

**MONROE COUNTY PUBLIC LIBRARY  
BOARD OF TRUSTEES**

**WORK SESSION**

**April 12, 2017**

**5:45 p.m.**

**Meeting Room 1B**

**AGENDA**

1. Call to Order – John Walsh, President
2. Review of Contract with Browning Chapman for Exterior Stone Repair (page 1-13) – Gary Lettelleir
3. Review of Contract with Christine Matheu Architects for Ellettsville Renovation (page 14-39) – Jane Cronkhite, Marilyn Wood
4. Public Comment
5. Adjournment

View the Board Packet on the Library's website:

<http://mcpl.info/library-trustees/meetings>

 **AIA**® Document A101™ – 2007

**Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

**AGREEMENT** made as of the Twenty-fourth day of March in the year Two Thousand Seventeen

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

**BETWEEN** the Owner:

*(Name, legal status, address and other information)*

Monroe County Public Library  
303 East Kirkwood Avenue  
Bloomington, Indiana 47408-3534  
Telephone Number: 812-349-3050

and the Contractor:

*(Name, legal status, address and other information)*

Browning Chapman, LLC  
9900 Westpoint Drive  
Suite 128  
Indianapolis, IN 46256  
Telephone Number: 317-608-2775

for the following Project:

*(Name, location and detailed description)*

Monroe County Public Library Building Envelope Repairs  
303 E. Kirkwood Avenue  
Bloomington, IN 47408  
Building envelope repair work in designated areas

The Architect:

*(Name, legal status, address and other information)*

STR Building Resources, LLC  
N89W16785 Appleton Avenue  
Suite 201  
Menomonee Falls, Wisconsin 53051  
Telephone Number: 262-253-4700

The Owner and Contractor 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.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

init.

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**TABLE OF ARTICLES**

- 1 THE CONTRACT DOCUMENTS**
- 2 THE WORK OF THIS CONTRACT**
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**
- 4 CONTRACT SUM**
- 5 PAYMENTS**
- 6 DISPUTE RESOLUTION**
- 7 TERMINATION OR SUSPENSION**
- 8 MISCELLANEOUS PROVISIONS**
- 9 ENUMERATION OF CONTRACT DOCUMENTS**
- 10 INSURANCE AND BONDS**

**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

**ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**§ 3.1** The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

**§ 3.2** The Contract Time shall be measured from the date of commencement.

**§ 3.3** The Contractor shall achieve Substantial Completion of the entire Work not later than ( ) days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

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(3B9ADA11)

The Contractor shall achieve Substantial Completion of the entire Work not later than October 31, 2017.

**Portion of Work**

**Substantial Completion Date**

, subject to adjustments of this Contract Time as provided in the Contract Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)*

None

**ARTICLE 4 CONTRACT SUM**

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Eighteen Thousand Nine Hundred Ninety Dollars and Zero Cents (\$ 118,990.00 ), subject to additions and deductions as provided in the Contract Documents.

**§ 4.2** The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:  
*(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

None

**§ 4.3** Unit prices, if any:  
*(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price Per Unit (\$0.00)
Replacement of existing sealant joints, including proper backer materials	LF	\$8.10
Rout and seal cracks in limestone panels	LF	\$9.50
Patching of spalled limestone surfaces	SF	\$82.00
Wet sealing of window gaskets	LF	\$2.20
Changes to the Work: Overhead and profit on the net cost of our own Work	PERCENTAGE	18%
On the cost of Work done by any Subcontractor	PERCENTAGE	18%

**§ 4.4** Allowances included in the Contract Sum, if any:  
*(Identify allowance and state exclusions, if any, from the allowance price.)*

Item	Price
Cash Allowance for remediation of latent conditions or other intangibles, during the course of the Work, upon Owner's instructions	Fifteen Thousand Dollars (\$15,000.00)

**ARTICLE 5 PAYMENTS**

**§ 5.1 PROGRESS PAYMENTS**

**§ 5.1.1** Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

**§ 5.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Init.

The period covered by each Application for Payment shall be for work completed from the previous payment application meeting date to the next completed work day prior to the current payment application meeting date. Certificates for Payment (typed copies) along with the Continuation Sheet and accompanying documents certifying to the work performed during the preceding month shall be submitted to the Architect's office within seven (7) calendar days of the monthly meeting date. The Architect will check the certificates and, if in the proper form and just, will transmit the Certificates for Payment to the Owner with the recommendation for payment. All Architect approved contractor pay request must be received in the Owner's office by the first working day of the month following the pay request meeting. For the approved pay requests so received, the Owner will issue payment within 30 days of receipt of Architect's approved Certificate for Payment. Those pay requests not received within the allotted time schedule as detailed above shall be held 30 days and included in the following month's payment processing cycle.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment.  
*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent ( 10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

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To be reviewed during construction and revised as allowed in the General Conditions of the Contract for Construction

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

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

~~Arbitration pursuant to Section 15.4 of AIA Document A201-2007~~

Litigation in a court of competent jurisdiction

Other (Specify)

*Change to Litigation*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

Init.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

0 %

§ 8.3 The Owner's representative:  
*(Name, address and other information)*

Gary Lettelleir  
Finance Manager  
303 E. Kirkwood Avenue  
Bloomington, IN 47408  
Telephone Number: 812-349-3050  
Email Address: glettell@monroe.lib.in.us

§ 8.4 The Contractor's representative:  
*(Name, address and other information)*

J. Allan Browning  
President  
9900 Westpoint Drive, Suite 128  
Indianapolis, IN 46256  
Telephone Number: 765-608-2775  
Email Address: abrowning@browningchapman.com

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

None

**ARTICLE 9 - ENUMERATION OF CONTRACT DOCUMENTS**

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
007300	Supplementary General Conditions to the A201-2007		3

§ 9.1.4 The Specifications:  
*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*  
See Exhibit "B", attached

Section	Title	Date	Pages
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(3B9ADA11)

