

Regular Meeting May 4, 2020

A regular meeting of the Nash County Board of Commissioners was held at 9:00 AM, May 4, 2020 in the Frederick B. Cooper, Jr. Commissioners' Room at the Claude Mayo, Jr. Administration Building in Nashville, NC.

Present were Chairman Robbie B. Davis and Commissioners Fred Belfield, Jr., Dan Cone, Sue Leggett, J. Wayne Outlaw, Lou M. Richardson, and Mary P. Wells.

Others present at various times during the meeting and participating remotely were Adam Tyson, Andy Hagy, Patsy McGhee, Mike Barnette, McDavid Associates, Brent Fisher, Ted Cole, Doris Sumner, Stacie Shatzer, Donna Wood, Jonathan Boone, Sheriff Keith Stone, Janice Evans, Zee B. Lamb, Vince Durham, Battle, Winslow, Scott & Wiley and other staff members and members of the public.

Chairman Davis called the meeting to order and provided a brief explanation regarding prayer and the Pledge of Allegiance in Nash County. He stated it is customary that Nash County starts each meeting with a prayer by a Commissioner and Pledge of Allegiance and that anyone wishing to participate in the prayer, moment of silence, or a prayer of their own choice was welcomed.

Chairman Davis called on Mr. Dan Cone for the invocation and Mr. J. Wayne Outlaw to lead the Pledge of Allegiance.

Chairman Davis provided an outline of the format for the meeting and explained the process for public comment.

The following notice for the meeting was provided to the public:

******* IMPORTANT CORONAVIRUS (COVID-19) NOTICE *******

Due to the threat of COVID-19, members of the public are encouraged to participate online instead of in person. The process for this meeting, in order to comply with social distancing and the reduced size of gatherings to 10 people, will only allow the seven (7) commissioners and two (2) staff members in the Commissioners' Room at one time during the meeting. Other staff members and participants will wait in the hallway to alternate entering to make presentations.

Members of the public attending the meeting in person and viewing the meeting from the hallway are asked to avoid contact with others and to stay at least six feet away from others at all times in order to limit potential exposure. The gathering restriction to 10 people will also apply to the hallway.

Public comments emailed to public.comment@nashcountync.gov at least thirty minutes prior to the start of the meeting will be addressed at the meeting during the public comment period. The meeting may be watched live online at www.youtube.com/nashcountync.

Chairman Davis asked the Board to consider approval of the minutes.

On motion of J. Wayne Outlaw seconded by Dan Cone and duly passed that the minutes of the April 6, 2020 regular meeting and April 8, 2020 recessed meeting be approved.

Chairman Davis provided a brief explanation of Nash County's Public Comment Policy and asked for any public comments. There were none.

Mr. Adam Tyson, Planning Director presented for the Board's consideration General Rezoning Request Z-200301 to rezone approximately 0.24 acres located on White Oak Road from R-30 (Single & Two-Family Residential) to R-20 (Medium Density Residential). He advised the Nash County Technical Review Committee (TRC) considered General Rezoning Request Z-200301 on February 28, 2020 and recommended **APPROVAL** based on its determination that the request is reasonable, in the public interest, consistent with the recommendations of the Nash County Land Development Plan, and not "spot zoning." He also advised the Nash County Planning Board considered General Rezoning Request Z-200301 on March 16, 2020. No members of the public, other than the applicant, attended the meeting or addressed the Board with regard to this request. The Planning Board voted unanimously to recommend:

- (1) **APPROVAL of Consistency Statement 'A' below** – finding the request to be reasonable, in the public interest, consistent with the recommendations of the Nash County Land Development Plan, and not "spot zoning;" and
- (2) **APPROVAL** of the request to rezone the approximately 0.24 acre subject property to the R-20 (Medium Density Residential) Zoning District.

Consistency Statement 'A' (For APPROVAL):

General Rezoning Request Z-200301 is:

- (1) Reasonable and in the public interest.
- (2) Consistent with the recommendations of the Nash County Land Development Plan (LDP) because:
 - (a) The LDP designates the subject property as Suburban Growth Area.
 - (b) The LDP explicitly supports the rezoning of property within the Suburban Growth Area to the R-20 (Medium Density Residential) Zoning District where both public water and sewer service is available.
 - (c) The subject property has access to Nash County public water and sewer service via an existing 6-inch waterline and an existing 8-inch gravity sewer line installed within the immediately adjacent White Oak Road public right-of-way.
- (3) Not "spot zoning" because it is an expansion of the already existing and immediately adjacent R-20 (Medium Density Residential) Zoning District established along the E NC Highway 97 corridor between the City of Rocky Mount to the north and W Tarboro Road to the south, including the western portion of the subject lot itself.

On motion of J. Wayne Outlaw seconded by Sue Leggett and duly passed that the Board go into a public hearing

Mr. Andy Brown of River Walk Drive, Rocky Mount spoke in support of the request.

On motion of Fred Belfield, Jr. seconded by Mary P. Wells and duly passed that the public hearing adjourn.

On motion of J. Wayne Outlaw seconded by Lou M. Richardson and duly passed that the Nash County Board of Commissioners adopt **Consistency Statement 'A'** related to General Rezoning Request Z-200301.

