

ORDINANCE 2024-06

AN ORDINANCE TO AMEND THE FAIRVIEW ZONING ORDINANCE ARTICLE 6: RESIDENTIAL DISTRICT REGULATIONS, SECTION 6-104 PURPOSES AND INTENT OF AR – AGRICULTURAL/RESIDENTIAL DISTRICTS, IN ORDER TO ADD THE ANIMAL CARE AND VETERINARY SERVICES TO 6-104.1(2) USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP).

WHEREAS, the Veterinary Services for Livestock land use is currently permitted in the AR15-A Zone District (Section 6-104.1) as a conditional use; and

WHEREAS, the Animal Care and Veterinary Services use is currently permitted, with Supplemental Provisions (SUP) in the C3 zone district (Section 8-104), the Commercial-Interchange District (CI) (Section 8-105), the Commercial-Mixed Use Districts (CMU) (Section 8-107), the Industrial Restrictive Districts (IR) (Section 9-104), and the Industrial General Districts (IG) (Section 9-105); and

WHEREAS, there is no single zone district that permits both the Veterinary Services for Livestock and Animal Care and Veterinary Services; and

WHEREAS, there may be a situation where a development may desire to provide both land uses in the same facility/location.

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE, BOARD OF COMMISSIONERS, SECTION 6-104.1(2) WILL READ AS FOLLOWS:

2. USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

- a. Childcare Facilities
 - a. Family Childcare Home
- b. Animal Care and Veterinary Services
 - a. Animal Care and Veterinary Services

Approved by the Board of Commissioners:

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

Passed 1st Reading: April 4, 2024

Passed 2nd Reading: _____

RESOLUTION 13-24**A RESOLUTION SUPPORTING THE SUBMISSION OF AN APPLICATION FOR THE FEMA FIRE PREVENTION AND SAFETY GRANT PROGRAM AS WELL AS SUPPORT FOR THE REQUIRED MATCHING FUNDS FROM THE CITY OF FAIRVIEW**

WHEREAS, the Fairview Fire Department is seeking funds through the FEMA Fire Prevention and Safety grant program to purchase evidence collection equipment for the city Fire Marshal, which is a high priority on the notice of funding list; and

WHEREAS, the Fairview Fire Department wishes to apply for \$3,729.18 in federal resources for this purpose; and

WHEREAS, because the grant is a 95/5 match, the Board of Commissioners commits to provide \$186.46 in matching funds should the application be successful.

NOW, THEREFORE, BE IT RESOLVED the City of Fairview, Tennessee, Board of Commissioners supports the submission of an application for \$3,729.18 in funding for the FEMA Fire Prevention and Safety Grant Program to purchase evidence collection equipment for the Fairview Fire Department and supports \$186.46 in matching funds.

Passed and adopted this 18th day of April, 2024.

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FROM APPROVED:

Patrick M. Carter, City Attorney

RESOLUTION 14-24

A RESOLUTION OF THE CITY OF FAIRVIEW BOARD OF COMMISSIONERS TO ONLY ALLOW CITY ISSUED ELECTRONIC DEVICES TO BE USED DURING MUNICIPAL PLANNING COMMISSION MEETINGS

WHEREAS, the City of Fairview has issued each planning commissioner an iPad and cellphone, and;

WHEREAS, the use of personal electronic devices during business meetings can be disruptive, and;

WHEREAS, it is in the best interest of the city and each planning commissioner to keep city related business on city issued devices instead of personal devices and strictly use city email addresses for city business only.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners, that only city issued electronic devices will be permitted for use during business meetings conducted by the City of Fairview Municipal Planning Commission.

Passed and adopted this 18th day of April, 2024.

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

RESOLUTION 15-24

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN WOLD ARCHITECTS AND ENGINEERS AND THE CITY OF FAIRVIEW, TENNESSEE

WHEREAS, the City of Fairview (“Fairview”) has retained Wold Architects and Engineers (“Wold”) for Fairview’s Professional Design, Architectural, and Engineering Services for the new Police/Court Facility; and

WHEREAS, the parties have negotiated an agreement for said services, which is attached as Exhibit A hereto.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners, that the Mayor be authorized and directed to execute the AGREEMENT BETWEEN WOLD ARCHITECTS AND ENGINEERS AND THE CITY OF FAIRVIEW, TENNESSEE, attached hereto as Exhibit A.

Passed and adopted this 18th day of April, 2024.

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-Fifth day of March in the year Two Thousand and Twenty-Four
(In words, indicate day, month and year.)

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

City of Fairview
7100 City Center Way
Fairview, Tennessee 37062
Telephone Number: 615-799-2484

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

Wold Architects and Engineers
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 615-370-8500

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

New Fairview Police and Court Facility

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

(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.)

To be determined.

§ 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.)

To be determined.

§ 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.

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

- .1 Design phase milestone dates, if any:

Int.

To be determined.

.2 Construction commencement date:

To be determined.

.3 Substantial Completion date or dates:

To be determined.

.4 Other milestone dates:

To be determined.

§ 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.)

To be determined.

§ 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.)

To be determined.
(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall define the terms, conditions and services related to the Owner's Sustainable Objective.

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

Lisa Anderson, Mayor
City of Fairview
7100 City Center Circle
Fairview, Tennessee 37062

§ 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.)

Zack Humphreys, Police Chief
Fairview Police Department
7100 City Center Way
Fairview, Tennessee
37062

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

.1 Geotechnical Engineer:

To be determined.

(Paragraph Deleted)

.2 Other, if any:

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

To be determined.

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

(List name, address, and other contact information.)

Stephen P. Griffin, Principal
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 615-370-8500
sgriffin@woldae.com

§ 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:

Wold Architects and Engineers
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 614-370-8500

.2 Mechanical Engineer:

I.C. Thomasson Associates, Inc.
2950 Kraft Drive
Nashville, Tennessee 37204
Telephone Number: 615-346-3400

.3 Electrical Engineer:

I.C. Thomasson Associates, Inc.
2950 Kraft Drive
Nashville, Tennessee 37204
Telephone Number: 615-346-3400

(Paragraph Deleted)

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User Notes:

(3B9ADA2D)

4 Civil Engineer:

Wold Architects and Engineers
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 614-370-8500

(Paragraph Deleted)

§ 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.

§ 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 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.

§ 2.3 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 (\$ 1,000,000) for each occurrence and Two Million (\$ 2,000,000) 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 One Million (\$ 1,000,000) 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 (\$ 1,000,000) each accident, One Million (\$ 1,000,000) each employee, and One Million (\$ 1,000,000) 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 (\$ 1,000,000) per claim and Two Million (\$ 2,000,000) 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 Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner 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 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.

§ 3.1.4 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.

§ 3.1.5 The Architect shall 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.

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§ 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.

§ 3.2 Schematic Design Phase Services

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

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

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

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

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

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

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

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

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

§ 3.3 Design Development Phase Services

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

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

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

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§ 3.4 Construction Documents Phase Services

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

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

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

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

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall after consultation with the Owner be primarily responsible for the preparation of the necessary bidding information and bidding forms. The Architect shall also assist the owner in the preparation of the General Conditions of the Contract for Construction, and form of agreement between the Owner and Contractor. All bidding documents and contractual agreements shall be in compliance with the requirements of Tennessee's public bidding and contracting law as those laws apply to public entities.