**§ 9.1.5 The Drawings:**

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

See Exhibit "B", attached

Number	Title	Date
--------	-------	------

**§ 9.1.6 The Addenda, if any:**

Number	Date	Pages
Addendum #1	March 7, 2017	1+attachments

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:**

1. AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:
2. Other documents, if any, listed below:  
*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Contractor's Form of Proposal, Exhibit "A", attached  
 Specification Manual, Table of Contents, Exhibit "B", attached  
 This Agreement

**ARTICLE 10 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)*

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
Performance and Payment Bond	Amount of Contract
Comprehensive General Liability: combined single limits for bodily injury and property damage, each occurrence	\$1,000,000
Comprehensive General Liability: combined single limits for bodily injury and property damage, general aggregate	\$2,000,000
Comprehensive Automobile Liability: bodily injury and property damage combined single limits, each occurrence	\$1,000,000
Workers Compensation	According to Statute
Employer's Liability	\$500,000
Umbrella Excess Liability: each occurrence	\$5,000,000
Umbrella Excess Liability: general aggregate	\$5,000,000

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User Notes:

(3B9ADA11)



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

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

J. Allan Browning, President

(Printed name and title)

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# Additions and Deletions Report for AIA® Document A101™ – 2007

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:01:20 on 03/24/2017.

## PAGE 1

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

...  
Monroe County Public Library  
303 East Kirkwood Avenue  
Bloomington, Indiana 47408-3534  
Telephone Number: 812-349-3050

...  
Browning Chapman, LLC  
9900 Westpoint Drive  
Suite 128  
Indianapolis, IN 46256  
Telephone Number: 317-608-2775

...  
Monroe County Public Library Building Envelope Repairs  
303 E. Kirkwood Avenue  
Bloomington, IN 47408  
Building envelope repair work in designated areas

...  
STR Building Resources, LLC  
N89W16785 Appleton Avenue  
Suite 201  
Menomonee Falls, Wisconsin 53051  
Telephone Number: 262-253-4700

## PAGE 3

The Contractor shall achieve Substantial Completion of the entire Work not later than October 31, 2017.

...  
None

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§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Eighteen Thousand Nine Hundred Ninety Dollars and Zero Cents (\$ 118,990.00 ), subject to additions and deductions as provided in the Contract Documents.

None

<u>Replacement of existing sealant joints, including proper backer materials</u>	<u>LF</u>	<u>\$8.10</u>
<u>Rout and seal cracks in limestone panels</u>	<u>LF</u>	<u>\$9.50</u>
<u>Patching of spalled limestone surfaces</u>	<u>SF</u>	<u>\$82.00</u>
<u>Wet sealing of window gaskets</u>	<u>LF</u>	<u>\$2.20</u>
<u>Changes to the Work: Overhead and profit on the net cost of our own Work</u>	<u>PERCENTAGE</u>	<u>18%</u>
<u>On the cost of Work done by any Subcontractor</u>	<u>PERCENTAGE</u>	<u>18%</u>

Cash Allowance for remediation of latent conditions or other intangibles, during the course of the Work, upon Owner's instructions Fifteen Thousand Dollars (\$15,000.00)

PAGE 4

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.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved

in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent ( 10 %);

**PAGE 5**

To be reviewed during construction and revised as allowed in the General Conditions of the Contract for Constructio

n

Arbitration pursuant to Section 15.4 of AIA Document A201-2007

**PAGE 6**

0 %

...  
Gary Lettelleir  
Finance Manager  
303 E. Kirkwood Avenue  
Bloomington, IN 47408  
Telephone Number: 812-349-3050  
Email Address: glettell@monroe.lib.in.us

...  
J. Allan Browning  
President  
9900 Westpoint Drive, Suite 128  
Indianapolis, IN 46256  
Telephone Number: 765-608-2775  
Email Address: abrowning@browningchapman.com

None

007300

Supplementary General  
Conditions to the A201-  
2007

3

See Exhibit "B", attached

**PAGE 7**

See Exhibit "B", attached

Addendum #1

March 7, 2017

I+attachments

Contractor's Form of Proposal, Exhibit "A", attached

Specification Manual, Table of Contents, Exhibit "B", attached

This Agreement

<u>Performance and Payment Bond</u>	<u>Amount of Contract</u>
<u>Comprehensive General Liability:</u> <u>combined single limits for bodily injury</u> <u>and property damage, each occurrence</u>	<u>\$1,000,000</u>
<u>Comprehensive General Liability:</u> <u>combined single limits for bodily injury</u> <u>and property damage, general aggregate</u>	<u>\$2,000,000</u>
<u>Comprehensive Automobile Liability:</u> <u>bodily injury and property damage</u> <u>combined single limits, each occurrence</u>	<u>\$1,000,000</u>
<u>Workers Compensation</u>	<u>According to Statute</u>
<u>Employer's Liability</u>	<u>\$500,000</u>
<u>Umbrella Excess Liability: each</u> <u>occurrence</u>	<u>\$5,000,000</u>
<u>Umbrella Excess Liability: general</u> <u>aggregate</u>	<u>\$5,000,000</u>

**PAGE 8**

J. Allan Browning, President

# Certification of Document's Authenticity

## AIA® Document D401™ – 2003

I, James B. Clark, 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 13:01:20 on 03/24/2017 under Order No. 0785467304 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

 **AIA**® Document B151™ – 1997

**Abbreviated Standard Form of Agreement Between Owner and Architect**

AGREEMENT made as of the Twenty-Fourth day of March  
in the year of Two Thousand Seventeen (24 March 2017)  
*(In words, indicate day, month and year)*

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

Monroe County Board of Trustees  
Monroe County Public Library  
303 E. Kirkwood Avenue  
Bloomington, IN 47408

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

and the Architect:  
*(Name, address and other information)*

MATHEU ARCHITECTS, PC  
205 N. College Avenue  
Suite 010  
Bloomington, IN 47404

For the following Project:  
*(Include detailed description of Project)*

Monroe County Public Library:  
Ellettsville Branch Library Renovation  
600 W. Temperance St.  
Ellettsville, IN 47429

Renovation project Scope of Work includes renovation of the Ellettsville Branch Library and a new addition. Work includes architectural and site/civil, structural, mechanical, electrical, and plumbing engineering. Reference attached Exhibit 'B' "Anticipated Scope of Work" for detailed description of Scope of Work and Services. The project is to meet an estimated budget of \$1 million total construction cost.