Consistency Statement 'A' (For APPROVAL):
General Rezoning Request Z-200301 is:

- (1) Reasonable and in the public interest.
- (2) Consistent with the recommendations of the Nash County Land Development Plan (LDP) because:
 - (a) The LDP designates the subject property as Suburban Growth Area.
 - (b) The LDP explicitly supports the rezoning of property within the Suburban Growth Area to the R-20 (Medium Density Residential) Zoning District where both public water and sewer service is available.
 - (c) The subject property has access to Nash County public water and sewer service via an existing 6-inch waterline and an existing 8-inch gravity sewer line installed within the immediately adjacent White Oak Road public right-of-way.
- (3) Not "spot zoning" because it is an expansion of the already existing and immediately adjacent R-20 (Medium Density Residential) Zoning District established along the E NC Highway 97 corridor between the City of Rocky Mount to the north and W Tarboro Road to the south, including the western portion of the subject lot itself.

On motion of J. Wayne Outlaw seconded by Mary P. Wells and duly passed that the Nash County Board of Commissioners **APPROVE** General Rezoning Request Z-200301 to rezone the subject property to R-20 (Medium Density Residential).

Mr. Tyson presented for the Board's consideration Text Amendment Request A-200301 to amend the Nash County Unified Development Ordinance in order to define "event and conference venue" as a land use, to permit its development in the A1, RC, & GC Zoning Districts with the issuance of a conditional use permit, and to establish related development standards. He advised the Nash County Technical Review Committee (TRC) considered Text Amendment Request A-200301 on February 28, 2020 and recommended **APPROVAL** based on its determination that the request is reasonable, in the public interest, and not inconsistent with the recommendations of the

Nash County Land Development Plan. He also advised the Nash County Planning Board considered Text Amendment Request A-200301 on March 16, 2020. No members of the public, other than the applicant, attended the meeting or addressed the Board with regard to this request. The Planning Board voted unanimously to recommend:

- (1) **APPROVAL of Consistency Statement ‘A’ below** - finding the request to be reasonable, in the public interest, and not inconsistent with the recommendations of the Nash County Land Development Plan, and
- (2) **APPROVAL** of the request to define “event and conference venue” as a land use, to permit its development in the A1, OI, RC, & GC Zoning Districts with the issuance of a conditional use permit, and to establish related development standards.

Consistency Statement ‘A’ (For APPROVAL):

Text Amendment Request A-200301 is reasonable, in the public interest, and not inconsistent with the recommendations of the Nash County Land Development Plan because the plan does not specifically address an “event and conference venue” as a land use type.

On motion of J. Wayne Outlaw seconded by Fred Belfield, Jr. and duly passed that the Board go into a public hearing.

Mr. Turner Votipka, Amherst Road, Rocky Mount spoke in favor of the request.

On motion of Sue Leggett seconded by Mary P. Wells and duly passed that the public hearing adjourn.

On motion of J. Wayne Outlaw seconded by Dan Cone and duly passed that the Nash County Board of Commissioners adopt **Consistency Statement ‘A’** related to Text Amendment Request A-200301.

Consistency Statement ‘A’ (For APPROVAL):

Text Amendment Request A-200301 is reasonable, in the public interest, and not inconsistent with the recommendations of the Nash County Land Development Plan because the plan does not specifically address an “event and conference venue” as a land use type.

On motion of J. Wayne Outlaw seconded by Mary P. Wells and duly passed that the Nash County Board of Commissioners **APPROVE** Text Amendment Request A-200301 to establish “event and conference venue” as a permitted land use.

Mr. Andy Hagy, Economic Development Director presented for the Board’s consideration and approval for the expenditure of Economic Development Funds in the

amount of \$10,000.00 to be paid to the Town of Nashville for infrastructure improvements.

On motion of Fred Belfield, Jr. seconded by Sue Leggett and duly passed that the Board go into a public hearing.

No one spoke at the public hearing.

On motion of J. Wayne Outlaw seconded by Mary P. Wells and duly passed that the public hearing adjourn.

On motion of Lou M. Richardson seconded by Sue Leggett and duly passed that the Nash County Board of Commissioners approve the recommendation of \$10,000.00 Economic Development Funds to be paid to the Town of Nashville to assist in the expansion of fiber optic internet service to the West Nashville Commerce Park on Cooke Rd. that will provide local jobs, investment, through broadband improvements for the Town of Nashville and Nash County.

Mr. Hagy presented for the Board's consideration a Proclamation to Recognize the Week of May 4-9, 2020 as Economic Development Week.

On motion of Mary P. Wells seconded by Fred Belfield, Jr. and duly passed that the following proclamation be adopted.

**NASH COUNTY BOARD OF COMMISSIONERS PROCLAMATION TO
RECOGNIZE MAY 4-9, 2020 AS ECONOMIC DEVELOPMENT WEEK**

WHEREAS, created by the International Economic Development Council in 2016, the goal of Economic Development Week (EDW) is to increase awareness for local programs that create jobs, advance career development opportunities and increase the quality of life in communities everywhere; and

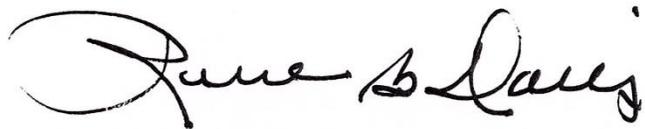
WHEREAS, economic development is a big umbrella that encompasses policymaking and programing, business finance, marketing, neighborhood development, business retention and expansion, technology transfer and real estate development; and

WHEREAS, locally Nash County works to grow, diversify, and sustain the economy of Nash County while enhancing the unique, natural and cultural environment. Nash County Department of Economic Development strives to make Nash County known nationally and internationally as a premier business address by creating a competitive business climate; and

WHEREAS, economic, workforce, education, municipalities, chambers of commerce and community leaders collaborate to promote economic well-being and quality of life by creating, retaining, and expanding jobs that facilitate growth, enhance wealth, and provide a stable tax base.

