Department of Administration Purchasing Division 2019 Washington Street East Post Office Box 50130 Charleston, WV 25305-0130	**State of West Virginia** **Contract** **Order Date:** 01-25-2022	CORRECT ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS ORDER SHOULD BE DIRECTED TO THE DEPARTMENT CONTACT.

Order Number:	CCT 0211 4036 GSD2200000008 1	**Procurement Folder:**	925952
Document Name:	EOI: Building 36 EIFS and Granite Assessment	**Reason for Modification:**	
Document Description:	EOI: Building 36 EIFS and Granite Assessment	Award of CEOI GSD2200000001.	
Procurement Type:	Central Contract - Fixed Amt		
Buyer Name:	Melissa Pettrey		
Telephone:	(304) 558-0094		
Email:	melissa.k.pettrey@wv.gov		
Shipping Method:	Best Way	**Effective Start Date:**	2022-01-12
Free on Board:		**Effective End Date:**	2023-01-11

VENDOR	DEPARTMENT CONTACT
Vendor Customer Code: VS0000000330 WDP & ASSOCIATES CONSULTING ENGINEERS INC 10621 GATEWAY BLVD #200 MANASSAS VA 20110-2055 US **Vendor Contact Phone:** 703-257-9280 **Extension:** 118	**Requestor Name:** Richard Scott Casdorph **Requestor Phone:** 304-957-7145 **Requestor Email:** scot.r.casdorph@wv.gov 22 FILE LOCATION

Discount Details:

	Discount Allowed	Discount Percentage	Discount Days
#1	No	0.0000	0
#2	Not Entered		
#3	Not Entered		
#4	Not Entered		

INVOICE TO	SHIP TO
DEPARTMENT OF ADMINISTRATION GENERAL SERVICES DIVISION 112 CALIFORNIA AVENUE, 5TH FLOOR CHARLESTON WV 25305 US	STATE OF WEST VIRGINIA JOBSITE - SEE SPECIFICATIONS No City WV 99999 US

Total Order Amount:	$184,122.10

Purchasing Division's File Copy

ENTERED

MKP 2/8/2022

PURCHASING DIVISION AUTHORIZATION	ATTORNEY GENERAL APPROVAL AS TO FORM	ENCUMBRANCE CERTIFICATION
DATE: 2/8/2022 ELECTRONIC SIGNATURE ON FILE	DATE: ELECTRONIC SIGNATURE ON FILE	DATE: 2/10/2022 ELECTRONIC SIGNATURE ON FILE

2/10/2022

Extended Description:

Professional Architectural and Engineering Services Contract
Building 36 EIFS and Granite Assessment

This Purchase Order constitutes the acceptance of contract by and between the State of West Virginia by the Purchasing Director for the Agency: The West Virginia Department of Administration, General Services Division and the Engineering firm of: WDP & Associates of Blacksburg, VA, into a contract for Architectural and Engineering Design Services for the Building 36 EIFS and Granite Assessment, per the terms and conditions, and the AIA B101 Standard Form of Agreement Between Owner and Architect, including the State of West Virginia Supplementary Conditions to AIA Document B101-2017 dated: 1/11/2022, and Exhibits A-D, attached hereto.

Execution of this agreement by the Purchasing Director, or their designee, constitutes acceptance by those parties of the Terms and Conditions contained in the contract documents and binds the Vendor whose signature appears therein to said documents.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	81101508	0.00000		0.000000	$184,122.10
Service From	**Service To**	**Manufacturer**		**Model No**	
2022-01-12	2023-01-11				

Commodity Line Description: EOI: Building 36 EIFS and Granite Assessment

Extended Description:

	Document Phase	Document Description	Page 3
GSD2200000008	Draft	EOI: Building 36 EIFS and Granite Assessment	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or **"Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or **"Proposal"** means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or **"Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☑ **Term Contract**

Initial Contract Term: This Contract becomes effective on January 12, 2022 and the initial contract term extends until January 11, 2023.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Other:** See attached _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☐ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☑ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under $100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☑ **Commercial General Liability Insurance** in at least an amount of: $1,000,000.00 per occurrence.

☑ **Automobile Liability Insurance** in at least an amount of: $1,000,000.00 per occurrence.

☑ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: $1,000,000.00 per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: _____ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications.

☑ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

> **SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in http://www.state.wv.us/admin/purchase/privacy/default.html.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.

b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars ($2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars ($50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least $1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES – This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

ADDITIONAL TERMS AND CONDITIONS
(Architectural and Engineering Contracts Only)

1. PLAN AND DRAWING DISTRIBUTION: All plans and drawings must be completed and available for distribution at least five business days prior to a scheduled pre-bid meeting for the construction or other work related to the plans and drawings.

2. PROJECT ADDENDA REQUIREMENTS: The Architect/Engineer and/or Agency shall be required to abide by the following schedule in issuing construction project addenda. The Architect/Engineer shall prepare any addendum materials for which it is responsible, and a list of all vendors that have obtained drawings and specifications for the project. The Architect/Engineer shall then send a copy of the addendum materials and the list of vendors to the State Agency for which the contract is issued to allow the Agency to make any necessary modifications. The addendum and list shall then be forwarded to the Purchasing Division buyer by the Agency. The Purchasing Division buyer shall send the addendum to all interested vendors and, if necessary, extend the bid opening date. Any addendum should be received by the Purchasing Division at least fourteen (14) days prior to the bid opening date.

3. PRE-BID MEETING RESPONSIBILITIES: The Architect/Engineer shall be available to attend any pre-bid meeting for the construction or other work resulting from the plans, drawings, or specifications prepared by the Architect/Engineer.

4. AIA DOCUMENTS: All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein. The terms and conditions of this document shall prevail over anything contained in the AIA Documents or the Supplementary Conditions.

5. GREEN BUILDINGS MINIMUM ENERGY STANDARDS: In accordance with West Virginia Code § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Rex A. Cyphers, P.E., Principal, COO

(Name, Title)
Rex A. Cyphers, P.E., Principal, COO

(Printed Name and Title)
P.O. Box 99, Hinton, West Virginia 25951

(Address)
(304) 660-0400 /(434) 245-6117

(Phone Number) / (Fax Number)
RCyphers@wdpa.com

(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

WDP & Associates Consulting Engineers, Inc.