The Owner and Architect agree as follows.

## **ARTICLE 1 ARCHITECT'S RESPONSIBILITIES**

§ 1.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Articles 2, 3 and 12.

§ 1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

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

§ 1.4 The services covered by this Agreement are subject to the time limitations contained in Section 11.5.1.

## **ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES**

### **§ 2.1 DEFINITION**

The Architect's Basic Services consist of those described in Sections 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, and include normal structural, mechanical and electrical engineering services.

### **§ 2.2 SCHEMATIC DESIGN PHASE**

§ 2.2.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

§ 2.2.2 The Architect shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Section 5.2.1.

§ 2.2.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

§ 2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

§ 2.2.5 The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current area, volume or similar conceptual estimating techniques.

### **§ 2.3 DESIGN DEVELOPMENT PHASE**

§ 2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

§ 2.3.2 The Architect shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost.

### **§ 2.4 CONSTRUCTION DOCUMENTS PHASE**

§ 2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

\* § 2.4.2 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

§ 2.4.3 The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.



- \* § 2.4.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

## § 2.5 BIDDING OR NEGOTIATION PHASE

The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

\*\*

## § 2.6 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

§ 2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the initial Contract for Construction and terminates at the earlier of the issuance to the Owner of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.

§ 2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

§ 2.6.3 Duties, responsibilities and limitations of authority of the Architect under this Section 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

- \* § 2.6.4 The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment.

- \*\* § 2.6.5 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect in Article 12, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work 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. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.6 The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 2.6.7 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

§ 2.6.8 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

## § 2.6.9 CERTIFICATES FOR PAYMENT

§ 2.6.9.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts.

§ 2.6.9.2 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

\* § 2.6.10 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.11 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.12 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Sections 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents.

\* § 2.6.14 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

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

§ 2.6.17 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.18 The Architect's decisions on claims, disputes or other matters in question between the Owner and Contractor, except for those relating to aesthetic effect as provided in Section 2.6.17, shall be subject to mediation and arbitration as provided in this Agreement and in the Contract Documents.

### ARTICLE 3 ADDITIONAL SERVICES

#### § 3.1 GENERAL

§ 3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Sections 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Section 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Section 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

#### § 3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

§ 3.2.1 If more extensive representation at the site than is described in Section 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

§ 3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as of the date of this Agreement, unless otherwise agreed.

§ 3.2.3 Through the presence at the site of such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

#### § 3.3 CONTINGENT ADDITIONAL SERVICES

§ 3.3.1 Making revisions in drawings, specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

§ 3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Section 5.2.5.

§ 3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

§ 3.3.4 Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

§ 3.3.5 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

§ 3.3.6 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

§ 3.3.7 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

§ 3.3.8 Providing services in connection with a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto.

§ 3.3.9 Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase.

#### § 3.4 OPTIONAL ADDITIONAL SERVICES

§ 3.4.1 Providing analyses of the Owner's needs and programming the requirements of the Project.

§ 3.4.2 Providing financial feasibility or other special studies.

§ 3.4.3 Providing planning surveys, site evaluations or comparative studies of prospective sites.

\* § 3.4.4 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

§ 3.4.5 Providing services relative to future facilities, systems and equipment.

\* § 3.4.6 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

§ 3.4.7 Providing services to verify the accuracy of drawings or other information furnished by the Owner.

§ 3.4.8 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

§ 3.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

§ 3.4.10 Providing detailed estimates of Construction Cost.

§ 3.4.11 Providing detailed quantity surveys or inventories of material, equipment and labor.

§ 3.4.12 Providing analyses of owning and operating costs.

\* § 3.4.13 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

§ 3.4.14 Providing services for planning tenant or rental spaces.

§ 3.4.15 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

§ 3.4.16 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

§ 3.4.17 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

§ 3.4.18 Providing services after issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

§ 3.4.19 Providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

§ 3.4.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

#### ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall provide full 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. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 4.2 The Owner shall establish and periodically update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

§ 4.3 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such designated representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

§ 4.5 The Owner shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

§ 4.6 The Owner shall furnish the services of consultants other than those designated in Section 4.5 when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 4.7 The Owner shall furnish structural, mechanical, and chemical tests; tests for air and water pollution; tests for hazardous materials; and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

\*\* § 4.8 The Owner shall furnish all legal, accounting and insurance services that may be necessary at any time for the Project to meet the Owner's needs and interests. Such services shall include auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

§ 4.9 The services, information, surveys and reports required by Sections 4.4 through 4.8 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

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

## ARTICLE 5 CONSTRUCTION COST

### § 5.1 DEFINITION

§ 5.1.1 The Construction Cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

§ 5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 5.1.3 Construction Cost does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner as provided in Article 4.

### § 5.2 RESPONSIBILITY FOR CONSTRUCTION COST

§ 5.2.1 Evaluations of the Owner's Project budget, the preliminary estimate of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

§ 5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

§ 5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry.

§ 5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Section 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in such fixed limit;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 8.5; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

§ 5.2.5 If the Owner chooses to proceed under Section 5.2.4.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of such documents without cost to the Owner shall be the limit of the Architect's responsibility under this Section 5.2.5. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

## ARTICLE 6 USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

\* § 6.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

§ 6.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 6.3 Except for the licenses granted in Section 6.2, 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. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 6.2. 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. The Owner shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the Owner obtains the prior written agreement of the Architect and the Architect's consultants. 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.

