

Village of Mukwonago  
**Notice of Meeting and Agenda**

**SPECIAL VILLAGE BOARD MEETING**  
**Thursday, October 8, 2020**

Time: **5:30 pm**

Place: **Mukwonago Municipal Building, 440 River Crest Ct., Mukwonago, WI 53149**

**1. Call To Order**

**2. Roll Call**

**3. New Business**

- 3.1 Discussion and possible action to approve **Resolution 2020-51** a resolution authorizing the filing of the 2021 Forestry Grant Application.

[Urban Forestry Grant AIRF](#)

[RESOLUTION 2020-51 \(Urban Forestry Grant App\)](#)

- 3.2 Discussion and possible action on an Architectural design contract with Anderson Ashton in the amount of \$17,300 for the outdoor performance stage.

[2020-09-24 Mukwonago Pavilion.pdf](#)

[B132-2019 - Final - Mukwonago Amphitheater](#)

- 3.3 Discussion and possible action on 2021 Operating and Capital Budgets for the Village of Mukwonago.

**4. Adjournment**

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

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**AGENDA ITEM REQUEST FORM**

Committee/Board:	Committee of the Whole
Topic:	Discussion and possible recommendation to approve <b><u>Resolution 2020-51</u></b> a resolution authorizing the filing of the 2021 Forestry Grant Application.
From:	Ron Bittner
Department:	Public Works
Presenter:	Ron Bittner
Date of Committee Action (if required)	8/7/20
Date of Village Board Action (if required)	

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### Information

**Subject:**

Discussion and possible recommendation to approve **Resolution 2020-51** a resolution authorizing the filing of the 2021 Forestry Grant Application.

**Background Information/Rationale:**

The department of public works would like to apply for a 50% matching 2021 forestry grant. Funds would assist the village with a program to mitigating the emerald ash borer by removing the untreated treated ash trees in the public right of way. The village contribution will be from staff labor and equipment use that is part of of the current forestry program. The grant would also provide for planting 10 replacement trees.

**Key Issues for Consideration:**

Authorize the Village Forester with a resolution to apply for the Wisconsin 2021 Urban Forestry Grant.

**Fiscal Impact (if any):**

The total project is estimated at \$9,812.22 With the state and village each contributing \$4,906.11. The village's portion will be funded with the forestry programs operating budget.

**Requested Action by Committee/Board:**

We are requesting a recommendation to the Village Board to approve the grant resolution authorizing the village forester to apply for the 2021 urban forestry grant.

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### Attachments

**RESOLUTION 2020-51**

**A RESOLUTION AUTHORIZING A REPRESENTATIVE TO FILE THE URBAN FORESTRY GRANT APPLICATION FOR THE VILLAGE OF MUKWONAGO**

**WHEREAS**, the Village of Mukwonago hereby requests financial assistance under s. 20.370 Wis. Stats., Chapter NR 47, Wis. Admin Code, for the purpose of funding urban and community forestry projects or urban forestry catastrophic storm projects specified in s. 20.370 (5) (bw) and (1) (mv), Wis. Stats.;

**NOW THEREFORE BE IT RESOLVED**, that the Village of Mukwonago hereby authorizes the Public Works Director, an official or employee, to act on its behalf to submit an application to the Department of Natural Resources for financial assistance under s. 20.370 Wis. Stats. Chapter NR47, Wis. Admin Code; sign necessary documents; and submit final report.

Adopted this \_\_\_\_\_ day of October 2020.

\_\_\_\_\_  
Fred H. Winchowky, Village President

Attest: \_\_\_\_\_  
Diana Dykstra, Clerk-Treasurer

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**AGENDA ITEM REQUEST FORM**

Committee/Board:	Special Village Board
Topic:	Discussion and possible action on an Architectural design contract with Anderson Ashton in the amount of \$17,300 for the outdoor performance stage.
From:	Ron Bittner
Department:	Public Works
Presenter:	Ron Bittner
Date of Committee Action (if required)	10/7/20
Date of Village Board Action (if required)	10/8/20

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### Information

**Subject:**

Discussion and possible action on an Architectural design contract with Anderson Ashton in the amount of \$17,300 for the outdoor performance stage.