(Company)

P.E., Principal, COO

(Authorized Signature) (Representative Name, Title)

Rex A. Cyphers, P.E., Principal, COO

(Printed Name and Title of Authorized Representative)

October 11, 2021

(Date)

(304) 660-0400 / (571) 292- 9842

(Phone Number) (Fax Number)

EXPRESSION OF INTEREST

Architecture/Engineering Services for EIFS and Granite Evaluation

SECTION THREE: PROJECT SPECIFICATIONS

1. **Background:** The Agency is responsible for facility operations and maintenance in Building 36, 321 Capitol St., Charleston, WV (aka One Davis Square). There is a section of exterior marble/granite tiles that have failed and been removed from the southeast corner of the south elevation of the building; some damaged areas of the EIFS (Exterior Insulation and finish System) system perimeter (to include window seals), and a leak near the center of the south elevation through the wall on the first floor. The intent is to evaluate the existing EIFS and marble/granite systems and then to develop repair plans as defined in the goals section below:

2. **Project and Goals:** The project goals and objectives are listed below. Vendors should discuss any anticipated concepts and proposed methods of approach for achieving each of the listed goals and objectives:

   2.1. **Goal One** of the EOI is to solicit Architectural/Engineering (A/E) services to perform a thorough evaluation of the exterior envelope of the building, including marble/granite tiles, existing EIFS system, and water infiltration into the freight elevator.

   2.2. **Goal Two** is for Vendor to develop recommendations and/or specifications to either repair or replace marble/granite tiles and exterior EIFS system, as well as addressing the water infiltration of the freight elevator, and provide recommendations and specifications regarding repair/replacement options.

   2.3. **Goal Three** is for the Vendor to develop construction documents and construction phase services to be proposed to accomplish repairs/replacement in a fully occupied building to minimize interruptions to daily operations.

3. **Qualifications, Experience, and Past Performance:** Vendors should provide information regarding its employees, such as staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and the project goals and objectives and how they were met.

4. **Oral Presentations/Interviews:** The Agency will conduct individual interviews with the three vendors that are determined to be the most qualified to provide the required service. During oral presentations/interviews, vendors may not alter or add to their submitted proposal, but only clarify information already submitted. A description of the materials and information to be presented is provided below:

EXPRESSION OF INTEREST

Architecture/Engineering Services for EIFS and Granite Evaluation

4.1. Materials and Information Required at Oral Presentation/Interviews:

4.1.1. Firms selected for an interview should be prepared to conduct a thirty (30) minute telephone interview, with the option for the vendor to set up an online presentation (e.g., GoToMeeting) event if they so choose. Generally, the first half of the allotted half-hour is for the firm to present to the committee, with the latter half reserved for a question-and-answer session.

EXPRESSION OF INTEREST

Architecture/Engineering Services for EIFS and Granite Evaluation

SECTION FOUR: VENDOR PROPOSAL, EVALUATION, & AWARD

1. **Economy of Preparation:** EOIs should be prepared simply and economically, providing a straight-forward, concise description of the firm's abilities to satisfy the requirements and goals and objectives of the EOI. Emphasis should be placed on completeness and clarity of content. The response sections should be labeled for ease of evaluation.

2. **BIDS MUST NOT CONTAIN PRICE INFORMATION:** The State shall select the best value solution according to W. Va. Code §5G-1-3. In accordance with Code requirements, no "price" or "fee" information is permitted in the Vendor's EOI response.

3. **Evaluation and Award Process:** Expressions of Interest for projects estimated to cost $250,000 or more will be evaluated and awarded in accordance with W.Va. Code §5G-1-3. That Code section requires the following related to evaluation and award:

   3.1. **Selection Committee Evaluation and Negotiation:** A committee comprised of three to five representatives of the agency initiating the request shall:

      3.1.1. evaluate the statements of qualifications and performance data and other material submitted by the interested firms and select three firms which in their opinion are the best qualified to perform the desired service.

      3.1.2. conduct interviews with each of the three firms selected.

      3.1.3. rank the three selected firms in order of preference

      3.1.4. and commence scope of service and price negotiations with the highest qualified professional firm.

   If negotiations are successful, the contract documents will be forwarded to the WV Purchasing Division for review and approval, and then to the WV Attorney General's office for review and approval as to form. Once approved, a formal contract will be issued to the Vendor.

   Should the agency be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified at a fee determined to be fair and reasonable, the agency will then commence negotiations with the second most qualified firm, and

so on, until an agreement is reached, or the solicitation is cancelled.

3.2. **Three Firm Evaluation Rankings:** The Agency will evaluate the three firms that have been determined most qualified to perform the desired service. The evaluation criteria are defined in the Procurement Specifications section and based on a 100-point total score. Points shall be assigned based upon the Vendor's response to the evaluation criteria as follows:

• Qualifications, Experience, and Past Performance	60 Points Possible
• Goals and Objectives: – Anticipated Concepts and Methods of Approach	30 Points Possible
• Oral Interview	10 Points Possible
Total	100

AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 12th day of January in the year 2022
(In words, indicate day, month and year.)

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

West Virginia Department of Administration
General Services Division
112 California Avenue, 5th Floor
Charleston, WV 25305

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

WDP & Associates Consulting Engineers, Inc.
10621 Gateway Blvd., Suite 200
Manassas, VA 20110

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

GSD Building 36
EIFS and Granite Assessment
Charleston, West Virginia

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.

Init.
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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The only Basic Services provided under this initial agreement are those indicated, by Task, in Exhibit A. All other Basic Services are to be provided as Additional Services, if approved by change order.

§ 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.)

One Davis Square
323 Capitol Street
Charleston, WV 25301

§ 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:

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.1 Design phase milestone dates, if any:

To be determined

.2 Construction commencement date:

To be determined

.3 Substantial Completion date or dates:

To be determined

.4 Other milestone dates:

N/A

§ 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.)

Competitive Bid

§ 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.)

N/A

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

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

Aaron Armstrong, PE, Project Manager,
GSD Architecture & Engineering
112 California Avenue, Fifth Floor
Charleston, WV 25305E-mail: aaron.m.armstrong@wv.gov
Phone: (304) 352-5534

§ 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.)