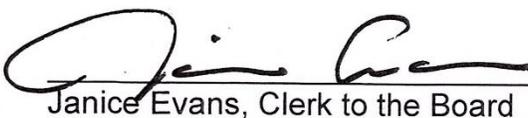
NOW, THEREFORE BE IT RESOLVED, we, the Nash County Board of County Commissioners do hereby proclaim the week of May 4-9, 2020 be recognized as Economic Development Week in Nash County, North Carolina.

This the 4th day of May, 2020.



Robbie B. Davis, Chairman
Nash County Board of Commissioners

ATTEST:



Janice Evans, Clerk to the Board

Ms. Patsy McGhee, Assistant to the County Manager/Grants & Intergovernmental Relations and Mike Barnette, McDavid Associates presented for the Board's consideration approval of Housing – Essential Single Family Rehabilitation Loan Program (2020) policies and authorization to execute Administrative Documents.

On motion of Sue Leggett seconded by Fred Belfield, Jr. and duly passed that the Nash County Board of Commissioners approve the Housing – Essential Single Family Rehabilitation Loan Program (2020) policies; authorize the County Manager to approve individuals for Portal Requisition Approval and Project Access Authorization;

and Authorize the County Manager or his designee to execute documents and reports for administering the 2020 ESFRLP20.

Mr. Jonathan Boone, Engineer/Director of Public Utilities and Facilities presented for the Board's consideration a request for approval of Contract Amendment 4 for ELJ Inc. for the Northern Nash Water System Project.

On motion of Fred Belfield, Jr. seconded by J. Wayne Outlaw and Dan Cone and duly passed that the Nash County Board of Commissioners approve Contract Amendment 4 for ELJ Inc. for the Northern Nash Water System Project.

Mr. Boone presented for the Board's consideration Nash County Detention Facility Renovation and Expansion Project Design Contract with Moseley Architects.

On motion of Mary P. Wells seconded by Sue Leggett and duly passed that the Nash County Board of Commissioners approve the following Nash County Detention Facility Renovation and Expansion Project Design Contract with Moseley Architects and authorize the County Manager to execute same on behalf of the county.



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Seventh day of April in the year Two Thousand Twenty
(In words, indicate day, month and year.)

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

Nash County, North Carolina
120 W. Washington Street
Suite 3072
Nashville, North Carolina 27856
Telephone Number: 252-459-9800

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

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

Moseley Architects P.C.
6210 Ardrey Kell Road
The Hub at Waverly
Suite 425
Charlotte, North Carolina 28277
Telephone Number: 704-540-3755

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

Nash County Detention Facility Additions and Renovations
Nashville, North Carolina

The Owner and Architect agree as follows.

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ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

In accordance with Needs Assessment Study, dated February 2020

§ 1.1.2 The Project's physical characteristics:

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

The existing facility located at 120 W. Washington Street, Nashville, North Carolina

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

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

To be determined as the Project progresses

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

.1 Design phase milestone dates, if any:

To be determined as the Project progresses

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.2 Construction commencement date:

To be determined as the Project progresses

.3 Substantial Completion date or dates:

To be determined as the Project progresses

.4 Final Completion date or dates:

To be determined as the Project progresses

.5 Other milestone dates:

To be determined as the Project progresses

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

A stipulated sum construction contract with a single Contractor pursuant to competitive bidding.

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

Not Applicable

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

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

Mr. Zee Lamb, Nash County Manager
Nash County, North Carolina
120 W. Washington Street
Suite 3072
Nashville, North Carolina 27856
Telephone Number: 252-459-9800

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

Not Applicable

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

~~.4 Geotechnical Engineer:~~

Not Applicable

Init.

~~.2~~ Civil Engineer:

~~.3~~ Other, if any:

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

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

Daniel R. Mace, AIA, Vice President
Moseley Architects P.C.
6210 Ardrey Kell Road
The Hub at Waverly
Suite 425
Charlotte, North Carolina 28277
Telephone Number: 704-540-3755

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Moseley Architects P.C.

.2 Mechanical Engineer:

Moseley Architects P.C.

~~.2~~ Mechanical .3 Electrical Engineer:

Moseley Architects P.C.

.4 Plumbing Engineer:

Moseley Architects P.C.

~~.3~~ Electrical .5 Civil Engineer:

Appian Consulting Engineers, PA
Post Office Box 7966
154 Roundabout Court
Rocky Mount, North Carolina 27804

§ 1.1.11.2 Consultants retained under Supplemental Services:

.1 Design for food facilities:

Not Applicable

.2 Acoustics:

Not Applicable

Init.

.3 Technology:

Not Applicable

.4 Roofing:

Not Applicable

.5 Cost Consulting:

Not Applicable

.6 Fire Protection:

Moseley Architects P.C.

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

Not Applicable

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

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

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

§ 2.2.1 Subject to the standard of care set forth in Section 2.2 for applying professional judgment to the information used or relied upon, Architect and its Consultants may use and rely upon design elements, technical standards, test results, and all other information ordinarily or customarily furnished or published by others, including, but not limited to, specialty contractors, manufacturers, fabricators, and suppliers.

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

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

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

§ 2.5.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

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

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

§ 2.5.4 Workers' Compensation at statutory limits.

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

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$ 1,000,000.00) per claim and one million dollars (\$ 1,000,000.00) in the aggregate.