**Background Information/Rationale:**

The outdoor performance stage is a 2021 project on the capital plan. Designing the structure this year would allow for an early bid process in 2021. We requested design quote from Anderson Ashton and Lynch Associates with Anderson Ashton providing the lower quote.

**Key Issues for Consideration:**

Approval of the performance stage design contract with Anderson Ashton Inc.

**Fiscal Impact (if any):**

Anderson Ashton's quote is for \$17,370.

**Requested Action by Committee/Board:**

We are requesting a recommendation to the village board to approve the architectural design contract with Anderson Ashton Inc. for \$17,300

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### Attachments

[2020-09-24 Mukwonago Pavilion.pdf](#)  
[B132-2019 - Final - Mukwonago Amphitheater](#)

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September 24, 2020

Mr. John Weidl  
Village of Mukwonago  
440 River Crest Ct  
Mukwonago, WI 53149  
Ph: 262.363.6420

Re: Proposal for Professional Services  
Mukwonago Outdoor Performance Stage

Dear Mr. Weidl:

Lynch & Associates – Engineering Services, LLC would like to thank you for the opportunity to work with you on the proposed performance stage located near the Village Hall.

At Lynch & Associates we deliver engineering and technical solutions that are responsive to our clients' needs in an innovative, cost effective, professional and quality manner. We accomplish this by relying on the foundation of our three pillars:

**COMMUNITY.** *We believe in the value of community and promote community outreach and community development and growth.*

**FOCUSED.** *We believe that superior results are achieved through focused processes that are continually evaluated, developed, and improved.*

**CLIENT SERVICE.** *We deliver what we promise to our team, our partners, and to our clients and seek to exceed their expectations.*

We satisfy our clients by exceeding their expectations. Open and honest communication between our teams, our partners, and our clients ensures continued action and clear expectations. We recognize action rather than rhetoric as the trust measure of commitment to our clients. We listen to our clients and respond with urgency to their feedback, suggestions, and concerns. Our team constantly and diligently advocates for our client's best interests and produces valuable projects that are on time and within budget.

### **Project Understanding and Scope**

From our meeting we understand the project to involve a new outdoor performance center that will serve as a multi-use facility as well. The structure will be a polygon steel structure with the performance stage facing to the north and open multi-use space to the south. In the middle of the structure will be an enclosed space, approx. 400 to 600 square feet, that will act as storage and a preparation area for concerts and events with ticket booth options. The Village would like to incorporate a railway station theme into the structure to compliment the adjacent railway line. Based on our discussions we are assuming the foundation and structure will be designed by Polygon Structures. Additionally, we are providing two add alternate services for the project; Alternate 1 – Toilet Room, and Alternate 2 – HVAC for the enclosed space.

Lynch will provide professional services for the project based on the provided documents and our discussions. We have chosen to team with Partners in Design Architects to assist in meeting the Villages needs for the project. Lynch and Partners in Design propose the following scope of services:

### **Preliminary Design Phase**

- **Base Drawings** - Create CAD backgrounds of the building from the information received from Poligon, and of the site plan from information receive from the Village.
- **Programing / Schematic Design** - We will work with the Village to finalize the program for the pavilion and review alternative schematic site plans and floor plans. We will work with the Village to refine the design to their satisfaction.
- **Coordination and Communication** – We will coordinate with the Village and will respond to any preliminary issues and concerns. We will prepare drawings and exhibits necessary to obtain approvals of the project. Our fees include attendance at one staff meeting and one public hearing.

### **Construction Document Phase**

- **Construction Documents** - With your authorization to proceed, we will prepare complete civil, architectural and electrical design drawings for obtaining state plan approval, permits, bidding and construction. See below for alternates for toilet room plumbing and HVAC design for the enclosed area. It is assumed that fire protection is not required. We will submit plans to the State for review and will provide responses to any review comments related to our work. We will provide State approved drawings for others to submit for permit.
- **Contract Administration / Construction Observation** – During construction, we will visit the project one time to monitor the job's progress. We will inform you of any questions or concerns that we see during our visit. We will work with your construction manager to make sure that all aspects of the project are running smoothly. We will review shop drawings and submittals for conformance with the construction documents. Also included is a final walk through and punchlist.