§ 3.4.6 The Architect shall work with the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall have the primary responsibility to complete the required documents and ensure that they are properly filed on behalf of the Owner. The Architect shall observe those applicable laws, statues, ordinances, codes, rules and regulations in force and publicly announced as of the date of this agreement or as of the date of subsequent compensation amendments whichever is the latter.

§ 3.4.7 Owner understands that relatively few guidelines are available with respect to compliance with Americans with Disabilities Act (ADA). Architect is aware of developments in this field, including ADA guidelines that are incorporated in the building code, and legal decisions, but cannot guarantee or warrant that Architect's opinion of appropriate compliance measures will be found valid.

§ 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; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

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

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders, if requested by Owner;

Init.

- .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 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.

§ 3.5.3.4 In the event the lowest bid (or bids) exceeds the budget for the Project, the Architect, in consultation with and at the direction of the Owner, shall provide such modifications in the Contract Documents as necessary to bring the cost of the Project within the budget, unless Owner directs the Architect to bid a project estimated over budget.

§ 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.

§ 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 at the end of the one year contractor's construction warranty period.

§ 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 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 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.

§ 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, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and

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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 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:

- .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 | N/P |
| § 4.1.1.2 Multiple preliminary designs | N/P |
| § 4.1.1.3 Measured drawings | Owner |
| § 4.1.1.4 Existing facilities surveys | Owner |
| § 4.1.1.5 Site evaluation and planning | Architect – Basic Services |
| § 4.1.1.6 Building Information Model management responsibilities | N/P |
| § 4.1.1.7 Development of Building Information Models for post construction use | N/P |
| § 4.1.1.8 Civil engineering | Architect – Basic Services |
| § 4.1.1.9 Landscape design | Architect – Basic Services |
| § 4.1.1.10 Architectural interior design | Architect – Basic Services |
| § 4.1.1.11 Value analysis | N/P |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3 | Architect – can be provided for an additional fee. |
| § 4.1.1.13 On-site project representation | N/P |
| § 4.1.1.14 Conformed documents for construction | N/P |
| § 4.1.1.15 As-designed record drawings | N/P |
| § 4.1.1.16 As-constructed record drawings | N/P |
| § 4.1.1.17 Post-occupancy evaluation | N/P |
| § 4.1.1.18 Facility support services | N/P |
| § 4.1.1.19 Tenant-related services | N/P |
| § 4.1.1.20 Architect's coordination of the Owner's consultants | N/P |
| § 4.1.1.21 Telecommunications/data design | Architect - can be provided for additional fee. |
| § 4.1.1.22 Security evaluation and planning | N/P |
| § 4.1.1.23 Commissioning | N/P |
| § 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3 | N/P |
| § 4.1.1.25 Fast-track design services | N/P |
| § 4.1.1.26 Multiple bid packages | N/P |
| § 4.1.1.27 Historic preservation | N/P |

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| | | |
|------------|--|---|
| § 4.1.1.28 | Furniture, furnishings, and equipment design | Architect - can be provided for additional fee. |
| § 4.1.1.29 | Other services provided by specialty Consultants | N/P |
| § 4.1.1.30 | Other Supplemental Services | N/P |
| | | |

§ 4.1.2 Description of Supplemental Services

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

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

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

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

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services agreed upon in writing between the Owner and Architect. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or 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.

.12 Additional Services shall specifically include Services and Reimbursable Expenses regarding Architect response or action related to requests under the Tennessee Public Records Act ("TPRA"). Additional Services related to the TPRA may be provided by the Architect without the Owner's consent or permission. Owner's obligation to pay Architect for Additional Services regarding the TPRA shall survive the termination or completion of Services under this Agreement.

§ 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.

(Paragraph Deleted)

§ 4.2.4 Except for services required under Section 3.6.6.5, 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.

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall 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.

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§ 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 agreed upon in writing between the Owner and Architect.

§ 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.

§ 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 in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 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.

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.

§ 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.

§ 6.4 If, through no fault of the Architect, 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.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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User Notes:

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document 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.

§ 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.

§ 8.2 Mediation

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

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in

advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 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.)

[X] Litigation in the Circuit Court of Williamson County

[] 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.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 No mediation or legal action arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity

sought to be joined. Consent to mediation or legal action involving an additional person or entity shall not constitute consent to mediation or legal action of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to mediate and other agreements to mediate 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.

(Paragraphs Deleted)

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

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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 This Agreement may be terminated by the Owner upon seven (7) days written notice to Architect in its sole discretion. The Architect may terminate this Agreement only in the event of substantial non-performance by the Owner. In the event the Architect proposes to terminate this Agreement, the Architect shall notify the Owner in writing stating with specificity the alleged non-performance and further stating that the proposed termination shall be effective if the non-performance remains uncorrected for a period not less than fifteen (15) days following said notice. 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.

(Paragraphs Deleted)

(Paragraph Deleted)

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

§ 9.8 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.

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.

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

§ 10.3 The Owner and 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.

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

Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

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

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

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

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

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

§ 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.

§ 10.10 Owner irrevocably assigns to Architects all rights to claim Section 179D federal tax credits under Energy Policy Act of 2005 as amplified and clarified in IRS Notice 2008-40. Owner shall cooperate with Architect to establish Architect's eligibility for these federal tax credits. Architect shall be responsible for the costs of the independent third party energy study and certification.

ARTICLE 11 COMPENSATION

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

(Paragraph Deleted)

The Architect's compensation for individual project phases shall be calculated as a fixed fee value based on the Project's Estimated Construction Cost multiplied by fee percentages of 6.5% for new construction and 8% for renovations and confirmed in writing between Owner and Architect through individual fee letters related to the Project and incorporated herein as exhibits to this Agreement.

(Paragraphs Deleted)

(Paragraph Deleted)

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

Hourly Rate or Fixed Fee agreed upon in writing.

§ 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.)

Hourly Rate or Fixed Fee agreed upon in writing.

§ 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 as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

Hourly Rate or Fixed Fee agreed upon in writing.

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

| | | | | |
|------------------------------|-------------|-----------|-----|----|
| Schematic Design Phase | fifteen | percent (| 15 | %) |
| Design Development Phase | twenty | percent (| 20 | %) |
| Construction Documents Phase | forty | percent (| 40 | %) |
| Procurement Phase | five | percent (| 5 | %) |
| Construction Phase | twenty | percent (| 20 | %) |
| Total Basic Compensation | one hundred | percent (| 100 | %) |

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

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

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

Refer to Exhibit A: Hourly Rates

(Table Deleted)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 mileage based on Federal rates in connection with the project and Owner requested out-of-state travel;
- .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, including government agency review and permit fees;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6

(Paragraph Deleted)

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;

- .7 All taxes levied on professional services and on reimbursable expenses;
- .8 Site office expenses;
- .9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .10 Other similar Project-related expenditures.
- .11 Expense of computer aided design and drafting equipment time when used in connection with the

Project.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants and be billed at actual cost to Architect 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:

(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 zero (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the 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 sixty (60) 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.)