To be determined

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

.1 Geotechnical Engineer:

N/A

.2 Civil Engineer:

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N/A

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

N/A

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

Rex A. Cyphers, P.E., Principal
WDP & Associates Consulting Engineers, Inc.
P.O. Box 99
Hinton, WV 25951
Phone: 304-660-0400
Email: RCyphers@wdpa.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:

N/A

.2 Mechanical Engineer:

N/A

.3 Electrical Engineer:

N/A

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

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

N/A

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

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

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying

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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 dollars ($ 1,000,000) for each occurrence and one million dollars ($ 1,000,000) 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 dollars ($ 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 N/A ($ N/A) each accident, N/A ($ N/A) each employee, and N/A ($ N/A) policy limit.

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

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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.

§ 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.

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

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

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

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

§ 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.

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§ 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;

.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.

§ 3.6 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 on the date the Architect issues the final Certificate for Payment.

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§ 3.6.2 Evaluations of the Work

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

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The 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

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approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

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

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The 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.

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§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid 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 *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	Not provided
§ 4.1.1.2 Multiple preliminary designs	Not provided
§ 4.1.1.3 Measured drawings	Not provided
§ 4.1.1.4 Existing facilities surveys	Not provided
§ 4.1.1.5 Site evaluation and planning	Not provided
§ 4.1.1.6 Building Information Model management responsibilities	Not provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not provided
§ 4.1.1.8 Civil engineering	Not provided
§ 4.1.1.9 Landscape design	Not provided
§ 4.1.1.10 Architectural interior design	Not provided
§ 4.1.1.11 Value analysis	Not provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not provided
§ 4.1.1.13 On-site project representation	Not provided
§ 4.1.1.14 Conformed documents for construction	Not provided
§ 4.1.1.15 As-designed record drawings	Not provided
§ 4.1.1.16 As-constructed record drawings	Not provided
§ 4.1.1.17 Post-occupancy evaluation	Not provided
§ 4.1.1.18 Facility support services	Not provided
§ 4.1.1.19 Tenant-related services	Not provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not provided
§ 4.1.1.21 Telecommunications/data design	Not provided

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Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.22 Security evaluation and planning	Not provided
§ 4.1.1.23 Commissioning	Not provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not provided
§ 4.1.1.25 Fast-track design services	Not provided
§ 4.1.1.26 Multiple bid packages	Not provided
§ 4.1.1.27 Historic preservation	Not provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not provided
§ 4.1.1.30 Other Supplemental Services	Not provided

§ 4.1.2 Description of Supplemental Services

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

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

N/A

§ 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.)

N/A

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

§ 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;

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.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
.7 Preparation for, and attendance at, a public presentation, meeting or hearing;
.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
.9 Evaluation of the qualifications of entities providing bids or proposals;
.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
.11 Assistance to the Initial Decision Maker, if other than the Architect.

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

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

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

.1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
.2 TBD (TBD) visits to the site by the Architect during construction
.3 One (1) 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 One (1) inspections for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within Forty-Eight (48) 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.

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The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

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

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

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

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

§ 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.

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§ 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. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

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ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

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

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

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

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, except as specifically provided in Section 9.7.

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§ 8.2 Mediation

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

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

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

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

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[ ] Litigation in a court of competent jurisdiction

[X] Other: *(Specify)*

Dispute resolution per the State of WV Supplementary Conditions to AIA B101-2017.

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

§ 8.3 Arbitration

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

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

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

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

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§ 8.3.4 Consolidation or Joinder

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

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

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

§ 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:

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

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document 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

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for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

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

.1 Stipulated Sum
(Insert amount)

Initial Investigation: $184,122.10
Design and Construction Phase Services: TBD

.2 Percentage Basis
(Insert percentage value)

N/A (N/A) % 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)

N/A

§ 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.)

§ 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.)

Costs for Additional or Supplemental Services will be proposed as a stipulated lump-sum, based upon the Billing Rates in Exhibit B, the lump-sum costs of any subconsultants (appropriately marked up, per §11.4, below), and lump-sum allowances for any allowable Reimbursable Expenses covered in §11.8.1, as modified by the State of WV Supplementary Conditions.

§ 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 Fifteen percent (15%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

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

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(Table Deleted – Refer to Exhibit A)

§ 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.)

See Exhibit B for hourly rates upon which Supplemental or Additional Services change orders would be based.

Employee or Category	Rate ($0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

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

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Fifteen percent (15 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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§ 11.10.1.1 An initial payment of N/A ($ N/A) 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 N/A ($ N/A) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

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

N/A %

§ 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.)

See Exhibit A.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2

(Paragraph deleted)

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

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

[X] 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.)

WV Supplementary General Conditions to AIA Document B101-2017
Exhibit A – Scope of Work
Exhibit B – WDP Billing Rate Schedule
Exhibit C – BBL Carlton Proposal
Exhibit D – RIBUSC Proposal

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

N/A

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

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
Cody Taylor (Procurement Specialist)	Rex A. Cyphers, P.E., Principal, PE# 019214
(Printed name and title)	*(Printed name, title, and license number, if required)*

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State of West Virginia

Supplementary Conditions to AIA Document B101-2017
Standard Form of Agreement Between Owner and Architect

The following Supplementary Conditions modify the Standard Form of Agreement Between Owner and Architect, AIA Document B101-2017 Edition. Where a portion of the Agreement is modified or deleted by these Supplementary Conditions, the unaltered portions of the Agreement shall remain in effect.

Order of Precedence: The documents contained in the contract to which this document has been attached shall be interpreted in the following order of precedence:

First Priority – Documents developed by the State or agency and utilized to provide public notice of the solicitation, along with other general terms and conditions shall be first in priority.

Second Priority – This document "Supplementary Conditions to the AIA Document B101-2017 Standard Form of Agreement Between Owner and Architect" shall be second in priority.

Third Priority – all other AIA documents including the AIA Document A201-2017 General Conditions of the Contract for Construction shall be third or lower in priority.

ARTICLE 1
INITIAL INFORMATION

§1.1.3 Section 1.1.3 is removed in its entirety.

§1.1.6.1 Section 1.1.6.1 is removed in its entirety.