### **Reimbursable Expenses**

Expenses such as mileage, printing, shipping, or project related expenses are excluded from the design costs. Permit fees, submittal fees, and/or review fees shall be paid by the CLIENT. The CLIENT agrees to reimburse and review fees if Lynch chooses, at their own discretion, to pay review fees.  
Cost: Passed through at our cost.

**Additional Meetings and Site Visits** – We will attend additional meetings or perform additional site visits at your request. Lynch and Associates will charge for additional visits on an hourly basis and Partners in Design will charge \$600 per visit.

### **Professional Fees Table**

Preliminary Design Phase	\$14,200
Construction Document Phase	\$32,000
Alternate 1 – Toilet Room	\$ 8,000
Alternate 2 – HVAC	\$ 3,500
Reimbursable Allowance	\$ 3,000

### **Assumptions and Conditions**

The estimated scope and fees for the professional services is based on the following set of assumptions and conditions. If requested by the CLIENT, additional services can be performed on an hourly, time-and-expense basis.

- A. Additional or extended services beyond those specifically described in the Scope of Services are not included.
- B. After work has commenced, any revisions requested by the CLIENT, others or necessitated by conditions beyond our control, will be considered extra work requiring additional compensation.
- C. Issues related to property boundaries and/or land owner disputes is not included in the Scope of Services.
- D. Excluded from the scope of services are; Survey, Structural engineering, MP/FP design and drawings (see alternates), Site lighting, Detailed furniture/equipment drawings, Record drawings

If you accept, please sign this proposal and return an original to us. Upon receipt of the signed document we will be able to proceed with your project in a timely manner. The agreement may be modified only in writing, and signed by each of the parties hereto. This project will be billed approximately every four (4) weeks, reflecting the status of each specific task or portion of the project.

Thank you for the opportunity to provide you with this proposal and we look forward to a very successful project. If you have any questions, please do not hesitate to contact me.





Sincerely,

LYNCH & ASSOCIATES –  
ENGINEERING CONSULTANTS, LLC



Timothy C. Lynch, P.E.  
Principal

AGREED AND ACCEPTED BY:

Signature: \_\_\_\_\_

Name  
& Title: \_\_\_\_\_

Date: \_\_\_\_\_

Encl. -PSA

# PROFESSIONAL SERVICES AGREEMENT

1. **SCOPE OF WORK:** Lynch & Associates - Engineering Consultants, LLC. (LYNCH) shall perform services in accordance with the "Agreement" made with the "CLIENT". The Agreement consists of LYNCH's proposal, fee schedule, and this Professional Services Agreement. The "CLIENT" is defined as the person or entity requesting and/or authorizing the work, and in doing so, CLIENT represents and warrants that he is duly authorized this role, even if performed on behalf of another party or entity, in which case the other party or entity is also considered as the CLIENT. The acceptance of LYNCH's proposal signifies the acceptance of the terms of this Agreement. The fees for services rendered will be billed in accordance with the Standard Fee Schedule: unit rates for services not covered in the fee schedule or elsewhere in the Agreement can be provided. The standard prices proposed for the work are predicted upon the CLIENT's acceptance of the conditions and allocation of risk and obligations described in the Agreement. The CLIENT shall impart the terms of this Agreement to any third party with whom CLIENT releases any part of LYNCH's work. LYNCH shall have no obligations to any party other than those expressed in this Agreement.
2. **PERFORMANCE:** The standard of care for all professional engineering and related services performed or furnished by LYNCH under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. LYNCH makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. LYNCH shall not be liable for any claim, damage, cost or expense (including attorney fees) or other liability or loss not directly and/or solely caused by the negligent acts, errors or omissions of LYNCH. LYNCH's liability hereunder shall not exceed the aggregate of all fees paid to LYNCH by CLIENT on the Project.
3. **SUBCONTRACTORS:** Should the unexpected need arise, and only after receiving CLIENT approval, LYNCH may engage subcontractors on behalf of CLIENT to perform any portions of the services to be provided by LYNCH hereunder. LYNCH shall contract independently with any subcontractor used, or shall request CLIENT to subcontract directly. CLIENT agrees that LYNCH shall not be responsible for, or in any manner guarantee, the performance of such subcontractors, nor shall LYNCH be liable for any negligent acts, errors or omissions of any such subcontractor.
4. **CONFIDENTIALITY:** LYNCH shall hold confidential the business and technical information obtained or generated in performance of services under this Agreement and identified in writing by the CLIENT as "confidential". LYNCH shall not disclose such information except if such disclosure is required by governmental statute, ordinance, or regulation, for compliance with professional standards of conduct for public safety, health, and welfare concerns, or for protection of LYNCH against claims or liabilities arising from performance of its services.
5. **TERMINATION:** This Agreement may be terminated by either party upon seven (7) days prior written notice. In the event of termination, LYNCH shall be paid up to the effective date of termination for all services rendered by LYNCH, their SUBCONTRACTORS, and costs. All drawings or other documents prepared by LYNCH shall not be released to the CLIENT or others until all monies owed to LYNCH by CLIENT (whether or not such monies have become due and payable) have been paid.
6. **PAYMENT TERMS:** Lynch shall bill for services rendered and reimbursable costs incurred on a four (4) week rotational basis. Each invoice shall be due and payable within fifteen (15) days of the presentation of the invoice. Invoices over thirty (30) days past due will incur a service charge of 1.5% of the unpaid balance, equal to 18% per year. LYNCH shall suspend services if unpaid invoices extend 30 days past the date of presentation of the invoice. Service will be resumed when invoices are within 30 days aging.
7. **ADDITIONAL SERVICES; ENTIRE AGREEMENT:** This Agreement contains the entire understanding and Agreement between LYNCH and CLIENT relating to the PROJECT. Additional services, change orders, addenda or modification to this Agreement, or the services set forth in this Agreement, shall only be authorized by a subsequent written Agreement entered into between LYNCH and CLIENT.
8. **ARBITRATION:** Any dispute arising pursuant to any contract to which these terms and conditions apply shall be submitted to arbitration in accordance with the rules of the American Arbitration Association, the award of the arbitrator to be final in the parties. Judgment upon any award rendered may be entered in any court having jurisdiction.
9. **INSURANCE:** Upon written request, LYNCH will furnish CLIENT a written description of insurance coverage then being maintained by LYNCH that may be related to LYNCH's performance of services hereunder. No oral representations regarding insurance shall be binding upon LYNCH.
10. **COST ESTIMATES:** Any estimates or equipment, construction, or operation costs will be made on the basis of LYNCH's experience; however, LYNCH does not warrant the accuracy of such estimates as compared to contractor's bids or actual costs incurred.