Local rate of interest as set by Tennessee State Statute.

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

12.1 Standard of Care: In providing services under this Agreement, the Architect shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party. The Architect makes no warranty, express or implied, as to its professional services rendered under this Agreement.

12.2 Limitation of Liability: In recognition of the relative risks and benefits of the Project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to the Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed the Architect's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause or action however alleged or arising, unless otherwise prohibited by law.

12.3 Stepped Dispute Resolution: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Owner and the Architect agree to attempt to resolve such disputes in the following manner:

12.3.1 First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party.

12.3.2 Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining disputes by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

12.3.3 Third, if the dispute or any issues remain unresolved after the above steps, the parties agree to attempt resolution by submitting the matter to a court of competent jurisdiction.

12.4 Indemnification: 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 and defense costs, to the extent caused by the Architect's negligent performance of professional services under this Agreement and that of its consultant or anyone for whom the Architect is legally liable. In no event shall the Architect be obligated to indemnify the Owner in any manner whatsoever for the other party's own negligence or for the negligence of others.

12.5 Accessibility: The Owner acknowledges that the requirements of the Americans with Disabilities Act (ADA), Fair Housing Act (FHA) and other federal, state and local accessibility laws, rules, codes, ordinances and regulations will be subject to various and possibly contradictory interpretations. The Architect, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement to the extent those statutes apply to the Project. The Architect, however, cannot and does not warrant or guarantee that the Owner's Project will comply with all possible interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project, and the Architect shall, accordingly, not have any liability to the Owner in connection with same.

12.6 Hazardous Materials: As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, mold, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

Both parties acknowledge that the Architect's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Architect or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the Architect that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Architect's services, the Architect may, at its sole option and

without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Owner retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

12.7 Betterment: If a required item or component of the Project is inadvertently 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.

12.8 Code Compliance: The Architect shall put forth reasonable professional efforts to comply with applicable laws, codes and regulations in effect as of the date of the execution of this Agreement. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle the Architect to a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provisions of this Agreement.

12.9 Value Engineering: If the Owner retains the services of a Value Engineer (VE) 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. The Owner shall promptly notify the Architect of the identity of the VE and shall define the VE's scope of services. All recommendations of the VE shall be given to the Architect for review, and adequate time will 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.

In addition, the Architect shall be compensated for services necessary to incorporate recommended value engineering changes into reports, drawings, specifications, bidding or other documents. The Architect shall be compensated as Additional Service for all time spent to prepare for, review and respond to the recommendations of the VE. The Architect's time for performance of its services shall be equitably adjusted.

12.10 Estimates: The Architect's Opinion of Probable Cost for the cost of the Work as described in Article 6, paragraph 6.3 of this Agreement shall be based on an area cost concept of cost per square foot. A detailed estimate based on a quantitative concept is an Additional Service as addressed in Article 4, paragraph 4.1 of this Agreement. The Architect's Opinion of Probable Cost is based on the Architect's reasonable professional judgement and experience and does not constitute a warranty, expressed or implied, that the Contractor's cost for the Work will not vary from the Architect's opinion of probable cost.

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

(Paragraphs Deleted)

- .2 Exhibits:

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

(Paragraph Deleted)

Other Exhibits incorporated into this Agreement:

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

Exhibit A: Hourly Rates

Init.

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User Notes:

(3B9ADA2D)

(Paragraph Deleted)

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

OWNER (Signature)

Lisa Anderson, Mayor

(Printed name and title)

ARCHITECT (Signature)

Stephen P. Griffin, Principal

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

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

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:27:07 CT on 04/01/2024.

PAGE 1

AGREEMENT made as of the Twenty-Fifth day of March in the year Two Thousand and Twenty-Four.

...

City of Fairview
7100 City Center Way
Fairview, Tennessee 37062
Telephone Number: 615-799-2484

...

Wold Architects and Engineers
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 615-370-8500

...

New Fairview Police and Court Facility

PAGE 2

TABLE OF ARTICLES

...

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

...

To be determined.

...

To be determined.

...

To be determined.

PAGE 3

To be determined.

...

To be determined.

...

To be determined.

...

To be determined.

...

To be determined.

...

To be determined.

...

~~§ 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.~~ Sustainable Objective.

...

Lisa Anderson, Mayor
City of Fairview
7100 City Center Circle
Fairview, Tennessee 37062

...

Zack Humphreys, Police Chief
Fairview Police Department
7100 City Center Way
Fairview, Tennessee

...

37062

...

To be determined.

PAGE 4

~~2~~ Civil Engineer:

...

~~3~~ 2 Other, if any:

...

To be determined.

...

Stephen P. Griffin, Principal
214 Centerview Drive, Suite 300
Brentwood, Tennessee 37027
Telephone Number: 615-370-8500
sgriffin@woldae.com

...

Wold Architects and Engineers

...

214 Centerview Drive, Suite 300

...

Brentwood, Tennessee 37027

...

Telephone Number: 614-370-8500

...

I.C. Thomasson Associates, Inc.

...

2950 Kraft Drive

...

Nashville, Tennessee 37204

...

Telephone Number: 615-346-3400

...

I.C. Thomasson Associates, Inc.

...

2950 Kraft Drive

...

Nashville, Tennessee 37204

...

Telephone Number: 615-346-3400

...

§ 1.1.11.2 Consultants retained under Supplemental Services:

PAGE 5

4 Civil Engineer:

...

Wold Architects and Engineers

...

214 Centerview Drive, Suite 300

...

Brentwood, Tennessee 37027

...

Telephone Number: 614-370-8500

...

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

...

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

...

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

...

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

PAGE 6

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million (\$ 1,000,000) 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.

...

§ 2.5.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000) each accident, One Million (\$ 1,000,000) each employee, and One Million (\$ 1,000,000) 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 (\$ 1,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate.

PAGE 7

§ 3.2.5.1 The Architect shall ~~consider~~ consider, if requested by the Owner, 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.

PAGE 8

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall after consultation with the Owner be primarily responsible for the preparation of the necessary bidding information and bidding forms. The Architect shall also assist the owner in the preparation of the General Conditions of the Contract for Construction, and form of agreement between the Owner and Contractor. All bidding documents and contractual agreements shall be in compliance with the requirements of Tennessee's public bidding and contracting law as those laws apply to public entities.

...

§ 3.4.6 The Architect shall work with the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall have the primary responsibility to complete the required documents and ensure that they are properly filed on behalf of the Owner. The Architect shall observe those applicable laws, statutes, ordinances, codes, rules and regulations in force and publicly announced as of the date of this agreement or as of the date of subsequent compensation amendments whichever is the latter.

...

§ 3.4.7 Owner understands that relatively few guidelines are available with respect to compliance with Americans with Disabilities Act (ADA). Architect is aware of developments in this field, including ADA guidelines that are incorporated in the building code, and legal decisions, but cannot guarantee or warrant that Architect's opinion of appropriate compliance measures will be found

...

§-valid.

...