§1.2 Make the following changes to Section 1.2:

In the second and third sentences, delete "shall" and substitute "may" and delete the period at the end of each sentence and add ", if applicable."

§1.3 Remove the last sentence from Section 1.3

§1.3.1 Make the following change to Section 1.3.1:

Remove the phrase "in AIA Document E203TM-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202TM-2013, Project Building Information Modeling Protocol Form" and replace it with "in this Agreement"

ARTICLE 2
ARCHITECT'S RESPONSIBILITIES

§2.1 Add the following sentences to the end of Section 2.1. Notwithstanding the foregoing, Architect is not authorized to hire other design professionals unless doing so was expressly included in the scope of this agreement, or this agreement is appropriately modified by Change Order to include the hiring of other expressly identified design professionals. The Architect shall also satisfy the requirements for the lawful practice of architecture in the State of West Virginia.

§ 2.5 Make the following changes to Section 2.5:

Delete the section in its entirety and replace it with the following: "The Architect shall maintain the insurance specified in this Agreement either below or in other documentation included herewith.

§ 2.5.7 Make the following change to Section 2.5.7

Remove § 2.5.7 in its entirety and replace it with the following: "The Owner must be listed as an additional insured on all insurance mandated by this Agreement, excluding professional liability insurance."

Add the following Sections to Article 2:

§2.6 The format and minimum standard of quality to be used by the Architect in preparing specifications for the Project shall be AIA MASTERSPEC or equal, and the Architect shall use the CSI

Masterformat numbering system, unless a different standard is approved in writing by the owner

§2.7 The Architect shall review laws, codes and regulations applicable to the Architect's services and shall comply in the design of the Project with applicable provisions and standards of the West Virginia Building Code, the West Virginia Fire Code and the Americans with Disabilities Act (ADA). The most stringent application of these codes and standards shall apply. In the design of the Project, the Architect shall comply with the requirements imposed by governmental authorities having jurisdiction.

ARTICLE 3
SCOPE OF ARCHITECT'S BASIC SERVICES

§3.1.1 Add the phrase "consult with Owner," after the word "services" in the first sentence.

§3.1.2 Make the following change to Section 3.1.2:

In the third sentence, after "shall" add "thoroughly review the services and information for completeness and sufficiency and".

§3.1.6 Delete Section 3.1.6 in its entirety and substitute the following:

§3.1.6 The Architect shall furnish and submit substantially completed construction documents to all governmental agencies having jurisdiction over the Project, shall assist the Owner in securing their approval, and shall incorporate changes in the Construction Documents as may be required by such authorities.

Add the following Section to Article 3:

§3.1.7 The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or though Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

§3.2 SCHEMATIC DESIGN PHASE SERVICES

§3.2.2 Make the following change to Section 3.2.2:

In the second sentence, after the word "Architect" add "shall review such information to ascertain that it is consistent with the requirements of the Project and".

§3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.2 Delete Section 3.4.2 in its entirety and substitute the following:

§3.4.2 Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time. Architect shall confirm these facts in writing to the Owner.

§3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 Make the following change to Section 3.5.1:

In the first sentence, delete the period at the end of the sentence and add "which may include the development and implementation of a prequalification process."

§3.5.2 Make the following changes to § 3.5.2.

§3.5.2.2.1 Remove section 3.5.2.2.1 in its entirety and replace it with the following:

"§ 3.5.2.2.1 facilitating the distribution of plans and specifications (and in cases where Owner expressly authorizes it, distribution of bid documents) to prospective bidders per the Owner's instructions;"

§3.5.2.2.2 Remove section 3.5.2.2.2 in its entirety and replace it with

"§ 3.5.2.2.2 attending and assisting Owner in conducting a pre-bid conference for prospective bidders (and in cases where Owner expressly authorizes it, conduct the pre-bid conference);"

§3.5.2.2.3 Remove section 3.5.2.2.3 in its entirety and replace it with the following:

preparing responses to technical questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents that will be released to the prospective bidders in the form of addenda by the Owner (and in cases where Owner expressly authorizes it, releasing the addenda on Owner's behalf).

§3.5.2.2.4 Remove Section 3.5.2.4 in its entirety and replace it with the following:

if expressly authorized by Owner, and permitted by applicable procedure and law, organizing and conducting the opening of bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§3.5.2.3. Remove the phrase "and distribute" and include the phrase "for distribution by Owner (and in cases where Owner expressly authorizes it, distributing the addenda on Owner's behalf)" at the end of the sentence.

§3.5.3 Negotiated Proposals. Remove Section 3.5.3 in its entirety.

§3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 Delete the last sentence in its entirety and substitute the following:

The State of West Virginia's Supplementary Conditions to the General Conditions of the Contract for Construction shall be adopted as part of the Contract Documents and shall be enforceable under this Agreement.

Add the following Section to 3.6.1:

§3.6.1.4 The Architect shall be responsible for conducting progress meetings as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§3.6.2 EVALUATIONS OF THE WORK

§3.6.2.1 Delete the second sentence in its entirety and substitute the following:

Although the Architect is not required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work, the Architect shall carefully review the quality and quantity of the Work at appropriate intervals necessary for Architect to remain aware and knowledgeable of issues or problems that have developed, or could reasonably be foreseen, during construction as part of the Architect's design and contract administration services, shall issue written reports of such reviews to the Owner, Owner representatives, and the Contractor, and further shall conduct any additional reviews at any other time as reasonably requested by the Owner. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents

§ 3.6.2.2 Delete the first sentence of 3.6.2.2 in its entirety and substitute the following:

The Architect shall have the authority and obligation to reject Work that does not conform to the Contract Documents.

§3.6.2.4 Delete Section 3.6.2.4 it its entirety and substitute the following:

§3.6.2.4 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. Architect shall also make initial decisions on matters relating to consistency with intent of contract documents, including aesthetic effect, however, the Owner, reserves the right make final decisions on issues of consistency with intent and aesthetic effect.

