues to remain unpaid.
10. The Board of Trustees acknowledges that it may bring and maintain an action as upon contract for sewer rents in arrears, including penalties and interest or to foreclose liens for such sewer rents. The Board shall annually cause a statement to be prepared setting forth the amount of each lien for sewer rents in arrears including any administrative costs of processing the lien, the real property affected thereby and the name of the person in whose name such real property is assessed. Such statement shall be presented to the Board of Trustees on or before May 1 of each year. The Board shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as village taxes and such amounts shall be caused to be set forth in separate column in the annual tax rolls. The amounts so levied shall be so collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of village taxes.
11. Ardsley sewer users for properties located outside the territorial limits of the Village of Ardsley are liable for charges in accordance with this resolution unless the subject of an existing agreement with the Village.
12. The property of the Village of Ardsley is solely exempt from the obligation to pay sewer rent.
13. Adjustments; a sewer user who maintains that the sewer rent should be adjusted for any given quarterly period may make one application to the Village Manager for an adjustment for that period's sewer rent. Such application shall be in writing, and be supported by substantial evidence establishing that the amount of the system user's water consumption that actually was discharged into the sanitary system was less than the amount of water consumption used to calculate the system user's sewer rent. Proof shall be in the following form:
 - A. An engineering report from a professional engineer licensed in the State of New York;
 - B. Data from a submeter whose operation has been inspected by the Village of Ardsley;
 - C. Affidavits; or
 - D. Any other documentary evidence.

The system user has the burden of proof. The quantum and quality of proof is necessarily dependent on the amount of the adjustment sought. If any adjustment is warranted, the system user shall receive the same in the form

of a credit on the next bill following the Village Manager's determination. If a system user is aggrieved by said determination, said user may appeal to the Board of Trustees within 15 days of same.

**RESOLUTION AUTHORIZING THE VILLAGE BOARD OF TRUSTEES TO
APPROVE A STIPEND FOR THE VILLAGE TREASURER**

Whereas, the Village has been unable to fill the Deputy Village Treasurer position, particularly during the COVID-19 pandemic, and the Treasurer's Office has been without a second full time position since an employee retirement on January 30, 2020; and

Whereas, there are critical functions in the Treasurer's Office that must continue despite the staffing level;

Now, Therefore Be It Resolved, that the Village Board of Trustees hereby authorizes a stipend for the Village Treasurer of \$800 per week to continue to fulfill the critical functions not now being handled by additional staff until such time as a Deputy Village Treasurer is hired.

BOND RESOLUTION DATED MAY 4, 2020.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$42,000 BONDS OF THE VILLAGE OF ARDSLEY, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OF THE ADDYMAN SQUARE PARKING LOT, IN AND FOR SAID VILLAGE.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which such regulations provide, will not result in any significant adverse environmental effects; and

WHEREAS, it is now desired to authorize such capital project and its financing; NOW, THEREFORE, BE IT

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Ardsley, Westchester County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the reconstruction of the Addyman Square parking lot, in and for the Village of Ardsley, Westchester County, New York, including incidental equipment and expenses in connection therewith, there are hereby authorized to be issued \$42,000 bonds of said Village pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$42,000 and that the plan of financing of said maximum estimated cost is by the issuance of \$42,000 bonds of said Village authorized to be issued therefor.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is ten years, pursuant to subdivision 20(f) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Village of Ardsley, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and

contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in full or summary form in the official newspaper of said Village for such purpose, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. Pursuant to the provisions of Section 36.00 of the Local Finance Law, this resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call,
which resulted as follows:

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

The resolution was thereupon declared duly adopted.

* * * * *

BOND RESOLUTION DATED MAY 4, 2020.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$25,000 BONDS OF THE VILLAGE OF ARDSLEY, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF THE PURCHASE OF POLICE LIVESCAN EQUIPMENT, FOR SAID VILLAGE.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which such regulations provide, will not result in any significant adverse environmental effects; and

WHEREAS, it is now desired to authorize such capital project and its financing; NOW, THEREFORE, BE IT

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Ardsley, Westchester County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the purchase of police livescan equipment, for the Village of Ardsley, Westchester County, New York, including incidental equipment and expenses in connection therewith, there are hereby authorized to be issued \$25,000 bonds of said Village pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of said specific object or purpose is \$25,000 and that the plan of financing of said maximum estimated cost is by the issuance of \$25,000 bonds of said Village authorized to be issued therefor pursuant to this bond resolution.

Village of Ardsley Board of Trustees Agenda-May 4, 2020

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is ten years, pursuant to subdivision 25 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Village of Ardsley, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and

contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in full or summary form in the official newspaper of said Village for such purpose, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. Pursuant to the provisions of Section 36.00 of the Local Finance Law, this resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call,
which resulted as follows:

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

The resolution was thereupon declared duly adopted.

* * * * *

BOND RESOLUTION DATED MAY 4, 2020.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$897,689 BONDS OF THE VILLAGE OF ARDSLEY, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OF ROADS, IN AND FOR SAID VILLAGE.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as such, will not result in any significant adverse environmental effects; and

WHEREAS, it is now desired to authorize such capital project and its financing; NOW, THEREFORE, BE IT

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Ardsley, Westchester County, New York, as follows:

Section 1. For the class of objects or purposes of paying the cost of the reconstruction of roads, in and for the Village of Ardsley, Westchester County, New York, including drainage, sidewalks, curbs, gutters, landscaping, grading or improving rights-of-way, as well as other incidental improvements and expenses in connection therewith, there are hereby authorized to be issued \$897,689 bonds of said Village pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid class of objects or purposes is \$897,689, which class of objects or purposes is hereby authorized at said maximum estimated cost, and that the plan of financing thereof is by the issuance of the \$897,689 bonds of said Village authorized to be issued pursuant to this bond resolution.

Village of Ardsley Board Trustees Agenda-May 4, 2020

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is fifteen years, pursuant to subdivision 20(c) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Village of Ardsley, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and

contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in full or summary form in the official newspaper of said Village for such purpose, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. Pursuant to the provisions of Section 36.00 of the Local Finance Law, this resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call,
which resulted as follows:

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

The resolution was thereupon declared duly adopted.