§ 3.5 Procurement Phase Services

...

- 2 organizing and conducting a pre-bid conference for prospective bidders; bidders, if requested by Owner;

PAGE 9

§ 3.5.3.4 In the event the lowest bid (or bids) exceeds the budget for the Project, the Architect, in consultation with and at the direction of the Owner, shall provide such modifications in the Contract Documents as necessary to bring the cost of the Project within the budget, unless Owner directs the Architect to bid a project estimated over

...

§-budget.

...

§ 3.6 Construction Phase Services

...

§ 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 at the end of the one year contractor's construction warranty period.

PAGE 10

§ 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, construction 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.

§ 3.6.4.2 The Architect shall ~~review and approve, review,~~ or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The 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.

| | | |
|------------|--|---|
| § 4.1.1.1 | Programming | <u>N/P</u> |
| § 4.1.1.2 | Multiple preliminary designs | <u>N/P</u> |
| § 4.1.1.3 | Measured drawings | <u>Owner</u> |
| § 4.1.1.4 | Existing facilities surveys | <u>Owner</u> |
| § 4.1.1.5 | Site evaluation and planning | <u>Architect – Basic Services</u> |
| § 4.1.1.6 | Building Information Model management responsibilities | <u>N/P</u> |
| § 4.1.1.7 | Development of Building Information Models for post construction use | <u>N/P</u> |
| § 4.1.1.8 | Civil engineering | <u>Architect – Basic Services</u> |
| § 4.1.1.9 | Landscape design | <u>Architect – Basic Services</u> |
| § 4.1.1.10 | Architectural interior design | <u>Architect – Basic Services</u> |
| § 4.1.1.11 | Value analysis | <u>N/P</u> |
| § 4.1.1.12 | Detailed cost estimating beyond that required in Section 6.3 | <u>Architect – can be provided for an additional fee.</u> |
| § 4.1.1.13 | On-site project representation | <u>N/P</u> |
| § 4.1.1.14 | Conformed documents for construction | <u>N/P</u> |
| § 4.1.1.15 | As-designed record drawings | <u>N/P</u> |
| § 4.1.1.16 | As-constructed record drawings | <u>N/P</u> |
| § 4.1.1.17 | Post-occupancy evaluation | <u>N/P</u> |
| § 4.1.1.18 | Facility support services | <u>N/P</u> |
| § 4.1.1.19 | Tenant-related services | <u>N/P</u> |
| § 4.1.1.20 | Architect's coordination of the Owner's consultants | <u>N/P</u> |
| § 4.1.1.21 | Telecommunications/data design | <u>Architect - can be provided for additional fee.</u> |
| § 4.1.1.22 | Security evaluation and planning | <u>N/P</u> |
| § 4.1.1.23 | Commissioning | <u>N/P</u> |
| § 4.1.1.24 | Sustainable Project Services pursuant to Section 4.1.3 | <u>N/P</u> |
| § 4.1.1.25 | Fast-track design services | <u>N/P</u> |
| § 4.1.1.26 | Multiple bid packages | <u>N/P</u> |
| § 4.1.1.27 | Historic preservation | <u>N/P</u> |
| § 4.1.1.28 | Furniture, furnishings, and equipment design | <u>Architect - can be provided for additional fee.</u> |
| § 4.1.1.29 | Other services provided by specialty Consultants | <u>N/P</u> |
| § 4.1.1.30 | Other Supplemental Services | <u>N/P</u> |

...

§ 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 B204™ 2017, Sustainable Projects Exhibit, attached to this Agreement, agreed upon in writing between the Owner and Architect.~~ The Owner shall compensate the Architect as provided in Section 11.2.

PAGE 14

.12 Additional Services shall specifically include Services and Reimbursable Expenses regarding Architect response or action related to requests under the Tennessee Public Records Act ("TPRA"). Additional Services related to the TPRA may be provided by the Architect without the Owner's consent or permission. Owner's obligation to pay Architect for Additional Services regarding the TPRA shall survive the termination or completion of Services under this Agreement.

...

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

...

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

...

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

...

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

...

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

...

~~§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, 3.6.6.5, 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.~~

PAGE 15

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as ~~required in AIA Document B204™ 2017, Sustainable Projects Exhibit, attached to this Agreement, agreed upon in writing between the Owner and Architect.~~

PAGE 16

§ 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.

PAGE 17

~~§ 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.

...

~~§ 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.~~

PAGE 18

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

...

~~[] Arbitration pursuant to Section 8.3 of this Agreement~~

...

[X] ~~Litigation in a court of competent jurisdiction~~ the Circuit Court of Williamson County

...

~~§ 8.3 Arbitration~~ § 8.3.4 Consolidation or Joinder

...

~~§ 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.~~ 8.3.4.1 No mediation or legal action

arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity

...

~~§ 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 sought to be joined. Consent to mediation or legal action involving an additional person or entity shall not constitute consent to mediation or legal action of any 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 not described in the written consent or with a person or entity not named or~~

...

~~§ 8.3.2 described therein. The foregoing agreement to arbitrate, mediate and other agreements to arbitrate mediate with an additional person or entity duly consented to by parties to this Agreement, 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.~~

§ 9.4 This Agreement may be terminated by the Owner upon seven (7) days written notice to Architect in its sole discretion. The Architect may terminate this Agreement only in the event of substantial non-performance by the Owner. In the event the Architect proposes to terminate this Agreement, the Architect shall notify the Owner in writing stating with specificity the alleged non-performance and further stating that the proposed termination shall be effective if the non-performance remains uncorrected for a period not less than fifteen (15) days following said notice. 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.

...

~~§ 9.7 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:~~

...

~~§ 9.8-9.7~~ Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

...

~~§ 9.9-9.8~~ 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 9.7.7.

...

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

§ 10.10 Owner irrevocably assigns to Architects all rights to claim Section 179D federal tax credits under Energy Policy Act of 2005 as amplified and clarified in IRS Notice 2008-40. Owner shall cooperate with Architect to establish Architect's eligibility for these federal tax credits. Architect shall be responsible for the costs of the independent third party energy study and certification.

...

.1— Stipulated Sum

...

The Architect's compensation for individual project phases shall be calculated as a fixed fee value based on the Project's Estimated Construction Cost multiplied by fee percentages of 6.5% for new construction and 8% for renovations and confirmed in writing between Owner and Architect through individual fee letters related to the Project and incorporated herein as exhibits to this Agreement.

...

(Insert amount)

PAGE 21

.2— Percentage Basis

...

(Insert percentage value)

...

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

...

.3— Other

...

(Describe the method of compensation)

...

Hourly Rate or Fixed Fee agreed upon in writing.

...

Hourly Rate or Fixed Fee agreed upon in writing.

...

§ 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 percent (%),~~ or as follows:

...

Hourly Rate or Fixed Fee agreed upon in writing.

...