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

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The ~~usual and customary~~ Architect's Basic Services consist of those ~~described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services indicated in Section 1.1.11.1 and as described in this Article 3.~~ Services not indicated in Section 1.1.11.1 and not set forth in this Article 3 are Supplemental or Additional Services.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall

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provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

§ 3.1.3.1 The Owner and Architect are aware that many factors outside the Architect's reasonable control may affect the Architect's ability to complete the services to be provided under this Agreement. The Architect will perform these services with reasonable diligence and expediency consistent with sound professional practices. For purposes of this Agreement, such factors include, but may not be limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war, pandemics, epidemics, quarantines, or other local, state, or national declared emergencies; failure of any government agency to act in timely manner; failure of performance by the Owner or the Owner's representatives, contractors or consultants; or discovery of any hazardous substances or differing site conditions or other similar or reasonably unforeseen events. Notwithstanding the above factors, Architect reserves the right to seek common law defenses as may be applicable if such services are adversely affected.

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

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

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

§ 3.1.7 The Architect shall exercise usual and customary professional care in its efforts to comply with applicable laws, codes and regulations in effect as of the date of the submission to building authorities. Design changes made necessary by newly enacted laws, codes and regulations after this date, may, if agreeable to both parties, require a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provisions of this Agreement. In the event of a conflict between the applicable laws, codes and regulations of various governmental entities having jurisdiction over this Project, the Architect shall notify the Owner of the nature and impact of such conflict. The Owner agrees to cooperate and work with the Architect in an effort to resolve this conflict.

§ 3.2 Schematic Design Phase Services

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

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

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

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

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

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

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

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

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

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. ~~The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.~~

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

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

§ 3.4 Construction Documents Phase Services

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

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

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

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also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

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

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

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

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

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

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

§ 3.5.3 Negotiated Proposals

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

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

- .1 ~~facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;~~
- .2 ~~organizing and participating in selection interviews with prospective contractors;~~
- .3 ~~preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,~~
- .4 ~~participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

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

§ 3.6.2 Evaluations of the Work

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

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

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

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

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

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

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

§ 3.6.4 Submittals

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

§ 3.6.4.2 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 general conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

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

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

| Supplemental Services | Responsibility <i>(Architect, Owner, or not provided)</i> |
|--|--|
| § 4.1.1.1 Programming | <u>Architect, Provided in Phase I Study</u> |
| § 4.1.1.2 Multiple preliminary designs | <u>Not Provided</u> |
| § 4.1.1.3 Measured drawings | <u>Not Provided</u> |
| § 4.1.1.4 Existing facilities surveys | <u>Owner</u> |
| § 4.1.1.5 Site evaluation and planning | <u>Not Provided</u> |
| § 4.1.1.6 Building Information Model management responsibilities | <u>Not Provided</u> |
| § 4.1.1.7 Development of Building Information Models for post construction use | <u>Not Provided</u> |
| § 4.1.1.8 Civil engineering | <u>Architect</u> |
| § 4.1.1.9 Landscape design | <u>Not Provided</u> |
| § 4.1.1.10 Architectural interior design | <u>Architect</u> |
| § 4.1.1.11 Value analysis | <u>Not Provided</u> |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3 | <u>Not Provided</u> |

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| | | |
|------------|--|---------------------|
| § 4.1.1.13 | On-site project representation | <u>Owner</u> |
| § 4.1.1.14 | Conformed documents for construction | <u>Not Provided</u> |
| § 4.1.1.15 | As-designed record drawings | <u>Not Provided</u> |
| § 4.1.1.16 | As-constructed record drawings | <u>Not Provided</u> |
| § 4.1.1.17 | Post-occupancy evaluation | <u>Not Provided</u> |
| § 4.1.1.18 | Facility support services | <u>Owner</u> |
| § 4.1.1.19 | Tenant-related services | <u>Owner</u> |
| § 4.1.1.20 | Architect's coordination of the Owner's consultants | <u>Architect</u> |
| § 4.1.1.21 | Telecommunications/data design | <u>Not Provided</u> |
| § 4.1.1.22 | Security evaluation and planning | <u>Not Provided</u> |
| § 4.1.1.23 | Commissioning | <u>Not Provided</u> |
| § 4.1.1.24 | Sustainable Project Services pursuant to Section 4.1.3 Exhibit A | <u>Not Provided</u> |
| § 4.1.1.25 | Fast-track design services | <u>Not Provided</u> |
| § 4.1.1.26 | Multiple bid packages | <u>Not Provided</u> |
| § 4.1.1.27 | Historic preservation | <u>Not Provided</u> |
| § 4.1.1.28 | Furniture, furnishings, and equipment Furniture design | <u>Not Provided</u> |
| § 4.1.1.29 | Other services provided by specialty Consultants Energy Modeling | <u>Not Provided</u> |
| § 4.1.1.30 | Other Supplemental Services Life Cycle Cost Analysis and Energy Modeling as Design Tool | <u>Not Provided</u> |
| | | |

§ 4.1.2 Description of Supplemental Services

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

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

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

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

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

§ 4.2 Architect's Additional Services

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

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

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- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public ~~presentation, meeting or hearing~~;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

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

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~(Twenty - eight (28)~~ visits to the site by the Architect during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

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

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.1.1 The Architect may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The Architect shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Owner and/or the Owner's consultants and contractors.

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

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

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

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

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

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

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

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

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

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or ~~defect~~ defect(s) or suspected defect(s) in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. Service or in the Architect's professional services, so that the Architect may be afforded the opportunity to address such alleged fault or defect(s). Failure by the Owner to promptly notify the Architect in writing of the discovery or suspicion of such fault or defect(s) shall relieve the Architect of liability for any damages caused by the fault or defect(s) in excess of the damages that would have been incurred if the Owner had given prompt notification to the Architect when such fault or defect(s) were first discovered or suspected by the Owner, and the Architect had promptly corrected such fault or defect(s).