* * * * *

BOND RESOLUTION DATED MAY 4, 2020.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$124,000 BONDS OF THE VILLAGE OF ARDSLEY, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF STORM SEWER IMPROVEMENTS AT SUMMIT AVENUE, IN AND FOR SAID VILLAGE.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which such regulations provide, will not result in any significant adverse environmental effects; and

WHEREAS, it is now desired to authorize such capital project and its financing; NOW, THEREFORE, BE IT

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Ardsley, Westchester County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of improvements to the storm sewer system at Summit Avenue, in and for the Village of Ardsley, Westchester County, New York, including incidental improvements and expenses in connection therewith, there are hereby authorized to be issued \$124,000 bonds of said Village pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$124,000 and that the plan of financing of said maximum estimated cost is by the issuance of \$124,000 bonds of said Village authorized to be issued therefor pursuant to this bond resolution.

Village of Ardsley Board of Trustees Agenda-May 4, 2020

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Village of Ardsley, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and

Village of Ardsley Board of Trustees Agenda-May 4, 2020

contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in full or summary form in the official newspaper of said Village for such purpose, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. Pursuant to the provisions of Section 36.00 of the Local Finance Law, this resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call,
which resulted as follows:

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

_____ VOTING _____

The resolution was thereupon declared duly adopted.

* * * * *

RESOLUTION AUTHORIZING VILLAGE MANAGER TO SIGN AN INTER-MUNICIPAL AGREEMENT WITH WESTCHESTER COUNTY –RADIO REPLACEMENT PROJECT

RESOLVED, that the Village Board of the Village of Ardsley hereby authorizes the Village Manager to sign an inter-municipal agreement with Westchester County – Radio Replacement Project at Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601.



George Latimer
County Executive

Department of Emergency Services

John M. Cullen
Commissioner

February 27, 2020

Mayor Nancy Kaboolian
Village of Ardsley
507 Ashford Avenue
Ardsley, NY 10502

Dear Mayor Kaboolian:

Westchester County has commenced the construction of a multimillion dollar radio replacement project in an effort to enhance the emergency services communications systems used by the fire, EMS, Public Safety Answering Points (PSAPs) and Hospitals in the county. This system is used daily for primary emergency radio communications to coordinate emergency responses and to support the coordination of the heavily used fire and EMS mutual aid system. New system enhancements include improved system coverage, including on-street portable radio coverage, upgraded system reliability, redundancy and interoperability.

One component of the system upgrade will be the replacement of the current outdated trunked radio equipment the County provided in the past for first line emergency response apparatus. In an effort to move forward with this project, the County must enter into an Inter-Municipal Agreement (IMA) with municipalities to provide and install the new subscriber radios and equipment to the facilities and identified apparatus. The new radio equipment, including installation, is being provided by the County at no cost to the agency or municipality.

Included with this letter is a copy of the IMA that must be completed and returned to the County for execution. Upon execution of the agreement, we will work with the appropriate fire, EMS and Law Enforcement agency(s) in your jurisdiction to arrange for the installation of this life safety equipment. A list of the equipment being provided to the agency(s) is included in Appendix "A". Although we may not be able to provide radio equipment to every piece of apparatus, we plan on providing subscriber equipment to first line apparatus as we have in the past.

The County will be communicating with the local emergency services providers so they are aware of the required agreements. If you have any questions or concerns, please reach out to the Communications Division Chief, Michael Volk. He can be reached at (914) 231-1684 or by email at mkv1@westchestergov.com

Thank you in advance for your efforts in assisting with moving this important and exciting project to fruition.

Sincerely,

John M. Cullen
Commissioner

The Westchester County Department of Emergency Services
4 Dana Road
Valhalla, New York 10595 Telephone: (914) 231-1850 Fax: (914) 231-1622

THIS LICENSE AGREEMENT (the "License Agreement"), made the _____
day of _____, 2020 ("Effective Date) by and between:

THE COUNTY OF WESTCHESTER, by and through its Department of
Emergency Services or Department of Public Safety, a municipal corporation of the
State of New York, having an office and place of business in the Michaelian Office
Building, 148 Martine Avenue, White Plains, New York 10601

(hereinafter referred to as the "County",)

and

Village of Ardsley, a municipal corporation of the
State of New York, having an office and place of business at _____

(hereinafter referred to as the "Municipality").

(The "County" and "Municipality" are referred to collectively as the "Parties".)

W I T N E S S E T H:

WHEREAS, the County wishes to supply emergency communications equipment,
including control stations, mobiles and portable radio communications hardware, installations
and supplies to public safety-first responders from fire, emergency medical services and law
enforcement agencies within Westchester County to support emergency communications and
maintain a safe and reliable means to communicate while serving the residents, workforce and
visitors in Westchester County (the "Program"); and

WHEREAS, the County will purchase the emergency communications equipment
using various funding sources and distribute such equipment to local municipalities, Fire
Districts and hospitals for use on primary first line emergency response equipment (fire and
emergency medical services), authorized law enforcement dispatch locations and hospital
facilities; and

THIS LICENSE AGREEMENT (the "License Agreement"), made the _____
day of _____, 2020 ("Effective Date) by and between:

THE COUNTY OF WESTCHESTER, by and through its Department of
Emergency Services or Department of Public Safety, a municipal corporation of the
State of New York, having an office and place of business in the Michaelian Office
Building, 148 Martine Avenue, White Plains, New York 10601

(hereinafter referred to as the "County",)

and

_____, a municipal corporation of the State of New York,
having an office and place of business at _____

(hereinafter referred to as the "Municipality").

(The "County" and "Municipality" are referred to collectively as the "Parties".)