Schematic Design Phase

fifteen percent (15 %)

| | | | | |
|------------------------------|---------------|-----------|-----------|----|
| Design Development Phase | <u>twenty</u> | percent (| <u>20</u> | %) |
| Construction Documents Phase | <u>forty</u> | percent (| <u>40</u> | %) |
| Procurement Phase | <u>five</u> | percent (| <u>5</u> | %) |
| Construction Phase | <u>twenty</u> | percent (| <u>20</u> | %) |

...
Refer to Exhibit A: Hourly Rates

PAGE 22

| Employee or Category | Rate (\$0.00) |
|--|---------------|
| ... | |
| .1 <u>Transportation and authorized out-of-town travel and subsistence; mileage based on Federal rates in connection with the project and Owner requested out-of-state travel;</u> | |
| ... | |
| .3 <u>Permitting and other fees required by authorities having jurisdiction over the Project; Project, including government agency review and permit fees;</u> | |
| ... | |
| .6 <u>Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;</u> | |
| ... | |
| .7 <u>Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;</u> | |
| ... | |
| .8 <u>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;</u> | |
| ... | |
| .9 <u>.7 All taxes levied on professional services and on reimbursable expenses;</u> | |
| ... | |
| .10 <u>.8 Site office expenses;</u> | |
| ... | |
| .14 <u>.9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,</u> | |
| ... | |
| .12 <u>.10 Other similar Project-related expenditures.</u> | |

...

.11 Expense of computer aided design and drafting equipment time when used in connection with the

...

Project.

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants and be billed at actual cost to Architect 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:~~coverages:

...

§ 11.10.1.1 An initial payment of zero (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.10.2.1 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 sixty (60) 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.

PAGE 23

%-Local rate of interest as set by Tennessee State Statute.

...

12.1 Standard of Care: In providing services under this Agreement, the Architect shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party. The Architect makes no warranty, express or implied, as to its professional services rendered under this Agreement.

...

12.2 Limitation of Liability: In recognition of the relative risks and benefits of the Project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to the Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed the Architect's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause or action however alleged or arising, unless otherwise prohibited by law.

...

12.3 Stepped Dispute Resolution: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Owner and the Architect agree to attempt to resolve such disputes in the following manner:

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User Notes:

...

12.3.1 First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party.

...

12.3.2 Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining disputes by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

...

12.3.3 Third, if the dispute or any issues remain unresolved after the above steps, the parties agree to attempt resolution by submitting the matter to a court of competent jurisdiction.

...

12.4 Indemnification: 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 and defense costs, to the extent caused by the Architect's negligent performance of professional services under this Agreement and that of its consultant or anyone for whom the Architect is legally liable. In no event shall the Architect be obligated to indemnify the Owner in any manner whatsoever for the other party's own negligence or for the negligence of others.

...

12.5 Accessibility: The Owner acknowledges that the requirements of the Americans with Disabilities Act (ADA), Fair Housing Act (FHA) and other federal, state and local accessibility laws, rules, codes, ordinances and regulations will be subject to various and possibly contradictory interpretations. The Architect, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement to the extent those statutes apply to the Project. The Architect, however, cannot and does not warrant or guarantee that the Owner's Project will comply with all possible interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project, and the Architect shall, accordingly, not have any liability to the Owner in connection with same.

...

12.6 Hazardous Materials: As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, mold, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

PAGE 24

Both parties acknowledge that the Architect's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Architect or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the Architect that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Architect's services, the Architect may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Owner retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

...

12.7 Betterment: If a required item or component of the Project is inadvertently 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.

...

12.8 Code Compliance: The Architect shall put forth reasonable professional efforts to comply with applicable laws, codes and regulations in effect as of the date of the execution of this Agreement. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle the Architect to a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provisions of this Agreement.

...

12.9 Value Engineering: If the Owner retains the services of a Value Engineer (VE) 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. The Owner shall promptly notify the Architect of the identity of the VE and shall define the VE's scope of services. All recommendations of the VE shall be given to the Architect for review, and adequate time will 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.

...

In addition, the Architect shall be compensated for services necessary to incorporate recommended value engineering changes into reports, drawings, specifications, bidding or other documents. The Architect shall be compensated as Additional Service for all time spent to prepare for, review and respond to the recommendations of the VE. The Architect's time for performance of its services shall be equitably adjusted.

...

12.10 Estimates: The Architect's Opinion of Probable Cost for the cost of the Work as described in Article 6, paragraph 6.3 of this Agreement shall be based on an area cost concept of cost per square foot. A detailed estimate based on a quantitative concept is an Additional Service as addressed in Article 4, paragraph 4.1 of this Agreement. The Architect's Opinion of Probable Cost is based on the Architect's reasonable professional judgement and experience and does not constitute a warranty, expressed or implied, that the Contractor's cost for the Work will not vary from the Architect's opinion of probable cost.

...

~~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~~ 2 Exhibits:

...

~~[]~~ AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:

...

(Insert the date of the E204-2017 incorporated into this agreement.)

...

Exhibit A: Hourly Rates

PAGE 25

4—Other documents:

...

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

...

Lisa Anderson, Mayor

Stephen P. Griffin, Principal

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

I, Stephen P. Griffin, AIA, Principal, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:27:07 CT on 04/01/2024 under Order No. 2114500194 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

PRINCIPAL

(Title)

4.4.2024

(Dated)



2024 Hourly Billing Schedule

| Wold Hourly Rate | Billing Rate |
|--|---------------------|
| Classification | Billing Rate |
| Expert Witness Testimony | \$295.00 |
| Sr. Principal | \$250.00 |
| Principal | \$225.00 |
| Senior Architect | \$190.00 |
| Sr. Planner | \$190.00 |
| Senior Project Mgr. Architect / Engineer | \$190.00 |
| Sr. Reg. Land Surveyor | \$190.00 |
| Senior Interior Designer | \$180.00 |
| Senior Designer | \$180.00 |
| Architect / Interior Design Staff | \$135.00 - \$170.00 |
| Engineering Staff | \$140.00 - \$175.00 |
| Survey Project Manager / CAD Technician | \$150.00 |
| Survey Party Chief | \$125.00 |
| Survey - Two Person Team | \$200.00 |
| Survey - Three Person Team | \$265.00 |
| Administrative Assistant | \$100.00 |

Note: These rates are subject to adjustment on a semi-annual basis to allow for changes in employee compensation, and the rates in effect at the time specific work is performed shall prevail.
Effective Date January 1, 2024.

Wold Architects and Engineers
214 Centerview Drive, Suite 300
Brentwood, TN 37027
woldae.com | 615 370 8500

**PLANNERS
ARCHITECTS
ENGINEERS**



March 25, 2024

Chief Zack Humphreys
City of Fairview
7100 City Center Way
Fairview, TN 37062

Re: New Police Department and Court Facility
Programming Phase Fee Proposal

Dear Chief Humphreys,

Wold is a dedicated partner to serving municipal governments, and we are very excited about the opportunity to work with you, your team, and the Fairview City officials.

This letter is to serve as a proposed fee for initial programming and preplanning services for your new facility since we currently do not have a defined scope and budget. We will work with you all to determine your space needs and building square footage and provide a conceptual block diagram layout to work toward obtaining an opinion of probable construction cost based on the square footage of the new facility. This cost will be used as our construction budget moving forward in the design phases.