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

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

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

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

§ 5.16 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit for the Owner, but also carries with it associated risks. Such risks include, but are not limited to, the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.17 The Architect shall be entitled to rely upon the proper performance by the Owner's Representative (OR) of the items on the DR&A list (a list of duties, responsibilities and authority) and shall bear no responsibility to the Owner or its representative(s) for any opinions, directions, or decisions given by the Owner and OR.

§ 5.18 **If the Owner retains the services of a Value Engineer (VE), or similar entity, to review the plans prepared by the Architect, these services shall be at the Owner's sole expense and shall be performed in a timely manner so as not to delay the orderly progress of the Architect's services. All recommendations of the VE shall be given to the Architect for review, and adequate time shall be provided for the Architect to respond to these recommendations. If the Architect objects to any recommendations made by the VE, it shall so state in writing to the Owner, along with the reasons for objecting. If the Owner, despite the Architect's objections, requires the incorporation of changes in the Construction Documents, the Owner agrees, to the fullest extent permitted by law, to waive all claims against the Architect which arise in connection with or as a result of the incorporation of such design changes required by the ARTICLE Owner.**

ARTICLE 6 COST OF THE WORK

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

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

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

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

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

§ 6.8 For existing facilities inasmuch as the renovation of an existing building requires that certain assumptions be made regarding existing conditions, the Architect shall not be responsible for additional construction cost or other damages due to hidden conditions in an existing facility which are uncovered during the progress of the construction, and which could not have been reasonably anticipated or known.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner ~~warrant~~ agree that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. Under no circumstances shall the transfer of ownership of the Drawings, Specifications, electronic data or other Instruments of Service be deemed to be a sale by the

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Architect, and the Architect makes no warranties, express or implied, of merchantability or of fitness for a particular purpose.

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

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

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

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

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

§ 7.6 The Owner is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed and sealed construction documents prepared by the Architect and the electronic files, the signed and sealed hard-copy construction documents shall govern.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of ~~action~~ action, including indemnity and any statutes of limitations and repose, against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than ~~40~~ six (6) years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

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

§ 8.2 Mediation

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

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

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

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

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: (Specify)

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

§ 8.3 Arbitration

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

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

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

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

~~§ 8.3.4 Consolidation or Joinder~~

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

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

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

~~.1 Termination Fee:~~

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

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction. No headings or numbering of Sections or Paragraphs in This Agreement shall be interpreted or construed to change or modify the duties and obligations of Owner or Architect.

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

§ 10.4 ~~If Pursuant to 10.11, if the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.~~

§ 10.5 Nothing contained in this Agreement shall create a contractual ~~relationship with,~~ relationship, third-party rights or benefits, with or a cause of action in favor of, a third party of a third party person or entity against either the Owner or the Architect. The Architect's services, Instruments of Service, and work product required under this Agreement are being performed and are intended solely for the Owner's use and benefit.

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

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

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survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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

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

ARTICLE 11 COMPENSATION

~~§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:~~ § 10.10 If, due to the Architect’s negligence, a required item or component of the Project is omitted from the Architect’s construction documents, the Architect shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the Architect be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

~~.1—Stipulated Sum~~

§ 10.11 The Architect shall not be required to sign any documents that would result in the Architect having to certify, guarantee or warrant the existence of conditions whose existence the Architect cannot ascertain, or that in any way might increase the Architect’s risk or the availability or cost of its

~~—insurance. (Insert amount)~~

~~.2—Percentage Basis~~

~~(Insert percentage value)~~

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

§ 10.12 The Architect agrees to maintain all documents, including electronic documents, related to the Project for a period of not less than seven (7) years, in a reasonably accessible manner consistent with the Architect’s internal document retention policy.

~~.3—Other~~

~~(Describe the method of compensation)~~ § 10.13 The section headings used in this Agreement are intended principally for convenience and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the parties to this Agreement.

ARTICLE 11 COMPENSATION

~~§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3,~~ § 11.1 For the Architect’s Services described herein, the Owner shall compensate the Architect as follows:

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.1 Stipulated Sum

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

~~of compensation apply.)~~ Compensation shall be the lump sum of Seven Hundred Ninety-Two Thousand, Two Hundred Twenty and 00/100 Dollars (\$792,220.00)

§ 11.2 Not Used

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

Compensation for additional site visits, over the twenty-eight (28) provided for in Section 4.2.3.2, upon written authorization of Owner, shall be the sum of Four Thousand and 00/100 Dollars (\$4,000.00) each.

Compensation for other Additional Services, if required, shall be as mutually agreed as Additional Services are required.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twenty percent (20 %), or as follows:
(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

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

| | |
|---|--------------------------------------|
| <u>Schematic Design Phase</u> | <u>15%</u> |
| <u>Design Development Phase</u> | <u>20%</u> |
| <u>Construction Documents Phase</u> | <u>40%</u> |
| <u>Procurement Phase</u> | <u>05%</u> |
| <u>Construction Phase</u> | <u>20%</u> |
| <hr/> | |
| <u>Total Basic Compensation</u> | <u>100%</u> |
| | |
| Schematic Design Phase | - percent (- %) |
| Design Development Phase | - percent (- %) |
| Construction Documents Phase | - percent (- %) |
| Procurement Phase | - percent (- %) |
| Construction Phase | - percent (- %) |
| - | - |
| <hr/> | |
| <u>Total Basic Compensation</u> | <u>one hundred percent (- 100 %)</u> |