11. **LIMITATION OF LIABILITY:** The CLIENT agrees to limit LYNCH's liability to the CLIENT and all parties claiming through the CLIENT or otherwise claiming reliance on LYNCH's services, allegedly arising from LYNCH's professional acts or errors and omissions, to a sum not to exceed LYNCH's fees for the services performed on the project, provided that such claims are not attributable to LYNCH's gross negligence or intentional misconduct. In this latter event, the limit of liability will be increased to \$25,000 less any applicable insurance amount covering alleged damages or claims. In no event shall LYNCH or any other party to this Agreement including parties which may have or claim to have a direct or indirect reliance on LYNCH's services, be liable to the other parties for incidental, indirect, or consequential damages arising from any cause from LYNCH's actions or in-actions.
12. **INSURANCE AND INDEMNITY:** LYNCH represents that the company maintains general liability and property damage insurance coverage considered adequate and comparable with coverage maintained by other similar firms, and that LYNCH's employees are covered by Workman's Compensation Insurance. Certificates of Insurance can be provided to the CLIENT upon written request. LYNCH shall not be held responsible for any loss, damage, or liability beyond the insurance limits and conditions. LYNCH agrees to indemnify the CLIENT from and save CLIENT harmless against any loss, damage, or liability stemming from acts of gross negligence by LYNCH except expressly set forth in the LIMITS OF LIABILITY and INSURANCE AND INDEMNITY. The CLIENT agrees to hold LYNCH, its officers, director, agents and employees, harmless from any claims, suits or liability including but not limited to attorney fees, costs of settlement, and other incidental costs, for personal injury, death, illness, property damage or any other loss related to this PROJECT or the CLIENT.
13. **SITE SECURITY AND ACCESS:** CLIENT is solely responsible for all aspects of site security. The CLIENT will provide for the right-of-access to the work site. In the event the work site is not owned by the CLIENT, CLIENT represents to LYNCH that all necessary permissions for LYNCH to enter the site and conduct the work have been obtained. While LYNCH shall exercise reasonable care to minimize damage to the property, the CLIENT understands that some damage may occur during the normal course of work and that LYNCH has not included in its fee the cost of restoration of damage, and that CLIENT will pay for such restoration cost.
14. **UTILITIES:** In the performance of its work, LYNCH will take all reasonable precautions to avoid damage to underground structures or utilities and will rely on utility locator services to correctly identify their buried services lines, and on plans, drawings or sketches made available and provided by the CLIENT. The CLIENT agrees to hold LYNCH harmless and indemnify LYNCH from any claims, expenses, or other liabilities, including reasonable attorney fees, incurred by LYNCH for any damages to underground structures and utilities which were not correctly and clearly shown on the plans provided to LYNCH or otherwise disclosed by the CLIENT or utility locator services. LYNCH will be responsible for ordering the utility locator service only if expressly set forth in the scope of the proposal.
15. **REUSE OF DOCUMENTS:** All documents furnished by LYNCH pursuant to this Agreement are instruments of LYNCH's services in respect of this PROJECT, but shall at all times remain the exclusive property of LYNCH, regardless whether LYNCH chooses, at its option, to leave the original or a copy of any such materials in the possession of CLIENT or whether CLIENT retains copies or counterparts of the documents as may be required by law. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the PROJECT by CLIENT and others or LYNCH's additional design services for the PROJECT or extensions thereof.
16. **FEDERAL RIGHT-TO-KNOW COMPLIANCE:** In compliance with the Federal Hazard Communication Standard, CLIENT shall provide LYNCH with a list of hazardous chemicals in the work place which employees may be exposed to while performing this Contract. In addition, the CLIENT shall provide a listing of protective measures in case exposure occurs.
17. **WAIVER:** No waiver, discharge, or renunciation of any claim or right to LYNCH arising out of breach of the Agreement by CLIENT shall be effective unless in writing signed by LYNCH and supported by separate consideration.
18. **GOVERNING LAW:** This Agreement and the legal relations between the parties hereto, shall be governed and construed in accordance with the laws of the State of Wisconsin.
19. **RIGHT TO PHOTOGRAPH WORK:** CLIENT shall permit LYNCH or person(s) employed or engaged by LYNCH, without compensation or consideration to CLIENT or owner, to take photographs at the project site of both completed work and work in progress and tell the CLIENT's project story, for purposes including, but not limited to, publication in newspapers, magazines, and other print media, use in broadcast media, publication via the Internet, and use in marketing materials used by LYNCH. CLIENT agrees that they have the right to grant Lynch these rights and shall defend and hold harmless LYNCH from the use of said photographs and narratives. All photographs and stories shall be the property of Lynch.