For the initial programming and conceptual layout phase, we propose a lump sum fee of **\$16,500.00**. Reimbursables for both will be in addition based on our AIA Owner Architect agreement.

Once this initial phase is complete, the scope of the building and budget are defined, and the city is ready to move forward, we will calculate the remaining phases (schematic design – construction administration) based on our standard fee percentages of 6.5% for new construction and 8% for the renovation to the current City Hall space. These percentages calculated using the construction budget will include all basic services: Architectural, Structural, Mechanical, Electrical, Plumbing and Fire Protection, as well as Civil/Site, Interior Design and Landscaping services. We can also provide Information Technology design and 3rd party cost estimating as additional services.

We are excited about the opportunity to continue working with the City of Fairview. Please let me know if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Beth Meadows".

Beth Meadows, AIA, CDT
Associate

pc: Steve Griffin
Jared Brown

RESOLUTION 16-24

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SALES PROPOSAL AGREEMENT BETWEEN ATLANTIC COAST FIRE TRUCKS, LLC AND THE CITY OF FAIRVIEW, TENNESSEE

WHEREAS, the City of Fairview desires to purchase one (1) Spartan Legend Fire Pumper from Atlantic Coast Fire Trucks, LLC; and

WHEREAS, the parties have reviewed and accept the terms and conditions of the sales proposal agreement, which is attached as Exhibit A hereto.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners, that the Mayor be authorized and directed to sign the SALES PROPOSAL AGREEMENT BETWEEN ATLANTIC COAST FIRE TRUCKS, LLC AND THE CITY OF FAIRVIEW, TENNESSEE.

Passed and adopted this 18th day of April, 2024.

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney



37 Stonington Drive, Murrells Inlet, SC 29576

SALES PROPOSAL

THIS PROPOSAL ("Proposal") is made by and between Atlantic Coast Fire Trucks, LLC ("ACFT"), and City of Fairview, TN ("Customer") for the purchase of One (1) Spartan Legend Fire Pumper. This Proposal will not become binding by ACFT until it is executed by an authorized person(s) on behalf of ACFT and the Customer, and the effective date of the Proposal ("Effective Date") will be the date that the ACFT authorized person executes the contract. The parties hereby agree as follows:

(1) Subject to the terms of this Proposal, the manufacturer shall furnish, and Customer shall purchase, the apparatus and equipment ("Apparatus and Equipment") described and in accordance in all material respects with the specifications ("Original Specifications") submitted with the bid proposal (the "Bid Proposal"). In the event there is any conflict between Original Specification and the Bid Proposal, the Bid Proposal will prevail.

(2) This Proposal for Apparatus and Equipment conforms to all Federal Department of Transportation (DOT) and Environmental Protection Agency (EPA) rules and regulations and to all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus in effect as of the Effective Date. Any increased cost incurred by the manufacturer because of future changes in or additions to such DOT, EPA or NFPA standards will be passed along to Customer as an addition to the Purchase Price set forth below.

(3) The Apparatus and Equipment shall be ready for delivery from the factory, within **800** days. This delivery timeframe is subject to modification if there are customer driven delays to holding the pre-construction meeting and/or if there are customer driven delays to returning the corresponding signed change order to the factory. All days exceeding 10 days after the pre-construction conclusion with priced change order ready for approval will be added to the above-mentioned delivery timeframe. Any further delays after the pre-construction has been completed in providing additional desired specifications, change approvals, inspection timelines, or other required information for the Apparatus and Equipment may result in an extension of the above referenced delivery timeline by the amount of time the manufacturer requires, in its sole but reasonable discretion, to furnish the Apparatus and Equipment following Customer's delay, but in any event by at least the duration of Customer's delay. It is understood by the Customer that change orders can affect price and delivery time.

(4) A competent ACFT service representative shall, upon request, be provided to demonstrate and provide instructions in the handling and operation of Apparatus or Equipment described herein.

(5) In exchange for the Apparatus and Equipment, Customer agrees to pay ACFT the sum of Eight Hundred Six Thousand Dollars (\$ 806,000.00) ("Purchase Price"). The Purchase Price (a) includes a discount of \$0.00 dollars for a \$806,000.00 dollar payment to be made upon delivery or upon receipt of invoice; OR (b) Customer reserves the right to receive a \$55,642.00 discount if, after the Effective Date, a \$750,358.00 prepayment is made within 21 days of order acceptance. *Price quotes valid until 04/26/2024.* Dealer-supplied or dealer-installed items that delay payment will be invoiced separately. Interest at 18 percent per annum, payable monthly, shall be charged on all past due payments. If more than one item of Apparatus and Equipment is covered by this Proposal, the above terms of payment shall apply to each item, and an invoice covering each item shall be rendered in the proper amount and paid upon delivery of the item. In the event the Apparatus and Equipment is placed in service prior to payment in full, ACFT reserves the right to charge a rental fee of Three Hundred Fifty Dollars (\$350.00) per day. Any applicable taxes not specified noted above will be paid by Customer directly or will be added to the Purchase Price. If Customer claims exemption from any tax, Customer shall furnish applicable exemption certificate to ACFT and hold ACFT harmless from any such tax, interest or penalty which may at any time be assessed against ACFT.

All payments must be made to Atlantic Coast Fire Trucks, LLC. Any representation that payment is to be to any other party is unauthorized.

(6) Acceptance of Apparatus and Equipment shall occur immediately after completion of a final inspection by a representative of the Customer, completion of any discrepancy list, and shipment of Apparatus and Equipment from the factory location. Upon completion of the final inspection and related discrepancy list, the Apparatus and Equipment shall be conclusively determined to be in full compliance with the terms of this Proposal, including without limitation the Original Specifications. ACFT will not surrender to Customer the title to or the statement of origin for any Apparatus or Equipment or provide Customer with any other documentation regarding ownership of any Apparatus or Equipment until Smeal has received full payment of the Purchase Price and taxes.

(7) ACFT shall not be liable to Customer or to anyone else for consequential, incidental, special, exemplary, indirect or punitive damages arising from any defect, delay, nondelivery, recall or other breach by ACFT, including but not limited to personal injury, death, property damage, lost

profits, or other economic injury. ACFT shall not be liable to Customer or anyone else in tort for any negligent design or manufacture of any body or other part of Apparatus or Equipment, or for the omission of any warning with respect thereto.

(8) Customer shall indemnify ACFT against, and hold ACFT, its agents, employees, officers and directors harmless from, any and all claims, action, suits and proceedings, costs, expenses, damages and liabilities, whether based in negligence, tort, strict liability or otherwise, including attorney's fees and costs, arising out of, connected with, or resulting from this Contract or the Apparatus or Equipment, except to the extent such claims, action, suits and proceedings, costs, expenses, damages or liabilities arise from ACFT's breach of its obligations under this Contract.

(9) ACFT warrants that, at the time of delivery, the Apparatus and Equipment shall comply in all material respects with the Original Specifications. OTHER MANUFACTUER WARRANTIES APPLICABLE TO THE APPARATUS AND EQUIPMENT ARE THOSE EXPRESSLY SET FORTH IN THE BID PROPOSAL AND IDENTIFIED AS APPLYING TO THE APPARATUS AND EQUIPMENT. SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.