W I T N E S S E T H:

WHEREAS, the County wishes to supply emergency communications equipment,
including control stations, mobiles and portable radio communications hardware, installations
and supplies to public safety-first responders from fire, emergency medical services and law
enforcement agencies within Westchester County to support emergency communications and
maintain a safe and reliable means to communicate while serving the residents, workforce and
visitors in Westchester County (the "Program"); and

WHEREAS, the County will purchase the emergency communications equipment
using various funding sources and distribute such equipment to local municipalities, Fire
Districts and hospitals for use on primary first line emergency response equipment (fire and
emergency medical services), authorized law enforcement dispatch locations and hospital
facilities; and

WHEREAS, the Municipality will use the emergency communications equipment to communicate on County radio communications systems (the “County Systems”) to provide public safety first response to fire and medical emergencies and for law enforcement agency matters on a 24/7 basis to the public; and

WHEREAS, the County desires to enter into this license agreement with the Municipality for the distribution and operation of the aforesaid equipment.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the Parties agree as follows:

ARTICLE I
GENERAL PROVISIONS

1. GENERAL TERMS:

The County, acting through the Westchester County Commissioner of Emergency Services or his designee for fire and EMS equipment and the Westchester County Commissioner of Public Safety or his designee for law enforcement equipment, (the “Commissioner”), shall furnish the Municipality with emergency communications equipment, including control stations, mobiles and portable radio communications hardware, supplies, power supplies, cabling, antennas, microphones and accessories as described in Schedule “A” (the “Equipment”), as well as the installation of the Equipment in fixed and/or mobile equipment according to the terms set forth in this License Agreement.

Schedule “A” is also referred herein to as the “Equipment List.”

The County or its vendor shall distribute and install the Equipment for the Municipality. The County or its vendor shall schedule with the Municipality the installation of the Equipment. The Parties agree that upon delivery and installation of the Equipment the Municipality or its Third Party Authorized User shall sign for and acknowledge receipt of the Equipment by executing a written receipt for same, which shall be on a form prepared by the

County and include the recipient, quantity, make, model and serial number of each item of Equipment. The Parties further agree that Schedule "A" shall be updated to reflect the information in the receipt, and that the updated Schedule "A" shall be deemed a part of this License Agreement.

The Equipment delivery hereunder shall be provided in accordance with the County's customary standards and practices.

The Municipality agrees to provide the County with reasonable access to all necessary equipment and information for the County's installation of the Equipment and technical support services.

The Municipality acknowledges and understands that the Equipment to be distributed pursuant to this License Agreement is intended to enhance the ability of first responders to safely and reliably communicate with the County and other emergency response resources, including fire services, Public Safety Answering Points (PSAPs), emergency medical services, public health services, law enforcement agencies and hospitals through the County Systems.

The Municipality acknowledges that the distribution of Equipment is subject to the availability of funding. It shall be within the County's sole and complete discretion as to how much and what type of equipment to distribute to the Municipality. In addition, while it is not currently anticipated that replacement equipment or additional equipment and supplies will be distributed under the Program, the County reserves the right to expand the Equipment in the event that additional funding resources become available. In the event such additional funding resources become available and the County chooses to purchase additional equipment for distribution to the Municipality, the County will send an amended Schedule "A" (the "Amended Equipment List") to the Municipality, which shall identify the additional equipment to be distributed to the Municipality. While the Municipality is under no obligation to accept such additional equipment, the Municipality, within ten (10) days of its receipt of an Amended Equipment List, shall notify the Commissioner in writing whether or not it desires to accept the additional equipment. If the Municipality accepts such additional equipment, delivery,

installation and use of such additional equipment shall be in accordance with the terms of this License Agreement, and Schedule "A" shall be deemed amended to include the Amendment Equipment List.

Once installed by the County, the Municipality shall not uninstall, change or reassign the location or unit assignment of the Equipment without obtaining the prior written consent of the County.

The County will provide initial radio programming and installation services for the Equipment at no charge. Should the Municipality or its Authorized Third Party User wish to purchase additional equipment or system accessories, it shall be responsible for purchasing, repairing, programming and maintaining such equipment. Any new or additional radio programming shall be done by a County authorized communications vendor at the expense of the Municipality and only upon receiving written approval for any new or replacement equipment from the County. The County shall maintain control over the County System, and will establish mandatory user guidelines and operating procedures for all County System users. The Municipality and/or Authorized Third Party User agree to abide by the County's user guidelines and operating procedures for all County System users.

2. **AUTHORIZED USE OF EQUIPMENT:** The Municipality agrees that the Equipment shall be used for emergency response situations, such as responding to a fire, medical or other emergency, or law enforcement matters, or to fulfill mutual aid requests in accordance with applicable law. The Equipment shall be used in accordance with the written guidelines for use developed by the County, a copy of which will be supplied to the Municipality upon request.

3. **MUNICIPALITY'S RESPONSIBILITIES AND EQUIPMENT TRANSFER CONDITIONS:**

(a) The Municipality agrees and shall ensure that only qualified persons with appropriate training will utilize the Equipment when the Equipment is used by the Municipality. The Municipality shall verify that such persons have fulfilled their initial and on-going training

requirements in accordance with all federal, State, and/or County programmatic requirements, as well as all applicable laws, rules and regulations, including but not limited to, those promulgated by the Federal Communications Commission (FCC).

(b) The Municipality shall maintain custody and control of the Equipment and shall not transfer custody and control of the Equipment, except in the case of a transfer to an Authorized Third Party User as provided for herein.

(c) The Municipality shall, at its sole cost and expense, maintain the Equipment in good working order and repair or replace the Equipment if damaged following the Equipment warranty period, if any.

(d) The County shall have the right to designate Equipment for the Municipality's ambulance/EMS service provider or volunteer fire corp. pursuant to the terms of this License Agreement ("Authorized Third Party User"). In such a case, the Municipality shall enter into a written ambulance/EMS service contract or volunteer fire corp. service contract with the Authorized Third Party User for the transfer custody and control (not ownership) of such designated Equipment from the Municipality to the Authorized Third Party User, and the contract shall specifically incorporate by reference this License Agreement and shall make all of the terms, conditions, limitation and requirements of this License Agreement binding upon the Authorized Third Party User as a direct obligation of such Authorized Third Party User to the Municipality and the County. If for any reason the Authorized Third Party User fails, refuses or stops providing emergency first responder services for the Municipality, the Municipality shall repossess the Equipment and either return it to the County or redistribute it with the County's written permission pursuant to the terms of this License Agreement.