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

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

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

Schedule of Hourly Billing Rates Calendar Year 2020

| | |
|--|-----------------|
| <u>Principals</u> | <u>\$235.00</u> |
| <u>Architects</u> | |
| Senior Project Manager | <u>\$207.00</u> |
| Project Manager | <u>\$162.00</u> |
| Architect | <u>\$155.00</u> |
| Project Designer | <u>\$103.00</u> |
| <u>Security and Detention Design</u> | |
| Security Design Specialist | <u>\$195.00</u> |
| <u>Engineering Director</u> | <u>\$235.00</u> |
| <u>Mechanical/Electrical/Plumbing/Engineering</u> | |
| Senior Engineer | <u>\$181.00</u> |
| Engineer/Designer | <u>\$148.00</u> |
| Intern Technician | <u>\$103.00</u> |
| <u>Structural Engineering</u> | |
| Senior Engineer | <u>\$162.00</u> |
| Engineer/Designer | <u>\$135.00</u> |
| Intern Technician | <u>\$103.00</u> |
| <u>Corrections Planner</u> | <u>\$235.00</u> |
| <u>Criminal Justice Consultant</u> | <u>\$176.00</u> |
| <u>Construction Administration</u> | |
| Construction Administrator | <u>\$155.00</u> |
| <u>Specification Writer</u> | <u>\$155.00</u> |
| <u>Sustainability Planning</u> | |
| Sustainability Planning Director | <u>\$181.00</u> |
| Energy Analyst | <u>\$152.00</u> |
| Sustainability Coordinator | <u>\$135.00</u> |
| <u>Interior Design</u> | |
| Interior Designer | <u>\$103.00</u> |
| <u>Administrative</u> | <u>\$72.00</u> |

Rates are subject to change on January 1 of each year.

| Employee or Category | Rate (\$0.00) |
|-----------------------------|----------------------|
|-----------------------------|----------------------|

§ 11.8 Compensation for Reimbursable Expenses

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

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follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 ~~Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the ~~Project~~Project (unless specifically included in the Basic or Supplemental Services);
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 ~~All taxes levied on professional services and on reimbursable expenses;~~
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

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

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

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

8 % eight percent per annum

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

12.1 Neither the Architect nor the Architect's consultants have offered, intends to offer, or shall be required to offer, any fiduciary service to the Owner and no fiduciary responsibility shall be owed to the Owner by either the Architect or the Architect's consultants as a result of the Owner and Architect entering into this Agreement.

12.2 NON-DISCRIMINATION. During the performance of this Agreement, the Architect agrees as follows:

12.2.1 The Architect will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Architect. The Architect agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

12.2.2 Architect shall state in all solicitations or advertisements for employees placed by or on behalf of the Architect that the Architect is an equal opportunity employer.

12.2.3 Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient compliance with this provision.

12.2.4 The Architect agrees to include the provisions of 12.2.1, 12.2.2, and 12.2.3 above in every subcontract over \$10,000 so that the provisions will be binding upon each subcontractor.

12.3 During the performance of this Agreement, the Architect agrees to (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in its workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on its behalf that it maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this Agreement in which the employees of the Architect are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Agreement.

12.4 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. Federal accessibility laws and regulations are not part of, or necessarily compatible with, state or local laws, codes and regulations governing construction. The Architect, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of submission to building authorities, and as they apply to the Project. Therefore, the Architect recommends the Owner obtain appropriate legal counsel with respect to compliance with the appropriate disability access laws.

12.5 The Architect agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner, its officers, directors and employees (collectively, Owner) against all damages, liabilities or costs, including reasonable attorneys' fees, to the extent caused by the Architect's negligent performance of professional services under this Agreement and that of its consultants or anyone for whom the Architect is legally liable. Neither the Owner nor the Architect shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others that they are not legally liable.

Init.

12.6 Architect's Services shall be limited to those expressly set forth in this Agreement. Architect shall have no other obligations or responsibilities for the Project except as agreed to in writing.

12.7 The Contractor and Subcontractors will be solely in control of the Project site and exclusively responsible for construction means, methods, scheduling, sequencing, jobsite safety and compliance with all Construction Documents and directions from Owner or building officials.

12.8 Only upon the written request or direction of Owner, any value engineering, substitutions, or other cost-reduction effort or analysis that results in similar evaluations, is performed on this Project, the Architect shall provide its opinion to the Owner with respect to proposed or requested changes in materials, products, systems, or equipment. The Architect shall be entitled to rely on the accuracy and completeness of the information provided in conjunction with the requested change(s). The Owner acknowledges that such changes may result in a reduction in the quality and performance of the materials, components, or project. Accordingly, the Architect shall not be responsible for such reduction in performance by incorporating such value engineered, substituted, or otherwise incorporated materials, products, systems, or equipment into the Project.

12.9 If the Owner directs the Architect to specify any product or material after the Architect has informed the Owner that such product or material may not be suitable or may embody characteristics that are suspected of causing or may cause the product or material to be considered a hazardous substance in the future, the Owner waives all claims as a result thereof against the Architect.

12.10 The Architect and/or its consultant will prepare a plan indicating the locations for known existing subsurface infrastructure with respect to assumed locations of existing underground improvements. Such services by the Architect and/or its consultant will be performed in a manner consistent with the Architect's professional standard of care. However, such plans may not identify all existing underground infrastructure and that the information upon which the Architect reasonably relies may contain errors or may be incomplete. Therefore, the Owner agrees, to the fullest extent permitted by law, to waive all claims and causes of action against the Architect for damages to existing underground infrastructure and improvements resulting from subsurface penetrations in locations established by the Architect that are based on properly filed and available records of said existing underground infrastructure.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- ~~.2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)~~

- ~~.3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)~~

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

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

- ~~.4 Other documents:
(List other documents, if any, forming part of the Agreement.)
Architect's Proposal dated April 15, 2020 and attached hereto.~~

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User Notes: (3B9ADA37)

Mr. Brent Fisher, Assistant Director Fire/Rescue & Emergency Management
presented for the Board's consideration Hurricane Preparedness Week May 3-9, 2020
Proclamation.