§3.6.4 SUBMITTALS

§3.6.4.2 Make the following changes to Section 3.6.4.2:

Delete the first sentence in its entirety and substitute the following:

The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples. The Architect's review of Contractor's submittals must determine the following: (1) if such submittals are in compliance with applicable laws, statutes, ordinances, codes, orders, rules, regulations; and (2) if the Work affected by and represented by such submittals is in compliance with the requirements of the Contract Documents. Architect shall promptly notify the Owner and Contractor of any submittals that do not comply with applicable laws, statutes, ordinances, codes, orders, rules, regulations, or requirements of the Contract Documents. Architect is responsible for determining what aspects of the Work will be the subject of shop drawings or submittals. Architect shall not knowingly permit such aspects of the Work to proceed in the absence of approved shop drawings and submittals. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.

In the second sentence, delete the words "or performance".

§3.6.4.5 Make the following change to Section 3.6.4.5:

Add ", including a submittal log," after "The Architect shall maintain a record of submittals".

§3.6.5 CHANGES IN THE WORK

§3.6.5.2 Make the following changes to Section 3.6.5.2:

Section 3.6.5.2 shall now be Section 3.6.5.3. Section 3.6.5.2 shall read as follows:

§3.6.5.2 If the Architect and the Owner determine that the implementation of the requested change would result in a change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.3 Add the following to the end of Section 3.6.5.3:

Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

.1 confirm proposed change is a material change to the Contract;

.2 confirm appropriate credits are included for Work not completed;

.3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and

.4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

ARTICLE 4
ADDITIONAL SERVICES

§4.2 Architect's Additional Services

§4.2.1 Make the following changes to Section 4.2.1:

.6 Before the semicolon insert ", provided such alternate bids or proposals are not being used for budget control"

.9 Delete this provision in its entirety and replace it with "assist owner with owner's evaluation of the qualifications of entities providing bids or proposals.

§4.2.2 Make the following changes to Section 4.2.2:

.3 After the last sentence in the first paragraph, insert the following:

This provision only applies to the extent that such services required or requested from the Architect represent a material change in the services that are already required of the Architect for completion of the Project"

.4 Before the semicolon insert ", provided such claims are not the result of the Architect's action, inaction, errors, or omissions"

ARTICLE 5
OWNER'S RESPONSIBILITIES

§5.2 Make the following change to Section 5.2:

In the first sentence, after "The Owner" add ", with Architect's assistance,"

Add the following Section to Article 5:

§5.3.1 The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§5.5 Make the following changes to Section 5.5:

In the first sentence, delete "shall" and substitute "may".

Add the following sentence at the end of Section 5.5:

The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

§5.8 Make the following change to Section 5.8:

In the third sentence, delete "shall" and substitute "may".

§5.9 Make the following change to Section 5.9:

At the beginning of this sentence, insert "Unless otherwise provided in this Agreement,"

§5.11 Add the following sentence to the beginning of Section 5.11:

The Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect.

§ 5.15 Remove § 5.15 in its entirety.

ARTICLE 6
COST OF WORK

§ 6.1 Delete the phrase "and shall include contractors' general conditions costs, overhead and profit" from Section 6.1. Delete the second sentence of Section 6.1 in its entirety and replace it with the following:

"In the event that Owner plans to utilize its own resources (labor, machinery, or materials) for part of the project, Owner and Architect must discuss the impact of that choice on the design and Cost of the Work prior to executing this Agreement. If Owner and Architect agree that such amounts will be included in the Cost of the Work, then that cost will be determined in advance and incorporated into this Agreement. Failure to do so will result in such costs being excluded from the Cost of the Work."

§6.3 Delete Section 6.3 in its entirety and substitute the following:

§6.3 In preparing estimates for the cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation, and in consultation with the Owner, to determine what materials, equipment, component systems and types of construction to be included in the Construction Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimate of Cost of the Work to meet the Owner's adjusted budget. If an increase in the Contract Sum occurring after execution of the Contract for Construction caused the Project budget to be exceeded, the Project budget shall be increased accordingly.

§ 6.5 Remove the phrase "shall cooperate with the Architect in making such adjustments" and replace with "may cooperate with Architect in making such adjustments, at its sole discretion."

§6.6.2 After the word "renegotiating" insert "(renegotiation being limited ot instances where Owner is legally authorized to renegotiate)"

§6.7 Delete Section 6.7 in its entirety and substitute the following:

§6.7 If the Owner chooses to proceed under Section 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under Section 6.6.

ARTICLE 7
COPYRIGHTS AND LICENSES

§7.3 Make the following changes to Section 7.3:

In the first sentence, insert "irrevocable, royalty-free, right and" after the word "nonexclusive" and delete the words "solely and exclusively".

Delete the last sentence of Section 7.3 and substitute the following:

Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including the following:

a. Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas;
b. Any future renovation, addition, or alteration to the Project; and
c. Any future maintenance or operations issue as it pertains to the Project.

Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.

§7.3.1 Delete the second sentence of Section 7.3.1.

ARTICLE 8
CLAIMS AND DISPUTES

§8.1 GENERAL

§8.1.1 Delete Section 8.1.1 in its entirety and substitute the following:

§8.1.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued

and the applicable statutes of limitations shall commence to run pursuant to applicable provisions of the West Virginia Code.

§8.1.3 Make the following change to Section 8.1.3:

At the beginning of the first sentence, insert "Unless otherwise agreed by the Parties,"

Add the following Section to Article 8.1:

§8.1.4 The Owner may suffer financial loss if the Architect's services are not completed within the schedule approved by the Owner in accordance with Section 3.1.3. If so provided, the Architect shall be liable for and shall pay the Owner, as liquidated damages and not as a penalty, any sum(s) stated in this Agreement.

Allowances may be made for delays beyond the control of the Architect. All delays and adjustments to the Architect's schedule must be properly documented and approved by the Owner in accordance with Section 3.1.3.

§8.2 MEDIATION

§8.2 Make the following changes to Section 8.2:

§8.2.1 In both instances where it appears, delete "binding dispute resolution" and substitute "litigation in a court of competent jurisdiction."

§8.2.2 Delete this Section in its entirety and substitute the following:

The parties shall endeavor to resolve their Claims by non-binding mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement.

§ 8.2.3 Add to the end of the first sentence in Section 8.2.3. the phrase

"unless fee sharing is prohibited due to a lack of a specific Legislative appropriation for the expenses. In the event that Owner determines that fee sharing is prohibited, the Architect may choose to mediate and pay the entire fee, or the parties will forgo mediation and pursue other available remedies."