(e) The Municipality understands and acknowledges that the County has the right to reissue, remotely disable or retake possession and use of the Equipment. In the event the County notifies the Municipality of such a reissuance, the Municipality will promptly return possession of the Equipment to the County as directed by the Commissioner. The Municipality agrees to

relinquish any claim in law or equity it may have concerning the Equipment in the event of Equipment redeployment or reissuance.

4. **TERM**: The term of this License Agreement shall commence on the Effective Date and continue in full force and effect to the end of the useful life of the Equipment and through the proper disposal of the Equipment, unless the License Agreement shall have been terminated earlier in accordance with paragraph 6.

Nothing in this paragraph shall limit the Municipalities responsibilities under paragraph 3(c), and the phrase "end of the useful life" used above shall not include damage to the Equipment for which the Municipality has the responsibility to repair the Equipment pursuant to paragraph 3(c).

5. **AUDIT**: The Municipality agrees to utilize the Equipment only for the purposes and activities set forth in this License Agreement and shall keep an accurate accounting of all Equipment received pursuant to this License Agreement and the purpose for which the Equipment has been used by the Municipality. The Municipality will allow the County to conduct periodic visits for the purposes of inspection, inventory of the Equipment and auditing the records required hereunder. The Municipality shall establish and maintain complete and accurate written records, documents, reports, and accounts for the Equipment. The Municipality shall provide the County with an annual report (by January 31st of each year) in the form attached hereto as Schedule "B" or such other format and interval that may be required by the County. These records must be kept for the balance of the calendar year in which they were made.

6. **TERMINATION**: (a) The County on thirty (30) days notice to the Municipality may terminate this License Agreement in whole or in part when it deems it to be in its best interest.

(b) In the event the Municipality defaults in the performance of any term, condition or covenant herein contained, the County at its option and in addition to any other remedy it may

have to seek damages, judicial enforcement or other lawful remedy, may terminate this License Agreement upon forty eight (48) hours written notice to the Municipality.

(c) Upon termination, all right of the Municipality to the use of the Equipment shall absolutely cease and terminate as though this License Agreement had never been made, but the Municipality shall remain liable to the extent hereinafter provided; and thereupon the County may, by its agents, enter upon the premises where any of the Equipment may be and take possession of all or any such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Municipality or its successors or assigns, to use the Equipment for any purposes whatsoever; but the County shall, nevertheless, have the right to recover from the Municipality any damages and expenses in addition thereto, including reasonable attorneys' fees, which the County shall have sustained by reason of the breach of any covenant of this License Agreement. The County shall take immediate possession of the Equipment issued hereunder wherever found, with or without process of law, and the County shall not be responsible for any damage which Municipality sustains by virtue of said act.

7. **ASSIGNMENT**: The Municipality shall not assign, sublet or transfer or otherwise dispose of its interest in this License Agreement or the Equipment without the prior written consent of the County. Any purported delegation of duties, assignment of rights or subletting of this License Agreement without the prior written consent of the County is void.

8. **COMPLIANCE WITH LAW**: The Municipality shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations and Executive Orders.

9. **ACTS OF GOD**: Neither the County nor the Municipality shall be liable to the other or deemed to be in default for any delay or failure to perform under this License Agreement resulting from acts of God, civil or military insurrection, explosions, floods, riots, earthquakes, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any other causes, but in every case the delays must be beyond the control and without the fault of the County, the Municipality or their respective contractors.

10. INDEMNIFICATION: The Municipality agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Municipality shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Municipality, its police officers and firemen, or third parties under the direction or control of the Municipality; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) In the event the Municipality does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Municipality shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

11. WBE/MBE: Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Attached hereto and forming a part hereof as Schedule "C" is a Questionnaire entitled Business Enterprises Owned and Controlled by Persons of Color or Women. The Municipality agrees to complete the questionnaire attached hereto as Schedule "C", as part of this Agreement.

12. ANTI-DISCRIMINATION: The Municipality expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed,

religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Municipality acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

13. **WAIVER:** Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect.

14. **VETERANS:** The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, the Municipality agrees to complete the questionnaire entitled Questionnaire Regarding Business Enterprises Owned and Controlled by Service-Disabled Veterans attached hereto as Schedule "D", as part of this License Agreement.

15. **SEVERABILITY:** If any term or provision of this License Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this License Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the Parties prior to the determination of such invalidity or unenforceability.

16. **HEADINGS:** The headings in this License Agreement shall be for references purposes only.

17. NOTICES: All notices of any nature referred to in this License Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by overnight courier), to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt.

To the County:

Commissioner
Department of Emergency Services
4 Dana Road
Valhalla, New York 10595

With a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Municipality:

18. ENTIRE AGREEMENT: This License Agreement and its attachments constitute the entire Agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

19. ENFORCEMENT: This License Agreement shall be construed and enforced in accordance with the laws of the State of New York. This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

20. **COUNTERPARTS:** This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

21. **INDEPENDENT CONTRACTOR:** The Municipality is an independent contractor and shall not make any claim, demand or application to or for any right based upon any different status.

ARTICLE II
EQUIPMENT PURCHASED WITH BIT 32 COUNTY BOND FUNDS

22. **BIT32 EQUIPMENT:** (a) This Article II shall apply to Equipment paid for by the County with County bond funds authorized pursuant to County Bond Act Nos. 2018-108, 2018-109, 2018-110, 2018-111, 2018-112, 2018-113, 2018-114, 2019-115, 2019-146, 2019-147 and 2019-148. Such Equipment for purposes of this Article II shall be referred to as the “BIT32 Equipment”. In addition to the provisions in Article I, the Parties agree that the provisions in this Article II shall apply to the BIT32 Equipment.