§ 6.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

\*

## ARTICLE 7 DISPUTE RESOLUTION

### § 7.1 MEDIATION

\*\* § 7.1.1 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 arbitration or the institution of legal or equitable proceedings by either party. 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 arbitration.

\* § 7.1.2 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 in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable 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.

§ 7.1.3 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.

### \* § 7.2 ARBITRATION

§ 7.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Section 7.1.

§ 7.2.2 Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.

§ 7.2.3 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

§ 7.2.4 No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. 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 or with a person or entity not named or described therein. 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.

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

### § 7.3 CLAIMS FOR CONSEQUENTIAL DAMAGES

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 in accordance with Article 8.

## ARTICLE 8 TERMINATION OR SUSPENSION

§ 8.1 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, prior to suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 8.2 If the Project is suspended by the Owner for more than 30 consecutive days, 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.

§ 8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 8.4 This Agreement may be terminated by either party 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.

§ 8.5 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

\*§ 8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 8.7.



\* § 8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

\*

#### ARTICLE 9 MISCELLANEOUS PROVISIONS

\* § 9.1 This Agreement shall be governed by the law of the principal place of business of the Architect, unless otherwise provided in Article 12.

§ 9.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

§ 9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

§ 9.4 To the extent damages are covered by property insurance during construction, 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 the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 9.5 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of 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 an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

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

§ 9.7 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.

\* § 9.8 Unless otherwise provided in this Agreement, the Architect and Architect's consultants 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.

§ 9.9 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.

§ 9.10 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. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

\*

## **ARTICLE 10 PAYMENTS TO THE ARCHITECT**

### **§ 10.1 DIRECT PERSONNEL EXPENSE**

Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

### **§ 10.2 REIMBURSABLE EXPENSES**

**§ 10.2.1** Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- \* .1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- .4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .5 renderings, models and mock-ups requested by the Owner;
- .6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;
- .7 reimbursable expenses as designated in Article 12;
- .8 other similar direct Project-related expenditures.

### **§ 10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES**

**§ 10.3.1** An initial payment as set forth in Section 11.1 is the minimum payment under this Agreement.

**§ 10.3.2** Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Section 11.2.2.

**§ 10.3.3** If and to the extent that the time initially established in Section 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Section 11.3.2.

**§ 10.3.4** When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.2.2, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

### **§ 10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES**

Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

### **§ 10.5 PAYMENTS WITHHELD**

No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

### **§ 10.6 ARCHITECT'S ACCOUNTING RECORDS**

Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

**ARTICLE 11 BASIS OF COMPENSATION**

The Owner shall compensate the Architect as follows:

§ 11.1 An Initial Payment of NA

(\$ NA ) shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

**§ 11.2 BASIC COMPENSATION**

§ 11.2.1 For Basic Services, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows:

*(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)*

Basic Compensation shall be a stipulated sum of \$76,000.00 (Seventy-Six Thousand Dollars) based on a \$1,000,000.00 (One Million Dollars) construction budget.

§ 11.2.2 Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

*(Insert additional phases as appropriate.)*

Pre-Design:	percent ( 05% )	\$ 3,800.00
Schematic Design:	percent ( 15 % )	\$ 11,400.00
Design Development Phase:	percent ( 25 % )	\$ 19,000.00
Construction Documents Phase:	percent ( 30 % )	\$ 22,800.00
Bidding or Negotiation Phase:	percent ( 05 % )	\$ 3,800.00
Construction Phase:	percent ( 20 % )	\$ 15,200.00

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Total Basic Compensation                      one hundred percent ( 100.00% )    \$ 76,000.00

**§ 11.3 COMPENSATION FOR ADDITIONAL SERVICES**

§ 11.3.1 For Project Representation Beyond Basic Services, as described in Section 3.2, compensation shall be computed as follows:

Compensation shall be based on an hourly rate of:

Principal:	\$120.00
Project Manager:	\$110.00
Technician:	\$ 65.00

§ 11.3.2 For Additional Services of the Architect, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Section 3.2, and (2) services included in Article 12 as part of Basic Services, but excluding services of consultants, compensation shall be computed as follows:  
*(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)*

Compensation for Additional Services related to Change Orders shall be seven and six tenths percent (7.6%) of actual construction cost for Change Order items. All other Additional Services shall be based on the Architect's rate as listed in 11.3.1.

§ 11.3.3 For Additional Services of Consultants, including additional structural, mechanical and electrical engineering services and those provided under Section 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of Ten Percent ( 1.1 ) times the amounts billed to the Architect for such services.  
*(Identify specific types of consultants in Article 12, if required.)*

#### § 11.4 REIMBURSABLE EXPENSES

For Reimbursable Expenses, as described in Section 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of Ten Percent ( 1.1 ) times the expenses incurred by the Architect, the Architect's employees and consultants directly related to the Project.

#### § 11.5 ADDITIONAL PROVISIONS

§ 11.5.1 If the Basic Services covered by this Agreement have not been completed within thirty ( 30 ) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Sections 10.3.3 and 11.3.2.

§ 11.5.2 Payments are due and payable thirty ( 30 ) days from the date 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 interest agreed upon.)*

One percent per month compounded.

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

§ 11.5.3 The rates and multiples set forth for Additional Services shall be adjusted in accordance with the normal salary review practices of the Architect.