On motion of Dan Cone seconded by Lou M. Richardson and duly passed that
the following proclamation be adopted.

HURRICANE PREPAREDNESS WEEK
BY THE COMMISSIONERS OF NASH COUNTY
A PROCLAMATION

WHEREAS, hurricanes and tropical systems have impacted every North Carolina county with disastrous results; and

WHEREAS, North Carolina is repeatedly one of the leading states nationally for overall damage from hurricanes; and

WHEREAS, hurricanes and tropical storms can cause life-threatening hazards such as flooding, storm surge, destructive winds, tornadoes and landslides; and

WHEREAS, flooding claims lives every year, usually when motorists attempt to drive through flooded roadways, and

WHEREAS, insurance companies suggest residents review and update their homeowners or renter's insurance policy to ensure it includes coverage for flooding, accidental damage and natural disasters; and

WHEREAS, people are less likely to be injured when they have prepared ahead of time and know what to do when a hurricane threatens; and

WHEREAS, people should prepare their personal emergency supply kit to use at home or during an evacuation with enough food and water to sustain the members of their household for three days or longer, and should know their evacuation routes and comply with local and state authorities when asked to evacuate; and

WHEREAS, the ReadyNC.org website is available to help people make emergency preparedness plans and provide current weather and traffic conditions; and

WHEREAS, the National Weather Service, local and state government officials all work together before and during a hurricane or tropical storm to reduce the dangers posed to lives and property and provide a quick, effective response to these storms; and

WHEREAS, the observance of Hurricane Preparedness Week by Nash County residents provides better protection from the dangers of hurricanes and tropical storms;

NOW THEREFORE BE IT RESOLVED, that the Nash County Board of Commissioners does hereby proclaim the week of May 3-9, 2020, as "**HURRICANE PREPAREDNESS WEEK**" in Nash County. We encourage all county residents to plan and prepare by assembling their personal emergency supply kits and updating their emergency plans.

This the 4th day of May, 2020.

ATTEST:



Robbie B. Davis, Chairman
Nash County Board of Commissioners


Janice Evans, Clerk to the Board

Chairman Davis called for a ten (10) minute break.

Prior to reconvening, the Board participated in the 11:00 AM COVID-19 Response – TEAMS Conference Call Briefing for Monday, May 4, 2020.

Upon reconvening, Chairman Davis called on Mr. Vince Durham, County Attorney.

Mr. Durham presented for the Board's consideration an amendment to Inducement Agreement Draka 2020.

On motion of J. Wayne Outlaw seconded by Fred Belfield, Jr. and duly passed that the Nash County Board of Commissioners approve the amendment to the Inducement Agreement Draka 2020.

Ms. Janice Evans, Clerk to the Board administered the oath of office to the members of the Board of Equalization and Review.

Chairman Davis called the Board of Equalization and Review to order and instructed the Acting Tax Administrator, Ms. Doris Sumner to proceed.

Ms. Sumner advised the Board there were no scheduled appeals for May 4, 2020.

Chairman Davis extended an invitation to the public, if there was anyone present who wished to have an appeal heard. There was none.

On motion of Fred Belfield, Jr. seconded by J. Wayne Outlaw and duly passed that the Board recess the Board of Equalization and Review until Monday, June 1, 2020.

Mr. Ted Cole, Davenport & Company, LLC and financial advisor for Nash County, in preparation for the upcoming FY2020/2021 budget and moving forward with various capital projects throughout the County, presented information related to Nash County's credit rating, general fund history, debt profile and draft five-year Capital Improvement Plan.

Sheriff Keith Stone, Nash County Sheriff's Office provided an update to the Board on the Nash County Sheriff's Office Detention Center (Operations).

Mr. Boone made a presentation to the Board and provided an update on the Nash County Detention Center – Facilities.

Ms. Donna Wood, Finance Officer presented for the Board's consideration approval of the FY 2019-2020 Audit Contract for \$48,500.00 with Thompson, Price, Scott Adams & Co., P.A.

On motion of Mary P. Wells seconded by J. Wayne Outlaw and duly passed that the Nash County Board of Commissioners approve the FY 2019-2020 Audit Contract for \$48,500.00 with Thompson, Price, Scott Adams & Co., P.A.

Ms. Wood presented for the Board's consideration Detention Facility Renovations and Expansion – Capital Project Ordinance.

On motion of Dan Cone seconded by Sue Leggett and duly passed that the following Capital Project Ordinance be approved.

**NASH COUNTY, NC
DETENTION FACILITY RENOVATIONS AND EXPANSION
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED BY THE Nash County Board of Commissioners that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby amended:

Section 1. The project authorized is the Detention Facility Renovations and Expansion Capital Project for the purpose of renovations to the existing Nash County Detention Facility and new construction.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of this ordinance and all rules and regulations within North Carolina General Statutes as it pertains to capital projects, grant projects, and the budget contained herein.