(b) The Parties acknowledge that the County entered into an agreement, dated December 27, 2018, with Motorola Solutions, Inc. (“Agreement IT- 1559”) through which the County purchased the BIT32 Equipment. For purposes of this Article II, the terms and conditions of Agreement IT-1559 and any amendment or extensions with respect to the BIT32 Equipment are hereby made a part hereof and incorporated herein by reference. The Municipality agrees to comply with all terms, conditions and provisions in Agreement IT-1559 applicable to the BIT32 Equipment.

23. **AUTHORIZED USER:** The Municipality acknowledges and understands that through this License Agreement it and any Authorized Third Party User is an Authorized User (as the term Authorized User is defined in Agreement IT-1559) of the BIT32 Equipment. The Municipality agrees to use the BIT32 Equipment in a manner that does not violate the terms of Agreement IT-1559.

24. OWNERSHIP OF EQUIPMENT: Title and risk of loss of the BIT32

Equipment shall pass to the Municipality upon delivery. The Municipality agrees that it will not sell or otherwise transfer custody and control of the BIT32 Equipment, except to an Authorized Third Party User as provided for in Article I above.

25. USE OF SOFTWARE: (a) The Municipality may use the Software (as defined in Agreement IT-1559) for BIT32 Equipment only for the Municipality's internal business purposes and only in accordance with the Documentation (as defined in Agreement IT-1559). Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Municipality will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

(b) Municipality will take reasonable efforts to ensure it and any third party under the Municipality's direction or control will not (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) intentionally remove, or in any way alter or obscure, any copyright notice or other notice of Motorola Solution Inc.'s proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by Agreement IT-1559; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software.

(c) Unless authorized by the County in writing, the Municipality will take reasonable effort to ensure it, and any third party under its direction or control will not (i) install licensed

copies of the Software installed in one unit of a Designated Product (as defined in Agreement IT-1559) into a device for which the Software was not authorized for use.

ARTICLE III
EQUIPMENT PURCHASED WITH STATE GRANT CONTRACT FUNDS

26. STATE GRANT EQUIPMENT: (a) This Article III shall apply to Equipment paid for by the County with funds provided by the County pursuant to a grant contract with the New York State Division of Homeland Security (“State Agency”) and the County Department of Emergency Services, dated November 8, 2018, and any renewals, amendments or extensions thereof (the “State Grant Contract”). Such Equipment for purposes of this this Article II shall be referred to as the “State Grant Equipment”. In addition to the provisions in Article I, the Parties agree that the provisions in this Article III shall apply with regard to the State Grant Equipment.

(b) The terms and conditions of the State Grant Contract and any amendment or extensions are hereby made a part hereof and incorporated herein by reference. The Municipality agrees to comply with all terms, conditions and provisions in the State Grant Contract. The Municipality shall be held accountable for all terms and conditions set for in the State Grant Contract in its entirety. The Municipality shall not use the State Grant Equipment for any activity other than those provided for under the State Grant Contract, except with the State Agency’s prior written permission.

27. OWNERSHIP OF STATE GRANT EQUIPMENT: The Municipality agrees that title to the State Grant Equipment shall be governed by the terms of the State Grant Contract. The Municipality will not sell or otherwise transfer the State Grant Equipment, except the Municipality will transfer custody and control of the State Grant Equipment to Authorized Third Party Users as provided for in Article I. The Municipality agrees that the State Agency retains ultimate control over and ownership of the State Grant Equipment pursuant to the terms of the State Grant Contract. The Municipality may dispose of the State Grant Equipment only pursuant to the terms in the State Grant Contract.

28. CERTIFICATION REGARDING LOBBYING: The Municipality hereby agrees to complete the Certification Regarding Lobbying attached hereto as Schedule “E” and which is made a part hereof.

29. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION: The Municipality hereby agrees to complete the Debarment and Suspension Certificate attached hereto as Schedule “F” and which is made a part hereof.

30. CERTIFIED ASSURANCES FOR FEDERAL SUPPORTED PROJECTS: The Municipality agrees to the terms and provisions set forth in Schedule “G”, Division of Homeland Security and Emergency Services Grant Assurances and Certifications for Federally Funded Grants.

31. REPORTING: The Municipality shall submit to the County all documentation, information or forms that the County needs in order to comply with the reporting requirements under the State Grant Contract. The Municipality shall complete all form required by the State Agency under the State Grant Contract.

32. NON-DISCRIMINATION REQUIREMENT: The Municipality will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. The Municipality shall not by reason of race, creed, color disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this License Agreement.

33. EQUAL EMPLOYMENT OPPORTUNITY (EEO).

(a) The Municipality shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment without discrimination because of race creed, color, national origin, sex, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of completion. If the Municipality does not have an existing EEO policy. Section 3(b)(iv) of the State Grant Contract may be use to develop one.

(b) The Municipality will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status , will undertake or continue existing EEO programs to ensure that minority group members and women are afforded and equal employment opportunities without discrimination and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in the work force in connection with this License Agreement.

(c) The Municipality shall state in all solicitations or advertisements for employees that, in the performance of this License Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Municipality shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national original, sex, age, disability or marital status that such union or representative will affirmatively cooperate in the implementation of the County's obligations herein in connection with this License Agreement.

(e) The Municipality shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional nondiscrimination provisions. The Municipality shall not discriminate against any employee or applicant for employment because of race, creed (religions), color, sex, national origin, sexual orientation, military status, age,

disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(f) The Municipality will take all necessary affirmative steps to assure that minority forms, women's business enterprises, and labor surplus are firms are used when possible.

34. AUDIT: The Municipality will allow the State Agency to conduct periodic visits for the purposes of inspection, inventory of the Equipment and auditing the records required hereunder. The Municipality shall provide or complete any other reports necessary for the County to report to the State Agency or federal government with regard to the State Grant Equipment. This License Agreement may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulation, and guidelines applicable to the Contract. The Municipality shall meet all audit requirements of the federal government and State of New York.