(10) ACFT shall not be liable if performance failure arises out of causes beyond its reasonable control, which causes shall include without limitation acts of God, war, fires, floods, public health emergencies, difficulty in procuring materials, equipment or tooling failure, freight embargoes, order of any court, strike, lockout, shortage of labor, failure or delays by suppliers or contractors, or legislative or governmental, or other, prohibitions or restrictions.

(11) The Apparatus and Equipment shall remain the property of ACFT until the entire Purchase Price for each and every item of Apparatus and Equipment has been paid. In case of a default in payment, ACFT may take full possession of the Apparatus and Equipment, or of the item or items upon which default has been made, and any payments that have been made shall be applied as payment for the use of the Apparatus and Equipment up to the date ACFT takes possession.

Submitted to Customer By: Chris Proctor on 04/05/2024.
ACFT Sales Representative – Print Name Date



ACFT Sales Representative Signature

Atlantic Coast Fire Trucks, LLC

Customer: City of Fairview, TN

By: _____
Atlantic Coast Fire Trucks, LLC Authorized
Signature

By: _____
Customer Signature

Print Name

Print Name

Date

By: _____

Print Name

Date

ORDINANCE 2024-07

AN ORDINANCE TO AMEND ARTICLE 2, SECTION 103.4 OF THE DESIGN REVIEW MANUAL FOR THE CITY OF FAIRVIEW, TENNESSEE, AND TO REPEAL AND REPLACE IN ITS ENTIRETY, TITLE 13, CHAPTER 4, “TREE PLANTING AND PROTECTION” OF THE MUNICIPAL CODE FOR THE CITY OF FAIRVIEW, TENNESSEE

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee, have determined that are multiple conflicting sources of authority governing the management of trees on public property in the City of Fairview; and

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee, have determined that the Municipal Code of the City of Fairview, Tennessee should be revised and that the best interest and welfare of all the citizens of the City of Fairview, Tennessee, will be served amending Article 2, section 103.4 of the City’s Design Review Manual and repealing and replacing Title 13, Chapter 4, of the Municipal Code as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE, BOARD OF COMMISSIONERS, that Article 2, section 103.4 of the Design Review Manual for the City of Fairview, Tennessee, be amended to read as follows:

2-103.4 Tree Bank, Exception Request

An exception may be granted by the Planning Commission from the Tree Replacement Ratio if the applicant demonstrates an inability to assure growth of trees on site due to unique soils, topography, excessive amounts of rock or limitations due to size of lot or configuration of building design. The applicant shall provide the required number of replacement trees in a public area designated by the City Planner as approved by the Public Works Supervisor and/or Parks Director, if permitted by seasonal variations. In the event the developer chooses to plant off-site, the species and location must be approved by the Fairview Municipal Planning Commission and covered by the Certificate of Compliance, bonding procedure and insured. If weather does not permit planting or if the applicant requests and approval is granted by the Planning Commission during the site plan review process, a payment in lieu of planting may be made at the time of issuance of a Building Permit. This money will be placed in a Tree Bank fund, which shall be administered in accordance with Title 13, Chapter 4 of the Municipal Code for the City of Fairview, Tennessee. This provision is not designed to allow the applicant to avoid the minimum site requirements, but rather an effort to provide an alternative measure to ensure the growth and vitality of all plantings.

FURTHERMORE, BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE, BOARD OF COMMISSIONERS, that the Fairview Municipal Code, Title 13, “Property Maintenance Regulations”, Chapter 4, “Tree Planting and Protection”, be repealed and replaced to read as follows:

**CHAPTER 4
TREE PLANTING AND PROTECTION**

- 13-401. Title.
- 13-402. Purpose, intent, and definitions.
- 13-403. Establishment of a Parks & Landscape Board
- 13-404. Duties of the tree commission.
- 13-405. Community tree plan.
- 13-406. Trees on private property.
- 13-407. Tree protection plan & Maintenance.
- 13-408. Protection From Construction, Development, and Land Use Changes
- 13-409. Abuse of public trees.
- 13-410. Establishment of Authority & Enforcement
- 13-411. Community Tree Bank Fund

13-401. Title. This chapter shall be known and may be referred to as the Tree Ordinance, for the City of Fairview, Tennessee.

13-402. Purpose, intent, and definitions. The purpose of this tree ordinance is to provide a mechanism for the management of trees and woody vegetation in the City of Fairview, Tennessee. Since adoption of an ordinance is one of the requirements for Tree City USA recognition, the City of Fairview, Tennessee hereby adopts this ordinance in order to establish guidelines for tree planting, cutting and care in the City of Fairview, Tennessee.

For the purpose of this chapter, the following terms, phases, words, and their derivations shall have the meaning given herein.

- 1) City Forester — a city employee responsible for the city’s tree program. He or she also may be titled urban forester, city arborist, municipal forester or tree warden.
- 2) Crown spread — the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.
- 3) Line Clearance — removal of limbs and branches growing within a set distance of electrical distribution lines.
- 4) Tree — a woody plant with a single trunk or multiple trunks capable of growing to a height of 15 feet or more.

- 5) Shrub — a woody plant with a multiple stem capable of growing to a height of up to 15 feet.
- 6) Small Tree — a tree that grows up to 25 feet in height.
- 7) Medium Tree — a tree that grows between 25 and 45 feet in height.
- 8) Large Tree — a tree that grows greater than 45 feet in height.
- 9) Public Tree — a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals and other areas to which the public has free access.
- 10) Private Tree — a tree growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution or other area not owned by government entities.
- 11) Street Tree — a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.
- 12) Public Utility — that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
- 13) Private Utility — an entity similar to above that is a private for-profit corporation.
- 14) Pruning — selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.
- 15) Topping — arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
- 16) Tree Density Factor — a number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted.

13-403. Establishment of a Parks & Landscape Board. There is hereby created a Parks & Landscape Board for the City of Fairview, Tennessee,

- 1) The Parks and Landscape Board shall consist of nine (9) members who are citizens and residents of the city. Members shall be appointed and approved by the Board of Commissioners (BOARD OF COMMISSIONERS).
 - a. The board will be composed of eight (8) qualified citizens and one (1) sitting City Commissioner for a total of nine (9) members.
 - b. The Parks & Landscape Board will endeavor to include representatives from:
 - i. The Friends of Bowie Park
 - ii. The Fairview Historical Commission
 - iii. American Legion Post 248
- 2) Term of Office
 - a. Members shall serve three (3) year terms, except the first board, which will have three (3) members appointed for three (3) years, three (3) members appointed for two (2) years, and two (2) members appointed for one year. Members may serve successive terms. Vacancies are filled by appointment of the governing body, until the end of the term.
 - b. Sitting City Commissioner will be appointed annually by governing body.
- 3) Compensation
 - a. All members shall serve without pay.

4) Operation

- a. The board shall pass its own bylaws, choose its own officers, make its own administrative rules and regulations, and keep record of its proceedings. Copies of the minutes shall be available to the BOARD OF COMMISSIONERS after each Parks & Landscape Meeting.
- b. Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.
- c. A majority of the members shall constitute a quorum for transaction of business.
- d. A member of the City Parks Department will attend Parks & Landscaping meetings as a liaison, for informational purposes only.