**\* ARTICLE 12 OTHER CONDITIONS OR SERVICES**

*(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)*

Reference the attached Exhibits which shall be included as part of this Agreement:

Exhibit 'A': Supplemental Conditions to AIA Document B151-1997  
Form of Agreement Between Owner and Architect

Exhibit 'B': Anticipated Scope of Work

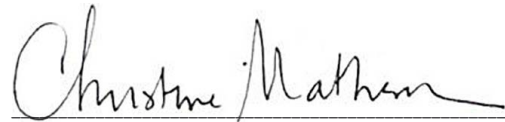
Exhibit 'C': Project Schedule

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

**OWNER**

**ARCHITECT**

\_\_\_\_\_



*(Signature)*

Monroe County Public Library

Christine Matheu, AIA, President  
MATHEU ARCHITECTS, PC

*(Printed name and title)*

*(Printed name and title)*

**CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.**

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EXHIBIT 'A'

SUPPLEMENTAL CONDITIONS

TO AIA DOCUMENT B151- 1997 EDITION

Unless otherwise provided in these Supplemental Conditions, the parties shall be bound and governed by the terms of AIA Document B151, 1997 Edition, Abbreviated Standard Form of Agreement Between Owner and Architect. The following Supplemental Conditions modify, delete from and add to the B151. Where an Article, Paragraph or Clause of the B151 is modified, deleted or added by these Supplemental Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or clause will remain in effect. If a conflict exists between the other contract Documents and these Supplemental Conditions, then these Supplemental Conditions shall prevail.

ARTICLE 1: ARCHITECT'S RESPONSIBILITIES  
NO SUPPLEMENTS

ARTICLE 2: SCOPE OF ARCHITECT'S BASIC SERVICES

- 2.4.2 ADD the following sentence at the end of this subparagraph: "The Architect shall not furnish any legal or insurance assistance. However, the Architect shall cooperate with the Owner's legal and insurance advisors."
- 2.4.4.1 ADD the following subparagraph: "In the event that any such governmental authority requests or requires anything other than normal architectural and engineering drawings and specifications, any such additional documents shall be compensated as Additional Services."
- 2.5.1.1 ADD the following subparagraph: "The Architect shall assist the Owner in evaluation of bids or negotiated proposals, and shall respond to questions as necessary, including the preparation of any addenda."
- 2.5.1.2 ADD the following subparagraph: "The Owner shall make an independent investigation into the financial capability of the proposed Contractor, and the Owner waives any claim against the Architect for any damages that may arise out of the bankruptcy or any other financial difficulties of the Contractor."
- 2.6.4.1 ADD the following subparagraph: "If the Architect is required to provide services pursuant to Paragraph 2.6.4 beyond the time stated in Paragraph 2.6.1, such further services shall be considered additional services."
- 2.6.5.1 ADD the following subparagraph: "The Architect has allowed an average of one site visit every other week during the construction phase, not to exceed sixty (60) days past the construction phase completion."

- 2.6.5.2 ADD the following subparagraph: "The Architect shall attend such conferences with representatives of the Owner and other interested parties as may be required in connection with the Work and shall make its services available to the Owner during the construction of the Project, for the interpretation of plans where disagreement may arise and for consultation during construction in the event unforeseen conditions arise."
- 2.6.9.4 ADD the following subparagraph: "The Owner shall also be responsible for reviewing all Applications for Payment by the Contractor and shall review all documentation, including waivers of lien, accompanying such Applications. The Architect's sole obligation relative to such Applications is to ascertain whether the Work has progressed to the point indicated in the Application."
- 2.6.10 DELETE this subparagraph in its entirety and SUBSTITUTE the following: "The Architect shall advise the Owner to reject work that does not conform to the Contract Documents. Whenever reasonable judgment would indicate a probability of a nonconforming or adverse circumstance, and in order to insure the proper implementation of the intent of the contract Documents, the Architect shall advise the Owner to require special inspection or testing of any work whether or not such work has been then fabricated, installed or completed."
- 2.6.14 DELETE this subparagraph in its entirety and SUBSTITUTE the following: "The Architect shall review the Work to determine the date or dates of Substantial Completion and the date of Final Completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents."

ARTICLE 3: ADDITIONAL SERVICES

- 3.4.4 ADD the following phrase at the end of this subparagraph: "to include, but not limited to, services and fees arising from applications for variance from codes and ordinances."
- 3.4.6 ADD the following subparagraph: "The Architect shall not be responsible for the verification of the condition of an existing structure, equipment or appliance unless such verification can be made by simple visual observation. Any further investigation, if authorized or requested by the Owner, shall also be provided as an Additional Service. If, after the Contract Documents are prepared, it appears from the uncovering of parts or portions of an existing structure that the plans

EXHIBIT 'A'

SUPPLEMENTAL CONDITIONS

TO AIA DOCUMENT B151- 1997 EDITION

and/or specifications must be altered to conform to previously hidden conditions, all such work shall be performed by the Architect as an Additional Service.”

- 3.4.13 DELETE the subparagraph in its entirety and SUBSTITUTE the following:  
“Providing services required for or in connection with the procurement or installation of furniture, furnishings and related equipment.”

ARTICLE 4: OWNER’S RESPONSIBILITIES

- 4.8.1 ADD the following subparagraph: “The Owner acknowledges that the Architect has no responsibility to the Owner or to any other party regarding any matters concerning insurance, accounting or legal matters. Specifically, the Owner shall decide all insurance requirements and whether or not the responsible parties comply with those requirements. This shall be the Owner’s responsibility at all times, even though the insurance requirements may be part of the Bid Documents or Project Manual and even though Certificates of Insurance may be sent to the Architect for forwarding to the Owner.”

- 4.8.2 ADD the following subparagraph: “The Owner acknowledges that the requirements of the Americans with Disabilities Act (ADA), Fair Housing Act (FHA) and other federal, state and local accessibility laws, rules, codes, ordinances and regulations will be subject to various and possibly contradictory interpretations. The Architect, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the execution of the Agreement, and as they apply to the Project. The Architect, however, cannot and does not warrant or guarantee that the Owner’s Project will comply with all interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

ARTICLE 5: CONSTRUCTION COST

NO SUPPLEMENTS

ARTICLE 6: USE OF ARCHITECT’S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

- 6.1.1 ADD the following subparagraph: “In the event of any unauthorized use, reuse or modification of the Architect’s drawings, specifications or other documents prepared by the Architect, whether such unauthorized use, reuse or modification is made by the Owner, the Owner’s employees, agents, consultants, contractors or any third party whatsoever, the Owner agrees to indemnify and hold harmless the Architect, its officers, directors and employees, from and against any claims, suits,



EXHIBIT 'A'

SUPPLEMENTAL CONDITIONS

TO AIA DOCUMENT B151- 1997 EDITION

demands, losses and expenses, including attorneys' fees accruing or resulting to any and all persons, firms or any other legal entity, on account of any damage or loss to property or persons, including death, arising out of such unauthorized use, reuse or modification as stated above. The parties hereto intend to give this indemnification provision the broadest possible effect. This indemnification shall not be effective in the event of the Architect's sole negligence as determined by a court of competent jurisdiction."