IN WITNESS WHEREOF, The County of Westchester and the Municipality have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

By: _____
John M. Cullen
Commissioner of Emergency Services

MUNICIPALITY

By: _____
(Name and Title)

Authorized by the Westchester County Board of Acquisition and Contract on the _____ day of
_____.

Authorized by the Municipality on _____.

Approved as to form and
manner of execution:

Sr. Assistant County Attorney
The County of Westchester
K:noe/dit/license agreement with agencies/final

MUNICIPALITY'S ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On this _____ day of _____, 2019, before me personally came
_____, to me known, and known to me to be the
_____ of _____,
the municipal corporation described in and which executed the within instrument, who being by me
duly sworn did depose and say that he, the said _____ resides at

and that he is _____ of said municipal corporation.

Notary Public County

CERTIFICATE OF AUTHORITY
(Municipality)

I, _____,
(Officer other than officer signing contract)
certify that I am the _____ of the _____
(Title)

(Name of Municipality)

(the "Municipality") a corporation duly organized in good standing under the _____
(Law under which organized, e.g., the New York Village
Law, Town Law, General Municipal Law)

named in the foregoing agreement that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution
_____ of the Municipality,
(Title of such person),

that said agreement was duly signed for on behalf of said Municipality by authority of its

(Town Board, Village Board, City Council)

thereunto duly authorized, and that such authority is in full force and effect at the date hereof.

(Signature).

STATE OF NEW YORK)
 ss.:
COUNTY OF WESTCHESTER)

On this _____ day of _____, 2019, before me personally came _____
_____ whose signature appears above, to me known, and know to be the
_____ of _____,
(title)

the municipal corporation described in and which executed the above certificate, who being by
me duly sworn did depose and say that he, the said _____
resides at _____, and that he is
the _____ of said municipal corporation.
(title)

Notary Public County

Schedule "A"

Location & Alias	1 Head Mobile	2 Head Mobile	HT	CS	M/Std Mic.	M/Key Mic	HT Case	HT STD Sp/Mic	HT ENH Sp/Mic	12VDC Charger	110VAC Charger
Ardslley	3	3	4	1	0	9	3	0	4	3	1
DPT 201			1	1					1		1
2011		1	1			2	1		1	1	
2012		1	1			2	1		1	1	
2013		1	1			2	1		1	1	
E164	1					1					
E165	1					1					
L50	1					1					

SCHEDULE "B"

WESTCHESTER COUNTY EQUIPMENT/PROPERTY RECORDS

Motorola APX8500 All Band Radio Transceiver:

This equipment/ property tracking form must be completed annually by the agency that received equipment from the County of Westchester. This is a legal requirement of the State and Federal Government to track grant funded property and must be completed until the time the equipment is deemed to reach end of life or is no longer operable. Property shall not be transferred or disposed of without County permission. This form must be completed and returned to the Dept. of Emergency Services, 4 Dana Road, Valhalla, NY 10595 by January 31 of each year.

Date: _____

Agency: _____

Address: _____

Primary POC: (Name) _____ Email: _____ Primary
 Phone: _____

Secondary POC: (Name) _____ Email: _____ Primary
 Phone: _____

1	2	3	4	5	6	7
Property:	Serial Number	Unit Assigned	Alias	Dual Head or Single Head	Radio Condition	Antenna Condition
Motorola APX8500	681CUD1621	Chef's Vehicles	Car 2021	Dual head	New	New

Unit Condition: N-New, E-Excellent, G- Good, P-Poor, OOS- Out of Service

Signature: _____

Date: _____

SCHEDULE "C"

**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR**

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

- 1.) meets the following requirements:
 - a. is at least 51% owned by one or more persons of color or women;
 - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
 - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
 - d. is an enterprise authorized to do business in this state which is independently owned and operated.

- 2.) is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**

- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color," as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

_____ No

_____ Yes

Please note: If you answered "yes" based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.

2. If you answered "Yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

_____ Women

_____ Persons of Color (*please check off below all that apply*)

- _____ Black persons having origins in any of the Black African racial groups
- _____ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race
- _____ Native American or Alaskan native persons having origins in any of the original peoples of North America
- _____ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: _____

Address: _____

Name and Title of person completing questionnaire: _____

Signature: _____

Notary Public

Date

SCHEDULE "D"

For Informational Purposes Only

**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY
SERVICE-DISABLED VETERANS**

The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, we request that you answer the questions listed below.

The term "Certified Service-Disabled Veteran-Owned Business" shall mean a business that is a certified service-disabled veteran-owned business enterprise under the New York State Service-Disabled Veteran-Owned Business Act (Article 17-B of the Executive Law).

1. Are you a business enterprise that is owned and controlled by a service-disabled veteran in accordance with the standards listed above?

_____ No
_____ Yes

2. Are you certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business?

_____ No
_____ Yes

3. If you are certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business, please attach a copy of the certification.

Name of Firm/Business Enterprise: _____
Address: _____
Name/Title of Person completing Questionnaire: _____
Signature: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF)

Notary Public
Date:

SCHEDULE "E"

Certification Regarding Lobbying
Certification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member or Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization

Authorized Signature Title Date

NOTE: If Disclosure Forms are required, please contact: Mr. Will Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001

SCHEDULE "F"

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

1) As required by Federal Executive Order 12549, and prescribed by federal regulations, including 48 C.F.R. Subpart 9.4, the Contractor certifies that it, and its principals:

(a) Are not presently disbarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, including any violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) above; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the Contractor is unable to certify to any of the statements in this paragraph, the Contractor shall attach an explanation to this certification.