§8.2.4 Delete this Section in its entirety and substitute the following:

If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of litigation shall be in accordance with Section 8.3.

§8.3 ARBITRATION

§8.3 Delete Section 8.3 in its entirety and substitute the following:

§8.3 SETTLEMENT OF CLAIMS

§8.3.1 The Parties understand that this sovereign immunity and the Constitution of the State of West Virginia prohibit the State and Owner, from entering into binding arbitration. Notwithstanding any provision to the contrary in the Contract Documents, all references to arbitration, regardless of whether they are included in the AIA Document B101-2017 or another related document are hereby deleted

§8.3.2 Any claim, dispute or other matter in question arising out of this Agreement which cannot be settled between the parties shall, in the case of the Architect, be submitted to the West Virginia Claims Commission, and in the case of the Owner, to the Circuit Court of Kanawha County or any other court of competent jurisdiction as the Owner may elect.

ARTICLE 9
TERMINATION OR SUSPENSION

§9.1 Make the following changes to Section 9.1:

In the first sentence, after "If the Owner fails to make payments to the Architect" add "of undisputed amounts". In the third sentence, after "In the event of a suspension of services," add "in accordance herewith". In the fourth sentence, after "Before resuming services, the Architect shall be paid all sums due prior to suspension and" add "shall negotiate with the Owner for".

§9.2 Make the following changes to Section 9.2:

In the first sentence, after "If the Owner suspends the Project" add "for more than 30 consecutive days".

Delete the last two sentences in Section 9.2 and substitute the following:

When the Project is resumed, the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules for completion.

§9.6 Make the following changes to Section 9.6:

Delete "costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements".

§9.7 Delete Section 9.7 in its entirety and substitute the following:

§9.7 Service performed under this Agreement may be continued in succeeding fiscal years for the term of the Agreement contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated or otherwise available for this service, the Agreement shall terminate without penalty on June 30. After such date the Agreement becomes null and void.

Add the following Section to Article 9:

§9.10 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire in accordance with applicable practice laws contained in Chapter 30, Article 12 of the West Virginia Code, or elsewhere. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

ARTICLE 10
MISCELLANEOUS PROVISIONS

§ 10.1 Make the following changes to Section 10.1:

Remove the last sentence referencing arbitration in it's entirety.

§10.2 Make the following changes to Section 10.2:

At the end of the sentence, delete the period and add ", as modified by the State of West Virginia Supplementary Conditions to the AIA Document A201-2017, General Conditions of the Contract for Construction."

§10.3 Add the following sentence to the end of Section 10.3:

The Architect shall execute all consents reasonably required to facilitate such assignment.

§10.6 Add the following sentence to the end of Section 10.6:

The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

§10.8.1 Remove the phrases "after 7 days' notice to the other party," and "arbitrator's order" from Section 10.8.1.

ARTICLE 11

COMPENSATION

§11.4 Make the following changes to Section 11.4:

After the word "shall", insert "not exceed a multiple of 1.15 times the amount billed to the Architect for such Additional Services" and delete the rest of that sentence.

§11.6.1 Delete the last sentence of Section 11.6.1 in its entirety.

§11.7 Delete Section 11.7 in its entirety and substitute the following:

§11.7 The Architect's rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect's rates may be negotiated with the Owner.

§11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§11.8.1 Delete Sections 11.8.1.4 and 11.8.1.5 in their entirety and substitute the following:

§11.8.1.4 The expense of reproductions, postage and handling of bidding documents shall be a Reimbursable Expense, however, the expense of reproductions, plots, standard form documents, postage, handling, and delivery of Instruments of Service for the Owner's use and for review of governmental agencies having jurisdiction over the Project shall not be a Reimbursable Expense but shall be covered in the Architect's Compensation under §11.1.

§11.8.2 Delete Section 11.8.2 in its entirety and substitute the following:

§11.8.2 For Reimbursable Expenses described in Section 11.8.1.1, compensation to the Architect shall be at actual cost and shall be made pursuant to the Owner's travel regulations. For those expenses described in Sections 11.8.1.2 through 11.8.1.11, the compensation shall be computed as a multiple of 1.15 times the expenses incurred by the Architect, the Architect's employees and consultants.

§11.9 Architect's Insurance

§11.9 Delete Section 11.9 in its entirety.

§11.10 PAYMENTS TO THE ARCHITECT

§11.10.1 Delete Section 11.10.1 in its entirety.

§11.10.2 Delete Section 11.10.2 in its entirety and substitute the following:

§11.10.2 Payments are due and payable thirty (30) days from the date of receipt of the Architect's invoice by the Owner.

§11.10.2.2 Delete Section 11.10.2.2 in its entirety.

ARTICLE 13
SCOPE OF THE AGREEMENT

Add the following Section to 13.2:

§13.2.4 State of West Virginia Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect; Other documents included by the Owner in the solicitation requesting expressions of interest, and the contract award to Architect.

END OF SUPPLEMENTARY CONDITIONS TO AIA DOCUMENT B101-2017

The Owner and Architect hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF, the Owner and Architect have entered into this Agreement as of the date and year as written below.

Owner:		Architect:	
By:		By:	
Title:	Procurement Specialist	Title:	Principal
Date:	1/12/22	Date:	1/12/2022

WDP & Associates Consulting Engineers, Inc.
10621 Gateway Blvd., Suite 200
Manassas, VA 20110

This Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect, has been approved as to form on this 10th day of October, 2018, by the West Virginia Attorney General's office as indicated in the signature line below. Any modification of this document is void unless expressly approved in writing by the West Virginia Attorney General's Office.

PATRICK MORRISEY, ATTORNEY GENERAL

BY: _____
DEPUTY ATTORNEY GENERAL

EXHIBIT A
SCOPE OF WORK

Revised January 12, 2022

State of West Virginia
General Services Division
112 California Avenue
Charleston, WV 25305

WDP & Associates

Attention: Aaron Armstrong, P.E.
Project Manager

Reference: Building 36 EIFS and Granite Assessment
Proposal for Professional Services
WDP Proposal No.: 21333

Hinton, WV
Manassas, VA
Charlottesville, VA
Blacksburg, VA
Myrtle Beach, SC
New York, NY

Dear Mr. Armstrong:

WDP & Associates Consulting Engineers, Inc., ("WDP") is pleased to submit this professional services agreement (the "Agreement") to the General Services Division (the "Client") for the work (the "Work") described in detail in the Scope of Services section of this Agreement. The Scope of Services generally includes evaluation of deficiencies at EIFS, granite tiles, and other building envelope components and development of repair recommendations.