- 6.5 ADD the following subparagraph: "Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the Architect as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement."

ARTICLE 7: ARBITRATION

- 7.1.1 DELETE from the first sentence the words "arbitration or".

- 7.1.1.1 ADD the following subparagraph: "The Architect shall require a similar Agreement from all of its consultants. The Owner shall require a similar Agreement from all of its contractors."

- 7.1.2 DELETE the last sentence and SUBSTITUTE the following: "Mediation shall proceed in advance of legal or equitable 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."

- 7.2 DELETE this paragraph in its entirety.

ARTICLE 8: TERMINATION, SUSPENSION OR ABANDONMENT

- 8.6.1 ADD the following subparagraph: "In the event of any failure of payment by the Owner, the Architect shall have the right to retain any and all documents, drawings, specifications, models, surveys, reports and similar items, whether prepared by the Architect or submitted to the Architect by others, until full payment is received. In such event, the Architect shall have no liability for any damages or losses that may result from the withholding of any such items."

- 8.7 DELETE in its entirety and SUBSTITUTE the following: "Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not

EXHIBIT 'A'

SUPPLEMENTAL CONDITIONS

TO AIA DOCUMENT B151- 1997 EDITION

otherwise compensated.”

- 8.8 ADD the following subparagraph: “If the Owner terminates this Agreement for any reason before the completion of construction, or if the Owner retains the Architect for less than the normal full services, than the Owner agrees to indemnify and hold harmless the Architect from and against any and all claims, suits, demands, losses and expenses, including attorneys’ fees, accruing or resulting to any and all persons, firms or any other legal entity, on account of any damage or loss to property or persons, including death, arising out of or related to the Work, except in the event the Architect is found to be solely liable for such losses or damages by a court of competent jurisdiction.”

ARTICLE 9: MISCELLANEOUS PROVISIONS

- 9.1 DELETE in its entirety and SUBSTITUTE the following: “This Agreement shall be governed by the laws of Indiana.”

- 9.8.1 ADD the following subparagraph: “The Architect hereby states and the Owner acknowledges that the Architect has no professional liability or other insurance and is unable to reasonably obtain such insurance for claims arising out of the performance of or failure to perform professional services, related to the discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB), lead or other toxic substances. Accordingly, the Owner hereby agrees to institute or maintain no claim against the Architect, Consultants or employees for negligence, breach of contract, indemnity or otherwise, with respect to any claim which in any way involves the Architect’s services for the investigation of or remedial work related to toxic substances in the project. The Owner further agrees to defend, indemnify and hold the Architect, the Architect’s consultants and employees harmless from such toxic or hazardous materials claims that may be brought by third parties as a result of the services provided by the Architect pursuant to this Agreement, except for claims arising out of the sole negligence of the Architect.”

- 9.11 ADD the following subparagraph: “In the event any legal or arbitration proceedings are commenced between the parties to this Agreement to enforce any part of this Agreement, the prevailing party in such proceedings shall be entitled, in addition to any other relief granted in such proceedings, to reasonable attorneys’ fees, which shall be determined by the court or other forum in such proceeding, or in a separate proceeding brought for such purpose.”

EXHIBIT 'A'

SUPPLEMENTAL CONDITIONS

TO AIA DOCUMENT B151- 1997 EDITION

Page 6 of 6

ARTICLE 10: PAYMENTS TO THE ARCHITECT

10.2.1.1 ADD the phrase "for travel outside a radius of 30 miles of Bloomington, Indiana at the rate of fifty-six and five tenths cents (\$.565) per mile" following the word "Project" in the second line.

ARTICLE 11: BASIS OF COMPENSATION

NO SUPPLEMENTS

ARTICLE 12: OTHER CONDITIONS OR SERVICES

12.1 ADD the following subparagraph: "The Architect shall provide the Owner a set of construction documents in PDF format for their reference."

END OF EXHIBIT 'A'



## ANTICIPATED SCOPE OF WORK

### I. SCOPE OF WORK

Based on information provided in the RFP, MATHEU ARCHITECTS, PC understands that the Ellettsville Branch Library renovation project has an estimated \$1 million construction budget. The Library would like to have included in the project, in order of priority, as much as the following Scope of Work as possible within the \$1 million project construction budget:

#### ***A. Essential Renovations and Service Enhancements:***

##### ***1. Facility Upgrades:***

- a. HVAC:* Replace the HVAC system with a commercial unit.
- b. ADA Parking:* Repair accessible parking spaces to address slope and meet the sidewalk grade.
- c. Emergency Lighting:* Upgrade the emergency light system.
- d. Security:* Upgrade the security camera system.
- e. Restrooms:* Update the public restrooms to meet ADA accessibility.
- f. Program Room:* Replace the program room floor, fix the light panel, and add HDMI to the A/V panel.
- g. Lobby:* Paint and replace the floor in the lobby.
- h. Windows:* Replace windows with broken seals.