Date: _____

Signature

Title

Organization

SCHEDULE "G"

**DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
Grant Assurances and Certifications for Federally-Funded Grants**

The certifications herein shall be treated as a material representation of fact upon which reliance will be placed when the State of New York and/or the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

As the duly authorized representative of the applicant, I certify that the applicant agrees to comply with the following:

FOR U.S. DEPARTMENT OF HOMELAND SECURITY GRANTS AND U .S. DEPARTMENT OF TRANSPORTATION GRANTS:

1. The administrative, cost principles, and audit requirements that apply to these funds originate from 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by DHS at 2 CFR Part 3002.
2. Lobbying. As required by 31 USC §1352, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:
 - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
 - b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure of Lobbying Activities,' in accordance with its instructions;
 - c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. Debarment, Suspension and other Responsibility Matters (Direct Recipient). Applicant agrees that it will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension". As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 17, for prospective participants in primary covered transactions, the applicant certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and
- d) Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

4. Drug-Free Workplace (Grantees other than Individuals). Recipients are required to comply with the Drug-Free Workplace Act of 1988 (41 USC §701 et seq.), adopted at 2 CFR Part 3001, which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at 2 CFR Part 3001.

5. Applicant agrees that it will comply with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), found under FEMA regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." - OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215. The requirements for allowable costs/cost principles are contained in the A-102 Common Rule, OMB Circular A-110 (2 CFR § 215.27), DHS program legislation, Federal awarding agency regulations, and the terms and conditions of the award. The four costs principles circulars are as follows: - OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR

Part 220. - OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225. - OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230. - OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

6. Applicant agrees that it has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

7. Applicant agrees that it will comply with the provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

8. Applicant agrees that it will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for Federally-assisted construction sub-agreements.

9. Applicant agrees that it will give the awarding agency, the Comptroller General of the United States and the State, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

10. Applicant agrees that it will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business or other ties.

11. Applicant agrees that it will initiate and complete the work within the applicable time frame after receipt of approval from the awarding agency.

12. Applicant agrees that it will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Section 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in OPM's Standards for a Merit System of Personnel Administration) 5 CFR Part 900, Subpart F.

13. All recipients must comply with Title VI of the *Civil Rights Act of 1964* (42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

14. All recipients must comply with the *Title VI of the Civil Rights Act of 1964* (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients

of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, *DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

15. Applicant agrees that planned expenditures utilizing grant funds are consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.

16. All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Where federal statutes for a particular program prohibits supplanting, applicants or recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

17. All recipients who collect Personally Identifiable Information (PII) are required to have a publicly-available privacy policy that describes what PII they collect, how they use PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as useful resources the DHS Privacy Impact Assessments: visit www.dhsses.gov/policy.

18. Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. § 401.14.

19. Any cost allowable to a particular Federal award provided for in 2 CFR Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or terms and conditions of the Federal awards or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting

costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations or the terms and conditions of the Federal awards.

20. All recipients must comply with the requirements of 42 USC §6201 which contain policies relating to energy efficient that are defined in the state energy conservation plan issues in compliance with this Act.

21. All recipients must report each action that obligations \$25,000 or more in Federal funds that does not include Recovery Funds (as defined in §1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L 111-5) for a subaward to an entity, unless provided in paragraph D as required by 2 CFR part 170, "Reporting Subaward and Executive Compensation Information" and the Federal Funding Accountability and Transparency Act 2006 (FFATA). Recipients must register at www.sam.gov and report information about each obligating action in accordance with the submission instructions posted at www.fsrcs.gov.

22. All recipients must maintain the currency of the information in the SAM until submission of the final financial report required under the award or receive final payment, whichever is later, as required by 2 C.F.R. Part 25.

23. All recipients must comply with the requirements of 31 USC §3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 USC §3801-3812 which details the administrative remedy for false claims and statements made.

24. All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.

25. All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 USC §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 USC §40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to the Comptroller General Decision B-138942.

26. In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC §2225a, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 USC §2225.

27. All recipients must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded

\$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

28. Applicant agrees that it will comply with all provisions of 48 CFR §31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations.

29. All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by 41 U.S.C. §1908, must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

30. All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

31. Applicant agrees that it will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63.

32. Applicant agrees that it will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

33. All recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

34. All recipients must comply with U.S. Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

35. Applicant agrees that it will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. The recipient shall affix the applicable

copyright notices of 17 U.S.C. §§401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under an award.

36. Applicant agrees that it will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

37. Applicant agrees that it will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications and will furnish progress reports and such other information as may be required by such other information as may be required by the assistance awarding agency or state.

38. Applicant agrees that it will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

39. Applicant agrees that it will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

40. Applicant agrees that it will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Section 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

41. Applicant agrees that it will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).

42. Applicant agrees that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (implementing regulations are found at 6 CFR Part 21 and 44 CFR Part 7); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686; Implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex from participation in, be denied the benefits of, or be

subjected to discrimination under any educational program or activity receiving Federal financial assistance; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794, as amended), which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (these requirements pertain to the provision of benefits or services as well as to employment); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §6101 *et seq.*), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290-dd-3 and 290-ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. § 3601 *et seq.*), as amended, which prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, national origin, religion, disability, familial status and sex (implementing regulations are found at 24 CFR Part 100). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units – i.e., the public and common use areas and individual apartment units (all units in building with elevators and ground-floor units in buildings without elevators) – be designed and constructed with certain accessible features (see 24 CFR §100.201); (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

43. All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the *Trafficking Victims Protection Act (TVPA) of 2000*, as amended (22 U.S.C. § 7104). This is implemented in accordance with OMB Interim Final Guidance, *Federal Register*, Volume 72, No. 218, November 13, 2007. Full text of the award term is located at 2 CFR § 175.15.

44. All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§12101-12213).

45. Applicant agrees that it will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

46. Applicant agrees that it will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.* [P.L. 91-646]) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of Federal participation in purchases.

47. Applicant agrees that will comply with Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs.

48. Applicant agrees that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

49. Applicant agrees that it will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996, and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

50. Applicant agrees that it will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval, changes that alter the cost of the project, use of space, or functional layout, that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

51. Applicant agrees that it will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

52. Applicant agrees that it will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

53. Applicant agrees that it will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

54. Applicant agrees that it will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

55. All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C §2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

56. Applicant agrees that it will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the

Physically Handicapped," Number A117. - 1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

57. Applicant agrees that if any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transfer, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

58. Any cost allocable to a particular Federal award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

59. Applicant agrees that it will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

60. All recipients must acknowledge their use of federal funding when issuing statements, press releases, and requests for proposals, bid invitations and other documents describing projects or programs funded in whole or in part with Federal funds.