BACKGROUND

It is our understanding that there have been a series of failures in the façade, including falling granite tiles, breaking windows, interior water leakage, and cracking and other failures in the EIFS cladding. Based on correspondence with the GSD, it is our understanding that the GSD desires to proceed with removing all of the granite tiles at the time of our field investigation. This his proposal has been developed to investigate the deficiencies at the EIFS, granite tiles, and other building envelope components and develop recommendations for repairs to address the deficiencies that may be observed.

SCOPE OF SERVICES

This Proposal for Professional Services is limited exclusively to the Work as described in this Scope of Services section, and anything not expressly described shall be considered expressly excluded from the Work. WDP proposes to perform the Work which is described as follows.

Task 1 – Document Review and Investigation Planning
WDP has been provided architectural and structural drawings for Building 36 dated August 22, 1986, and HVAC replacement drawings dated November 9, 2016. These documents will be reviewed to gain a better understanding of the building assemblies, components, and construction and will be used to produce survey documents for use in the field investigation. A plan will be developed for the field investigation based on the information from our documents review. WDP will provide a copy of the investigation plan to the GSD for coordination with GSD personnel and building occupants.

Task 2 – Field Investigation
WDP will perform a field investigation to evaluate building envelope components to

WDP & Associates

document damage and deficiencies at the EIFS, granite tiles, and other building envelop components. The field investigation will generally include a visual survey, diagnostic water testing, and exploratory openings. It is our understanding that WV Division of Highways (DOH) approval for sidewalk and lane closures will require approximately two to four weeks after notice to proceed. It is anticipated the WDP can mobilize on site approximately one week after DOH approval.

Subcontractor Support

WDP will engage a Subcontractor to provide support during the investigation, including elevated access to the building exterior, coordinating sidewalk and lane closures, making and repairing exploratory openings, and general assistance during the investigation work. It is anticipated that building exterior will be accessed primarily from the ground and roof and via an aerial boom lift. However, depending on existing conditions it is possible that the temporary scaffolding may be required at one or more locations.

In addition, by request of the GSD, the Subcontractor will demolish and discard the existing granite cladding to reduce the risk to public safety from potential additional failing tiles. Based on the provided documents, it is our understanding that the substrate beneath the granite tiles is primarily brick with some areas infilled with CMU. For purposes of this proposal, it is assumed that the uncovered masonry surfaces will be left exposed and that no temporary cladding or weatherproofing will be installed over the area after the granite tile removal. If damage or other conditions are uncovered that vary materially from those assumed, WDP will notify the GSD and provide recommendations for temporary measures to maintain the integrity of the building envelop. Design or construction of temporary measures may be provided as Additional Services after written approval of the GSD.

Visual and Tactile Survey of the Building

WDP will perform a visual survey of the building interior to document evidence of water infiltration. Our interior investigation will also include limited observations at discrete locations above the drop ceiling to verify the existing conditions near locations that are more likely to be impacted by moisture infiltration.

A visual and tactile survey of the building exterior will be undertaken at locations that correlate to damage or failures in the cladding, water leakage and evidence of moisture infiltration identified during the interior visual investigation and at other deficiencies observed in the building envelope. This survey will be conducted on all building elevations, with a more detailed focus on the south elevation where current issues have been reported.

Diagnostic Water Testing Evaluation

WDP will perform non-standardized diagnostic water leakage testing at locations where interior water leakage has been observed or appears likely. Test will be performed using a combination of spray racks, bars, and nozzles to simulate heavy rain events. The testing procedures to be used will vary depending on the location, existing conditions, and wall construction. A spray bar or spray rack comprising numerous calibrated spray nozzles is generally used to systematically saturate and sheet water over building envelope elements within a given area. A calibrated spray nozzle may also be utilized to more directly pinpoint

WDP & Associates

sources of water infiltration. A combination of infrared thermography, visual observations, and interior exploratory openings will be utilized to identify water leakage within the wall assemblies where diagnostic testing is performed.

As is the nature of water infiltration testing, as the investigation progresses, alterations to the testing plan may be required based on the findings from each diagnostic test. WDP will coordinate with the GSD for changes to the testing locations.

Exterior Exploratory Openings

At least one exploratory opening will be performed at each unique condition to verify the construction at each condition. The location of the openings will be coordinated with the water testing in order to observe water leakage through the assembly. We anticipate performing at least six exploratory openings at the building exterior.

Interior Exploratory Openings

WDP will perform interior exploratory openings at select locations on the building interior to verify the wall construction and conditions and investigate potential evidence of water leakage. The location of the openings will be coordinated with the water testing in order to observe water leakage through the assembly. We anticipate performing at least five exploratory openings at the building interior.

Task 3 – Summary Report

After completion of the investigation, WDP will develop a summary report for the Client to summarize the observations and findings from the field investigation and outline recommendations for repairs. Recommendations will be presented in a tiered approach using three tiers ranging from the minimum recommended repairs to a comprehensive repair strategy. WDP will engage a professional cost estimator to develop estimates of the probable cost of construction for each tier separately and for combinations of multiple tiers.

Due to the scale and nature of the investigation, it is anticipated that WDP will provide a Draft report to the GSD for review and comment approximately three weeks after conclusion of the investigation. After comments are received on the Draft report, WDP staff will attend one meeting with the GSD to discuss the Draft report and the GSD's comments. For the purposes of the proposal, it is anticipated that the meeting will be held virtually and will last approximately two hours. WDP will finalize the report and submit one electronic copy to the Client in PDF format approximately two weeks after the meeting. WDP staff will attend one final meeting to review any changes made to the report and discuss next steps for the project.

Task 4. Design Phase Services

The scope of work for the design phase services will be developed based on the findings from the above Tasks and will be provided as Additional Services once the scope of the repairs is determined.

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Task 5. Construction Phase Services
The scope of work for the construction phase services will be developed based on the findings from the above Tasks and will be provided as Additional Services once the scope of the repairs is determined.