##### ***2. Service Improvements:***

- a. Teen Room:* Create a teen room within the existing library space by expanding towards the express computer stations which would be removed in favor of laptops and tablets. Space for study and collaboration. The space is to include a mix of study furniture and soft seating, as well as easy to clean floors. Enclosing the teen room with glass walls for sound-proofing and visibility from the desk is to be considered. Furniture would be provided under a separate furniture contract.
- b. Learn and Play Space:* Add a Learn and Play Space to the existing children's wing. Because the existing children's wing is insufficient in size to accommodate a Learn and Play Space, an addition to the children's wing towards the main parking lot is to be considered. Furniture is to be provided under a separate furniture contract.
- c. Relocation of Collections:* Library will relocate staff-edited children's non-fiction into the children's wing or adjacent area to better serve customers. Some adult collections and materials will also be edited by the staff to improve adjacencies.
- d. Service Desks:* Combine two service desks into a single service desk, accommodating three staff members, and locate new desk where existing reference desk is currently located. Provide a single service point that will be visible from the entry and will allow the staff to have sight lines to the children's wing and teen room. Furniture is to be provided under a separate furniture contract.
- e. Holds Shelves:* Install taller holds shelves where the current customer service desk is located. On the back side of the holds shelves consider staff storage for the in-house circulation of laptops and tablets, charging stations, and maker kits and storage. Furniture is to be provided under a separate furniture contract.

## EXHIBIT 'B'

### Monroe County Public Library: Ellettsville Branch Library Renovation

*f. Sorter Room:* Expand the sorter room by moving the non-load bearing wall in the lobby out several feet to increase the space in the sorter room to resolve sorter malfunctions. Consider wall mounting the server to increase space and add a glass half-wall in the lobby so customers may watch their materials returned.

*g. Laptops and Tablets:* To be purchased for in-house use by the Library.

*h. Computer and Express Check Furniture:* Replace the computer and express check furniture with furniture with smaller footprint. The computer to be provided by the Library, and the furniture would be provided under a separate furniture contract.

*i. Study Room:* Expand existing study room to accommodate 4 – 6 people and add technology that supports creative work.

*j. Library Sign:* Replace existing exterior library sign with more modern sign.

*k. Visual Merchandising Furniture:* Add visual merchandising furniture to promote new materials, programs, and services. This Scope to be under separate furniture contract.

*l. Wi-Fi Hubs:* Add Wi-Fi hubs to eliminate dead zones. This Scope of Work would be provided by the Library Tech department.

#### ***B. Non-Essential but Preferred Renovations and Service Enhancements:***

##### ***1. Facility Upgrades:***

*a. Generator:* Provide an emergency backup generator.

*b. Parking Lot:* Re-stripe the parking lot to accommodate more parking spaces.

*c. Landscaping:* Replace dead plants with native plants.

##### ***2. Service Enhancements:***

*a. Restroom:* Add a restroom to proposed Learn and Play space.

*b. Study Room:* Add a third study room to accommodate 2 – 3 people.

*c. Quiet Area:* Add a quiet area with a combination of soft and study seating. Furniture would be provided under a separate contract.

#### ***C. Ideal Renovations and Service Enhancements:***

##### ***1. Facility Upgrades:***

*a. Eliminate Program Room Renovation:* Eliminate renovating program room and instead provide service enhancement below.

##### ***2. Service Enhancements:***

*a. Children's Room Expansion:* Expand children's wing by converting the current program room into part of the children's wing. Incorporate all children's collections in this space, add a Learn and Play space and family restroom.

*b. Program Room:* Add a program room for 125 people. The room is to have up-to-date A/V technology, external pedestrian access, an adjacent restroom, small storage room and kitchen.

## **II. SCOPE OF SERVICES**

MATHEU ARCHITECTS believes in the strength of collaboration in which the Owner and the project team bring their respective expertise to the project. The Architect, working closely with the consultants, coordinates the work to create a complete seamless project from design through construction. For the Ellettsville Branch Library renovation project we would propose the following sequence of work:

## EXHIBIT 'B'

### Monroe County Public Library: Ellettsville Branch Library Renovation

#### **A. Pre-Design:**

1. *Kick-Off Meeting:* The Architect will meet with Library representatives to confirm project priorities in context of the construction budget.
2. *Staff and Community Input:* The Architect will conduct the following meetings:
  - Library staff: To confirm performance requirements for the renovated building areas;
  - Ellettsville teens: To seek additional input on the activities, look, and feel of the proposed teen space;
  - Local Families: To seek additional input on the look and feel of the proposed learn and play space.
3. *Building Survey:* The Architect and engineers will check the existing building to confirm that spaces and systems match those described in the drawings provided by the Owner, and they will visually survey existing conditions.
4. *Measured Drawings:* If electronic AutoCad drawings are not available, the Architect will prepare base drawings in AutoCad format.
5. *Building Analysis:* Architect and engineers will prepare an analysis of the existing building conditions and engineering systems. In response to the Library's request, the Architect will also look at the existing attic stairs to see if access may be improved using a low-cost, low impact solution.
6. *Space Program:* The Architect working with the Library Design consultant will prepare a space program which will include size and performance requirements for the proposed renovation areas and new addition.
7. *Meeting:* The Architect will meet with the Owner to review the building analysis and the space program.
8. *Code Review:* The Architect will review building code requirements.
9. *Consultant Meetings:* Architect will meet with consultants to establish a conceptual design possibilities.

#### **B. Schematic Design:**

1. *Concept Drawings:* The Architect and the Library Design Consultant will prepare Concept Design drawings.
2. *Meeting:* The Architect will meet with the Owner to review the Concept Design drawings and to confirm design direction.
3. *Schematic Documents:* The Architect will prepare Schematic Design documents, including floor plans, general furniture layout, the space program, code review, architectural and engineering design narrative, preliminary construction cost estimate, and schedule.
4. *Consultant Meetings:* The Architect will meet with consultants to coordinate design direction.
5. *Meeting:* The Architect will meet with the Owner to review the Schematic Design.
6. *Public Presentation:* If requested by Owner, the Architect will present the project in a public forum.