61. All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits or approvals are obtained.

62. Applicant agrees that in making subgrants with nonprofit institutions under this Comprehensive Cooperative Agreement, it agrees that such grants will be subject to OMB Circular A-122, "Cost Principles for Non-profit Organizations" included in Vol. 49, Federal Register, pages 18260 through 18277 (April 27, 1984).

FOR U.S. DEPARTMENT OF HOMELAND SECURITY GRANTS:

63. All recipients must acknowledge and agree—and require any sub-recipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff:

- Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.

- Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance.
- Recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
- Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
- If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.
- The United States has the right to seek judicial enforcement of these obligations.

FOR U.S. DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANTS:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (entitled Non-discrimination In Federally-Assisted Programs of the Department of Transportation – Effectuation of the Civil Rights Act of 1964);
- 28 CFR §50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- Section 504 of the Rehabilitation Act of 1973, (29 USC §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 *et seq.*), (prohibits discrimination on the basis of age);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and §504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 USC §12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
 - Title IX of the Education Amendments of 1972, as amended, which prohibits you from discrimination because of sex in education programs or activities (20 USC §1681 et seq.)
- The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General U.S. DOT Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the Pipeline and Hazardous Materials Safety Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age of Discrimination Act of 1975, and §405 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific U.S. DOT Assurances

More specifically, and without limiting the above General Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Hazardous Materials Emergency Preparedness Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23(b) and 21.23(e) of 49 CFR §21 will be (with regard to an “activity”) facilitated, or will be (with regard a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Hazardous Materials Emergency Preparedness Grant Program and, in adapted from, in all proposals for negotiated agreements regardless of funding source:

“The [Entity Name], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§2000d to 2000d-4) and the Regulations, hereby notified all bidders that it will affirmatively ensure that with respect to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United State effecting or recording a transfer of real property, structures, use or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permit or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures to improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

- b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipient, subrecipients, subgrantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all required imposed or pursuant to the Acts, the Regulations and this Assurance.
 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under these Acts, the Regulations, and this Assurance.

By signing this Assurance, the Grantee also agrees to comply (and require any subrecipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Pipeline and Hazardous Materials Safety Administration access to records, accounts, documents, information, facilities and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Pipeline and Hazardous Materials Safety Administration. You must keep records, reports, and submit the material for review upon request to the Pipeline and Hazardous Materials Safety Administration, or its designee in a timely, complete and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Grantee give this Assurance in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Hazardous Materials Emergency Preparedness Grant Program. This Assurance is binding on Grantee, other recipients, subrecipients, subgrantees, contractor, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Hazardous Materials Emergency Preparedness Grant Program.

The undersigned represents that he/she is authorized by the above named applicant to enter into this agreement for and on behalf of the said applicant.

APPLICANT/GRANTEE ACCEPTANCE OF CERTIFIED ASSURANCES (Signature of Chief Executive of Unit of Local Government or Community Organization, or State Agency Head)

_____ (Signature) _____ (Date)

Name: _____

Title: _____

Address: _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, as they may be amended from time to time, which are herein incorporated by reference and make a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations including employment practices when the contract covers any activity, project, or program set forth in Append B of 49 CFR Part 21 (Including Modal Operating Administration specific program requirements).
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to non-discrimination on the grounds of race, color or national origin. (Including Modal Operating Administration specific program requirements).
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Pipeline and Hazardous Materials Safety Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this Contract, the Recipient will impose such contract sanctions as it or the Pipeline and Hazardous Materials Safety Administration may determine to be appropriate, including but not limited to:
 - a. Withholding payments to the contractor under the contractor until the contractor complies; and/or
 - b. Cancelling, terminating or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of

equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Pipeline Hazardous Materials Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix B
Clauses for Deeds Transferring United States Property

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the (Title of Recipient) will accept title to the lands and maintain the project constructed thereon in according with (Name of Appropriate Legislative Authority), the Regulations of the Administration (Name of Appropriate Program), and the policies and procedures prescribed by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation in accordance and compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC sections 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Title of Recipient) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Title of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on (Title of Recipient), its successors and assigns.

The (Title of Recipient), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (Title of Recipient) will use the lands and interest in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to such and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interested existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Appendix C

**Clauses for the Transfer of Real Property Acquired or Improved Under the Activity,
Facility or Program**

The following clauses will be added in deeds, leases, permits, or similar instruments entered into by the (Title of Recipient) pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, Permittee, etc. as appropriate) for himself/herself, his/her heirs, person representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, Permittee, etc.) will maintain and operate such facilities and services in compliance will all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc. in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (Title of Recipient) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (Title of Recipient) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Appendix D
**Clauses for the Construction of Real Property Acquired or Improved Under the Activity,
Facility or Program**

The following clauses will be added in deeds, leases, permits, or similar instruments entered into by the (Title of Recipient) pursuant to the provisions of Assurance 7(b):

- A. The (grantee, lessee, Permittee, etc. as appropriate) for himself/herself, his/her heirs, person representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land" that (1) no person on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the grounds or race, color, or national origin, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, Permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and the Regulations, as amended, set forth in this Assurance.
- B. With respect to licenses, leases, permits, etc. in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (Title of Recipient) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (Title of Recipient) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following Non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.* [P.L. 91-646]) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;
- Federal-Aid Highway Act of 1973 (23 USC section 324 *et seq.*), which prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 USC §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement act of 1982 (49 USC section 471, section 47123), as amended which prohibits discrimination based on race, creed, color, national origin, or sex;
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and §504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 USC §12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Federal Aviation’s Non-discrimination statute (49 USC section 47123) which prohibits discrimination on the basis of race, color, national origin and sex;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations for persons with limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discrimination because of sex in education programs or activities (20 USC §1681 et seq.)