# AIA<sup>®</sup> Document B132<sup>™</sup> – 2019

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

**AGREEMENT** made as of the 2 day of October 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)

Village of Mukwonago  
440 River Crest Ct  
Mukwonago, WI 53149  
(262) 363-6447

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

Anderson Ashton Inc.  
2746 South 166<sup>th</sup> St  
New Berlin, WI 53151  
(262) 786-4640

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

Mukwonago Amphitheater  
Indianhead Park 850 Main St, Mukwonago, WI 53149  
Construct new band shell at Indianhead Park in Mukwonago, WI

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

Anderson Ashton Inc  
2746 S 166<sup>th</sup> Street  
New Berlin, WI 53151  
(262) 786-4640

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<sup>™</sup>–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232<sup>™</sup>–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132<sup>™</sup>–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232<sup>™</sup>–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.)*

§ 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.)*

§ 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.)*

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

.1 Design phase milestone dates, if any:

Oct. 28, 2020

.2 Construction commencement date:

Init.

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**User Notes:**

(1901676341)

Dec. 4th, 2020

.3 Substantial Completion date or dates:

.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.) Competitive bidding as per Wis Stat Sec 62.15*

§ 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.)*

§ 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.)*

Ron Bittner  
440 River Crest Ct  
Mukwonago, WI 53149  
Telephone: (262) 363-6447  
Fax: (262) 363-7197 rbittner@villageofmukwonago.com

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

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

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

.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.)*

Steven Wagner  
2746 S 166<sup>th</sup> Street  
New Berlin, WI 53151  
Phone: 262-786-4640  
swagner@andersonashton.com

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

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Spire Engineering Inc.  
305 N Plankinton Ave, Suite 101  
Milwaukee, WI 53203  
414-278-9200  
Brian Rinke PE,SE

.2 Mechanical Engineer:

Init.

/

### .3 Electrical Engineer:

#### § 1.1.12.2 Consultants retained under Supplemental Services:

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

§ 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.

§ 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 and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_-..

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_, 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 and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit ..

§ 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 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. Such coverage shall be evidenced by a policy endorsement in form acceptable to the Owner.

§ 2.6.8 The Architect shall provide certificates of insurance and policy endorsement(s) 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. 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.

### § 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 in accordance with the Wisconsin public bidding law 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:

- .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 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 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.

§ 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 (Architect, Owner or Not Provided)
§ 4.1.1.1 Assistance with selection of Construction Manager	
§ 4.1.1.2 Programming	
§ 4.1.1.3 Multiple preliminary designs	
§ 4.1.1.4 Measured drawings	
§ 4.1.1.5 Existing facilities surveys	
§ 4.1.1.6 Site evaluation and planning	
§ 4.1.1.7 Building Information Model management responsibilities	
§ 4.1.1.8 Development of Building Information Models for post construction use	
§ 4.1.1.9 Civil engineering	
§ 4.1.1.10 Landscape design	
§ 4.1.1.11 Architectural interior design	
§ 4.1.1.12 Value analysis	
§ 4.1.1.13 Cost estimating	
§ 4.1.1.14 On-site project representation	
§ 4.1.1.15 Conformed documents for construction	
§ 4.1.1.16 As-designed record drawings	
§ 4.1.1.17 As-constructed record drawings	
§ 4.1.1.18 Post-occupancy evaluation	
§ 4.1.1.19 Facility support services	
§ 4.1.1.20 Tenant-related services	
§ 4.1.1.21 Architect's coordination of the Owner's consultants	
§ 4.1.1.22 Telecommunications/data design	
§ 4.1.1.23 Security evaluation and planning	
§ 4.1.1.24 Commissioning	
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.26 Historic preservation	
§ 4.1.1.27 Furniture, furnishings, and equipment design	
§ 4.1.1.28 Other services provided by specialty Consultants	
§ 4.1.1.29 Other Supplemental Services	

#### § 4.1.2 Description of Supplemental Services

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

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

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

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

§ 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) 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 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;
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of entities providing bids or proposals;
- .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 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;
- .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 ( ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractors
- .2 ( ) visits to the site by the Architect during construction
- .3 ( ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ( ) inspections for any portion of the Work to determine final completion

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

**§ 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.

§ 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;
- .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. Nothing contained within this agreement is intended to be a waiver or estoppel of the Owner or its insurer's ability to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the Owner or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law

§ 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.

## 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; however the parties will mutually agree upon the arbitrator to be used in this mediation. 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)*

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

§ 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.

§ 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. However said costs shall not include lost profits.

§ 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:

§ 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. Notwithstanding the foregoing the Owner is a Wisconsin municipal corporation and therefore subject to the terms of the Wisconsin public records law. As a result the confidentiality provisions of this Agreement are subject to the Owner's responsibilities under the WI public records law.

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

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

## ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum  
(Insert amount)  
  
\$17,370.00
- .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)

§ 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:  
(For Structural Engineering services, \$5,000)

§ 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.)*

**§ 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** 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.

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

**Employee or Category**

**Rate (\$0.00)**

**§ 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;

Init.

- .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;
- .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.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) 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.)*

### § 11.10 Payments to the Architect

#### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Seventeen Hundred and Thirty Dollars and no cents (\$ 1,730.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the 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 Thirty ( 30 ) 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.)*

Two % 2

§ 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.