#### **C. Design Development:**

1. *Architectural and Engineering Design:* The Architect and Consultants will prepare Design Development documents. These will include: floor plans; roof plan, building section and elevations of new addition(s); general furniture layout; wall sections; interior finishes, door, and window schedules; engineering plans and schedules; updated code review, design narrative, and project schedule; project phasing strategy; updated project cost estimate with additional verification by a local estimating contractor. Alternates for cost control will be identified.
2. *Interior Design:* The Architect will select interior finishes and prepare an interior finishes board.
3. *Coordination:* Architect will conduct coordination meetings with Consultants.
4. *Meeting:* The Architect will meet with Owner to present Design Development documents and confirm design direction.
5. *Public Presentation:* If requested by Owner, the Architect will present the project in a public forum.

#### **D. Construction Documents:**

1. *Construction Documents:* The Architect and Consultants will prepare Construction Documents for State Plan Review and with the intent to bid the project. Drawings will include: revised Design Development drawings; interior elevations; construction details; enlarged toilet room and casework plans; and

## EXHIBIT 'B'

### Monroe County Public Library: Ellettsville Branch Library Renovation

engineering details. Alternates and project phasing will be confirmed. The project manual with project specifications will be prepared.

2. *Meeting*: The Architect will present the Construction Documents to the Owner for approval to go to bid.

3. *State Plan Review*: The Architect will submit Construction Documents for State Plan Review.

#### **E. Bidding:**

1. *Construction Bidding*: The Architect will assist the Owner in advertising and obtaining bids from general contractors. The Architect will electronically distribute bid documents and addenda.

2. *Bid Opening and Analysis*: The Architect will assist the Owner with the construction bid opening and will prepare a bid analysis.

3. *Owner-Contractor Agreements*: The Architect will prepare the Owner-Contractor Agreement.

#### **F. Construction Observation:**

1. *Pre-Construction and Progress Meetings*: The Architect will conduct pre-construction and bi-weekly progress meetings during construction and will prepare meeting notes.

2. *Site Visits*: The Architect and Consultants will make regular site visits to observe construction and answer questions.

3. *Submittals Review*: The Architect and Consultants will review product data, samples, and other submittal requirements identified in the Specifications.

4. *Pay Application Review*: The Architect will review Contractor pay applications.

5. *Project Closeout*: The Architect and Consultants will prepare punch list items and closeout documents.

### **III. FURNITURE**

It is the understanding of the Architect that the furniture will be provided under a separate contract.

However, since furniture is an integral part of the architectural design, the Architect would provide general furniture layouts as part of Basic Services for the architectural portion of the project. This will allow the engineers to locate electrical power, data, and lighting appropriately.

The Architect would be happy to provide interior design furniture services for the project under a separate agreement or as an addendum to the architectural and engineering Basic Services agreement. We would work with the Library in selecting appropriate furniture and finishes for the Library, and we would work with the furniture vendor(s) and the Library to purchase the furniture.

END OF EXHIBIT 'B'



**MATHEU ARCHITECTS, PC**

**EXHIBIT 'C': Preliminary Project Schedule**

**MONROE COUNTY PUBLIC LIBRARY: ELLETTSVILLE BRANCH LIBRARY RENOVATION**

<u>TASK</u>	<u>DATE</u>
Owner Gives Architect Approval to Prepare Agreement_____	23 Mar 2017
Architect Prepares Owner-Architect Agreement_____	24 Mar – 5 April 2017
Owner Reviews and Signs Owner-Architect Agreement_____	5 – 19 April 2017
Architect Meets with Owner to Begin Project_____	21 April 2017
Architect & Owner Schedule Staff & Community Input Meetings_____	24 – 26 April 2017
Architect Prepares Measured Base Drawings_____	24 April - 3 May 2017
Architect & Engineers Survey & Assess Existing Conditions_____	4 - 28 May 2017
Architect Conducts Staff & Community Input Meetings_____	8 – 12 May 2017
Architect Presents Staff & Community Input Findings to Owner_____	17 May 2017
Architect & Library Consultant Prepare Space/Performance Program__	18 - 26 May 2017
Architect Reviews Space Program & Exist. Conditions with Owner_____	29 May 2017
Architect & Library Consultant Prepare Concept Design_____	30 May – 20 June 2017
Architect Reviews Concept Design with Owner_____	21 June 2017
Architect Prepares Schematic Design_____	22 June – 30 July 2017
Architect Reviews Schematic Design with Owner_____	31 July 2017
Architect Presents Schematic Design to Library Board for Approval_____	1 Aug 2017
Architect Presents Schematic Design to Public_____	2 Aug 2017
Architect Prepares Design Development Documents_____	3 Aug - 15 Sept 2017
Architect Reviews Design Development Documents with Owner_____	18 Sept 2017
Architect Presents Design Development Documents to Board for Approval_	20 Sept 2017
Architect Presents Design Development Documents to Public_____	21 Sept 2017
Architect Prepares Construction Documents_____	22 Sept -20 Nov 2017
Architect Presents Construction Documents to Owner_____	20 Nov 2017
Architect Presents Construction Documents to Library Board for Approval_	21 Nov 2017
Architect Submits Construction Documents to State Plan Review_____	27 Nov 2017
Construction Documents Printed and Distributed to Contractors_____	27 Nov 2017
Architect Conducts Pre-Bid Meeting_____	7 Dec 2017
Architect Prepares and Distributes Addendum_____	10 Dec 2017
Architect Receives Contractors' Bids & Reviews with Owner_____	21 Dec 2017
Architect Prepares Owner-Contractor Agreement for Signatures_____	22 – 28 Dec 2017
Owner and Contractor Sign Agreement_____	29 Dec 2017
Construction Begins in Phases_____	2 Jan 2018
Substantial Completion of Construction in Phases _____	June 2018, Dec 2018
Furniture Installation_____	June 2018, Dec 2018
Owner Occupies New Spaces in Phases_____	July 2018, Jan 2018

END OF EXHIBIT 'C'