Section 3. The following revenue is anticipated for this project:

| | | |
|----------------|----------------------------|--------------|
| 1480600-498100 | Transfer from General Fund | \$ 1,000,000 |
|----------------|----------------------------|--------------|

Section 4. The following expenditures are projected:

| | | |
|----------------|-------------------------------|-------------|
| 1484323-559110 | Architectural Services | \$ 792,220 |
| 1484323-557003 | Surveying and GEO Tech | \$ 32,000 |
| 1484323-559120 | Legal/Administrative Services | \$ 75,000 |
| 1484323-599100 | Contingency | \$ 100,780 |
| | Total | \$1,000,000 |

Section 5. The Finance Officer shall report quarterly on the financial status of each project element in Section 4 and total revenues received or claimed.

Section 6. The County Manager shall have the authority to approve incidental change orders up to \$25,000 per occurrence within the budgeted project.

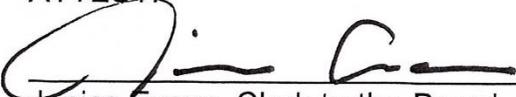
Section 7. Copies of this Capital Project Ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 4th day of May 2020.



Robbie B. Davis, Chairman

ATTEST:



Janice Evans, Clerk to the Board

Ms. Wood requested approval of four (4) budget amendments.

On motion of Fred Belfield, Jr. seconded by J. Wayne Outlaw and duly passed that the following budget amendments be approved.

Recreation Department

This budget amendment makes funds available that have already been collected in Sponsorship revenue for Basketball All Star Jerseys and Sponsorship Signage. No County funds required.

Revenue:
0100400-449804 Sponsorships \$1,700 Incr

Expenditure:
0106120-569247 Sponsorships \$1,700 Incr

Disaster Recovery: CARES Provider Relief Funding

This budget amendment is to budget funds from the Coronavirus Aid, Relief, and Economic Security Act (Cares Act) which was signed into law March 27, 2020. These funds will be used to fund healthcare-related expenses or to offset lost revenue attributable to COVID-19. The Department of Health and Human Services disbursed the funds on a pro-rata basis to health care providers or suppliers that received Medicare Fee for Service reimbursements in 2019. No County funds required.

Revenue:
0100220-453536 CARES Act –Provider Relief \$149,551 Incr

Expenditure:
0104132-519300 CARES Act –Medical Services \$149,551 Incr

Fund Balance Appropriate

This budget amendment is to appropriate General Fund fund balance to the Detention Facility Renovations and Expansion capital project

Revenue:
0100991-499100 Fund Balance Appropriation \$1,000,000 Incr

Expenditure:
0109500-598148 Transfer to DF Renovations/Expans \$1,000,000 Incr

Health Department

This budget amendment is budget additional State funding to work to prevent, prepare for, and respond to Coronavirus Disease 2019 (COVID-19) by carrying out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities. No County funds required.

Revenue:
0100211-453537 COVID-19 State Funding \$94,714 Incr

Expenditure:
0105131-526000 Supplies \$71,000 Incr
0105131-526500 Equipment Supplies 12,000 Incr
0105131-531100 Travel POV 2,800 Incr
0105131-531200 Travel & Training 914 Incr
0105131-519330 Medical Services Lab 8,000 Incr
\$94,714 Incr

Ms. Stacie Shatzer, Assistant County Manager asked the Board to consider an appointment to the Nash County Board of Adjustment to serve as Alternate Member #3.

On motion of Fred Belfield, Jr. seconded by Mary P. Wells and duly passed that Ms. Gwendolyn "Gwen" Wilkins be appointed to the Nash County Board of Adjustment to serve as Alternate Member #3.

Ms. Sumner presented the Monthly Tax Collector's report.

The Monthly Tax Collector's report was accepted.

Ms. Sumner presented for the Board's consideration tax refund request for May 2020.

On motion of J. Wayne Outlaw seconded by Mary P. Wells and duly passed that the following tax refund be approved.

REFUND REQUESTS
MAY 4, 2020

| | | | | |
|----|----------------------|-----------|----|------------|
| 1. | WHEELER STANLEY NEAL | NCO 2019 | \$ | 6.06 |
| | 516 BREEDLOVE RD | NCOL 2019 | | .61 |
| | NASHVILLE NC 27856 | F34 2019 | | 1.09 |
| | | F34L 2019 | | <u>.10</u> |
| | | TOTAL | \$ | 7.86 |

INCORRECT BOAT VALUE ON DISCOVERY RECORD 1004293. VALUE REDUCTION OF \$905.00

Chairman Davis called on the Commissioners for any comments and/or reports.

It was the consensus of the Board to authorize the Chairman to send a letter to Governor Roy Cooper regarding Nash County's support of opening all businesses and allowing North Carolinians to get back to work.

Mr. Lamb provided a Manager's Report to the Board.

On motion of Mary P. Wells seconded by Sue Leggett and duly passed that the Board go into closed session as permitted by NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege; NCGS 143-318.11(a)(4) for the discussion of matters relating to economic development and the location or expansion of industries or other businesses in the County; and NCGS 143-318(a)(6) to consider the qualifications, competence, fitness

and conditions of appointment or conditions of initial employment of a prospective public officer or employee.

During closed session, the Board received updates on economic development projects, consulted with the attorney to discuss matters that are subject to the attorney-client privilege between the attorney and the Board, and discussed personnel matters.

On motion of Sue Leggett seconded by Fred Belfield, Jr. and duly passed that the closed session minutes of April 6, 2020 be approved.

On motion of Dan Cone seconded by Fred Belfield, Jr. and duly passed that the closed session adjourn.

On motion of Fred Belfield, Jr. seconded by Mary P. Wells and duly passed that the regular meeting recess until Tuesday, May 5, 2020 at 9:00 AM for a budget work session.

Janice Evans, Clerk
Nash County Board of Commissioners