13-404. Duties of the Parks & Landscape Board. The duties of the Parks & Landscape Board shall include, but not limited to the following:

- 1) Submit and Maintain Tree City Accreditation Annually
- 2) Coordinate and promote Arbor Day Activities;
- 3) Review and update a five-year plan to plant and maintain trees on city property;
- 4) Support public awareness and education programs related to trees;
- 5) Review city department concerns related to tree care;
- 6) Submit an annual report of its activities to the BOARD OF COMMISSIONERS ;
- 7) Recommend a list of tree specified for planting on city property and a list of prohibited species;
- 8) Recommend to the Board of Commissioners approval or denial of all departmental requests to expend funds from the Tree Bank Fund;
- 9) Review & Assess City of Fairview, Tennessee Parks Master Plan, including Policy Action Recommendations. Discuss and recommend to the Board of Commissioners, how to implement the recommended Policy Actions. To include, but not limited to, General Policy Actions, Facility Actions, Programming Recommendations, and Operations & Maintenance Recommendations;
- 10) Serve as citizen advisory board to the governing body in regard to maintenance, tree planting in public property, and special projects in the City of Fairview parks system; and
- 11) Other duties that may be assigned by the Board of Commissioners.

13-405. Community Tree Plan. The Parks & Landscape Board shall have the authority to formulate a Community Tree Plan with the advice of consultants, city, state, and federal agencies, public hearings, and approval of the Board of Commissioners.

- 1) Tree planting shall be undertaken by the City of Fairview on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be under the enforcement of the City of Fairview Zoning Ordinance, Design Review Manual, or Subdivision Regulations.
- 2) Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The Parks & Landscape Board will provide information about species, planting techniques, and placement guidelines when requested by residents.

- 3) All trees in public areas capable of reaching a mature height of more than 30 feet shall be at least 1-1/4" diameter (at 6" height) and 8 to 10 feet tall at time of planting. Small maturing trees, between 15 feet and 30 feet at maturity, shall be 5 feet to 6 feet tall at planting.
- 4) Trees to be planted shall be free of insects, diseases, and mechanical injuries and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.
- 5) Large trees capable of achieving more than 45 feet in height should be spaced at least 40 feet apart. Medium trees capable of achieving 30 to 45 feet in height should be spaced 30 feet apart. Small trees capable of achieving 15 to 30 feet in height should be spaced at 20-foot intervals. Exceptions may be granted by the Parks & Landscape Board when a valid landscape plan is followed or when larger or smaller spacings are needed to achieve a desired effect.
- 6) Only small trees are permitted to be planted within 10 feet of utility lines. In street plantings, no tree may be planted closer than 10 feet from a fire hydrant, utility pole or streetlight, 15 feet from a driveway or street intersection, or 30 feet from a street or street intersections. When planting between sidewalks and curbs, 5 feet between curb and sidewalk is the minimum distance required for small trees, 8 feet for medium trees, and 10 feet for large trees.
- 7) Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer, which may be added if the Tree Board deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas or in other areas where support is determined necessary by the Parks & Landscape Board. All guy wires shall be removed within 18 months.
- 8) The City of Fairview, Tennessee has an approved Tree Species List, including a suggested shrub list. The Parks & Landscape Board will be tasked with reviewing and updating as needed / required. City Staff will be tasked with enforcement and inspection to verify that Tree Species List is being followed.

13-406. Trees on Private Property. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct views of any street or alley intersection. It shall be the duty of any person owning or occupying real property, bordering on any street, park, or other public land, on which there may be trees that are diseased, or insect infested, to remove, spray or treat such trees in such manner that they will not infect or damage nearby public vegetation or cause harm to the community or citizens therein. The Parks & Landscape Board may order trees on private land that cause obstruction, represent an insect or disease problem, or otherwise present a danger to public health or safety, to be pruned, removed, or treated, at owner's expense.

13-407. Tree protection Plan & Maintenance.

- 1) Standards. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- 2) Planting distances. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant
- 3) The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be precut to prevent excessive peeling of the bark, followed by cutting the remaining stub.
- 4) Fertilization of trees will be accomplished when the Parks & Landscape Board determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.
- 5) The Parks & Landscape Board may give notice to owners of private infested trees and encourage said private owners to effect treatment of affected trees growing on their property.
- 6) Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The Parks & Landscape Board shall promote the use of proper pruning procedures.
- 7) The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- 8) Only trees listed as Ornamental trees on the official city tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

13-408. Protection From Construction, Development, and Land Use Changes. The City of Fairview, Tennessee maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the City of Fairview may adopt regulations requiring developers and builders to create tree impact plans prior to removing any tree from project sites. Regulations adopted by the city may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements.

13-409. Abuse of public trees. No person shall intentionally damage, cut, carve, transplant, or remove any public tree, attach any rope, wire nails, advertisements, posters, or other contrivance to any public tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

13-410. Establishment of Authority & Enforcement

- 1) The City Planning & Engineering Department, while working with the Public Works Department, shall administer the rules governing the planting, maintenance, and removal of trees on the street or other public sites in the city.
- 2) If and when available, A City Arborist or City Forester may fulfill the role of the staff governance of planting, maintenance, and removal of trees on the street or other public sites in the city.
- 3) The City Planning & Engineering Department shall communicate with the Parks & Landscape Board as needed in review of tree protection, planting, and maintenance.
- 4) If and when available, A City Arborist or City Forester may fulfill the role of the staff communications with The Parks & Landscape Board.
- 5) No person shall hinder, prevent, delay, or interfere with any professional City Staff acting on behalf of city in the forestry official capacity. Including, but not limited to, city engineer, city planner, city arborist, city forester.
- 6) Any decision rendered on behalf of the City of Fairview professional staff that pertains to these requirements, may be appealed to the Board of Commissioners for consideration.

13-411. Community Tree Bank Fund

- 1) There is hereby created a City of Fairview, Tennessee tree bank account. The purpose of the City of Fairview, Tennessee, tree bank account is to designate a specific, separate City budget account line item, which shall contain The City of Fairview tree bank account funds. Said funds in this account are to be used solely and entirely for the planting and advancement of landscaping on publicly owned property and or easements of the City of Fairview, Williamson County, State of Tennessee located within the corporate boundaries of the City of Fairview, Tennessee and for no other purpose.
- 2) The collection of said Tree Bank Funds is established and defined in the City of Fairview, Tennessee governing documents, such as the Zoning Ordinance, Subdivision Regulations, Design Review Manual, or Storm Water Ordinance.
- 3) The Parks & Landscape Board may review or make recommendations on potential projects to be funded by these funds. However, the Board of Commissioners is the only body that can approve the spending of any funds from the Tree Bank Account.

This ordinance shall become effective upon final passage, the public welfare requiring it.

Approved by the Board of Commissioners:

Lisa Anderson, Mayor

ATTEST:

Rachel Jones, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

Passed 1st Reading: _____

Passed 2nd Reading: _____