## 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.)*

## 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.)*
- .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.)*

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

\_\_\_\_\_  
**OWNER** *(Signature)*

Ron Bittner Public Works Director  
*(Printed name and title)*

\_\_\_\_\_  
**ARCHITECT** *(Signature)*

Steven L Wagner. Architect  
*(Printed name, title, and license number, if applicable)*

# Additions and Deletions Report for AIA® Document B132™ – 2019

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:06:53 ET on 10/02/2020.

## PAGE 1

**AGREEMENT** made as of the 2 day of October in the year 2020

...

Village of Mukwonago  
440 River Crest Ct  
Mukwonago, WI 53149  
(262) 363-6447

...

Anderson Ashton Inc.  
2746 South 166<sup>th</sup> St  
New Berlin, WI 53151  
(262) 786-4640

...

Mukwonago Amphitheater  
Indianhead Park 850 Main St, Mukwonago, WI 53149  
Construct new band shell at Indianhead Park in Mukwonago, WI

...

Anderson Ashton Inc  
2746 S 166<sup>th</sup> Street  
New Berlin, WI 53151  
(262) 786-4640

## PAGE 2

Oct. 28, 2020

## PAGE 3

Dec. 4th, 2020

...

*(Identify method such as competitive bid or negotiated contract.) Competitive bidding as per Wis Stat Sec 62.15*

...

Ron Bittner

440 River Crest Ct  
Mukwonago, WI 53149  
Telephone: (262) 363-6447  
Fax: (262) 363-7197 [rbittner@villageofmukwonago.com](mailto:rbittner@villageofmukwonago.com)  
**PAGE 4**

Steven Wagner  
2746 S 166<sup>th</sup> Street  
New Berlin, WI 53151  
Phone: 262-786-4640  
[swagner@andersonashton.com](mailto:swagner@andersonashton.com)

...

Spire Engineering Inc.  
305 N Plankinton Ave, Suite 101  
Milwaukee, WI 53203  
414-278-9200  
Brian Rinke PE,SE

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**§ 2.6.1** Commercial General Liability with policy limits of ~~not less than~~ (\$ ) for each occurrence and ~~( \$ )~~ in the aggregate for bodily injury and property damage and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_-..

**§ 2.6.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of ~~not less than~~ (\$ ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_\_, along with any other statutorily required automobile coverage.

...

**§ 2.6.5** Employers' Liability with policy limits ~~not less than~~ (\$ ) each accident, ~~( \$ )~~ each employee, and ~~( \$ )~~ policy limit and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit \_\_\_\_\_

**§ 2.6.6** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of ~~not less than~~ (\$ ) per claim and ~~( \$ )~~ in the aggregate and terms of coverage as set forth in the Village of Mukwonago insurance requirements attached as Exhibit ..

**§ 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 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. Such coverage shall be evidenced by a policy endorsement in form acceptable to the Owner.

**§ 2.6.8** The Architect shall provide certificates of insurance and policy endorsement(s) to the Owner that evidence compliance with the requirements in this Section 2.6.

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**§ 3.5.2.2** The Architect shall assist the Owner and Construction Manager in bidding the Project in accordance with the Wisconsin public bidding law by

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§ 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. Nothing contained within this agreement is intended to be a waiver or estoppel of the Owner or its insurer's ability to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the Owner or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law

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§ 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. Agreement; however the parties will mutually agree upon the arbitrator to be used in this mediation. 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.

...

[ ☒ ] Litigation in a court of competent jurisdiction

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§ 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. However said costs shall not include lost profits.

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§ 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. Notwithstanding the foregoing the Owner is a Wisconsin municipal corporation and therefore subject to the terms of the Wisconsin public records law. As a result the confidentiality provisions of this Agreement are subject to the Owner's responsibilities under the WI public records law.

...

\$17,370.00

...

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)(For Structural Engineering services, \$5,000*

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§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

...

§ 11.10.1.1 An initial payment of Seventeen Hundred and Thirty Dollars and no cents (\$ 1,730.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.10.2.1 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 Thirty ( 30 ) 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.

...

Two % 2

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Ron Bittner Public Works Director

Steven L Wagner. Architect



## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, Brian B. Fisher, 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 14:06:53 ET on 10/02/2020 under Order No. 7357898644 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.

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*(Signed)*

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*(Title)*

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*(Dated)*