WATER TESTING
Water testing often results in water infiltration into the occupied building spaces. Client shall have a cleaning crew available during execution of the testing to contain and clean any water that may enter the building.

Client or building staff shall also coordinate removal or protection of room contents, equipment, floors, or other items that could be damaged by water infiltration from the testing. WDP will not move contents of rooms where testing is scheduled to be performed. This shall be done by Client or building staff prior to initiation of the field investigation. Identification of items to be removed will be addressed during the initial coordination meeting prior to start of the field work.

If floor protection is required in the interior building common areas or in individual units, Client shall be responsible for providing such protection and for maintenance and removal of the supplied protection.

WDP will monitor accessible portions of the building interior at the testing locations during testing and attempt to stop water testing should significant leakage into the building interior be observed. Often, leakage is unobserved due to lateral water travel, or a leak may manifest after testing is moved to another area; therefore, the possibility of water damage cannot be reasonably avoided by WDP. Client agrees that WDP shall bear no responsibility for water leakage or damage to finishes or components resulting from the water testing methods required to be performed as part of this Proposal.

FEES AND PAYMENTS
The following fees are for the performance of the Work as listed in the Scope of Services above. Invoicing will be monthly, based upon percentage of progress completion of each Task. The fees listed in this Fees and Payments section do not cover any Additional Services or any other services which are stated as excluded from the contract or are not specifically described as part of the Work listed in the Scope of Services above.

WDP's Services, with the exception of the Subcontractor and professional cost estimator, will be provided on a Lump Sum basis in accordance with the following fee estimate. The Subcontractor and Professional cost estimator shall be considered Reimbursable Expenses and are included as Allowances in the Estimate Fee for budget purposes only. The Subcontractor's fee schedule is not a Lump Sum Fee or Guaranteed Maximum Fee and will provided for reference. WDP will invoice for actual cost, plus markup, for Allowance items included in the Fee Estimate.

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Reimbursable Expenses, with the exception of the travel expenses noted in Task 2, are excluded and will be submitted for compensation as a reimbursable expense in accordance with § 11.8 of the Contract.

Fee Estimate

Task 1 – Document Review and Investigation Plan							
Principal	2 hrs	@	$ 270.00	/hr	=	$	540.00
Senior Engineer I / Architect I	8 hrs	@	$ 180.00	/hr	=	$	1,440.00
Staff Engineer II / Architect II	12 hrs	@	$ 135.00	/hr	=	$	1,620.00
				Task 1 Subtotal		**$**	**3,600.00**
Task 2 – Field Investigation							
Principal	32 hrs	@	$ 270.00	/hr	=	$	8,640.00
Senior Engineer I / Architect I	48 hrs	@	$ 180.00	/hr	=	$	8,640.00
Staff Engineer II / Architect II	56 hrs	@	$ 135.00	/hr	=	$	7,560.00
Water Penetration Testing	5 days	@	$ 360.00	/day	=	$	1,800.00
Infrared Thermography	5 days	@	$ 300.00	/day	=	$	1,500.00
Per Diem	11 man-days	@	$ 64.00	/man-day	=	$	704.00
Per Diem (First & Last Days)	6 man-days	@	$ 48.00	/man-day	=	$	288.00
Lodging	14 man-nights	@	$ 109.00	/man-night	=	$	1,526.00
Mileage	700 miles	@	$ 0.585	/mile	=	$	409.50
				WDP Task 2 Subtotal		**$**	**31,067.50**
Allowance for Subcontractor (Reimbursable Expense)							
BBL Carlton				BBL Carlton Subtotal		$	129,004.70
				Task 2 Subtotal		**$**	**160,072.20**
Task 3 – Report							
Principal	4 hrs	@	$ 270.00	/hr	=	$	1,080.00
Senior Engineer I / Architect I	24 hrs	@	$ 180.00	/hr	=	$	4,320.00
Staff Engineer II / Architect II	32 hrs	@	$ 135.00	/hr	=	$	4,320.00
Senior CAD Operator/Technician	16 hrs	@	$ 105.00	/hr	=	$	1,680.00
Project Assistant	4 hrs	@	$ 70.00	/hr	=	$	280.00
				WDP Task 3 Subtotal		**$**	**11,680.00**
Allowance for Subconsultant (Reimbursable Expense)							
RIB US Cost				RIB US Cost Subtotal		$	8,769.90
				Task 3 Subtotal		**$**	**20,449.90**
				Total WDP Fee Tasks 1–3		**$**	**46,347.50**
				Total Subcontractor/Subconsultant Allowances Tasks 1–3		**$**	**137,774.60**
				Total Estimated Fee Tasks 1–3		**$**	**184,122.10**
Task 4 – Design Phase Services							**TBD**
Task 5 – Construction Phase Services							**TBD**

ADDITIONAL SERVICES

Experience indicates that certain additional items of work may be required or necessary which WDP cannot presently determine or estimate. For this reason, the fee for these items

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is not included in the provisions of "Fees and Payments" for the performance of the Work. Furthermore, the performance of these items is not included in the Work unless the item is expressly described as part of the Work in the preceding Scope of Services section. These additional items of work ("Additional Services") are caused by many factors, usually at the discretion of the Client. They may also be caused by the reviewing agency of Client, variance/deviation from present policies and standards, or reviewing governmental agencies. "Additional Services" may sometimes be referred to as extras, change orders, or add-ons, but for purposes of this Agreement all such descriptions are intended to be encompassed within the term Additional Services.

We thank you for the opportunity to provide our services and look forward to working with you on this project.

Respectfully submitted,

WDP & Associates Consulting Engineers, Inc.

Rex A. Cyphers, P.E.
Principal

Patrick B. Dillon, Ph.D., P.E.
Senior Engineer I

EXHIBIT B
WDP BILLING RATES

WDP & Associates

Item	Unit Price
Principal	$ 270.00 /hr
Associate Principal	$ 235.00 /hr
Senior Associate	$ 220.00 /hr
Associate	$ 205.00 /hr
Senior Engineer II	$ 190.00 /hr
Senior Engineer I	$ 180.00 /hr
Project Engineer II	$ 155.00 /hr
Project Engineer I	$ 145.00 /hr
Staff Engineer II	$ 135.00 /hr
Staff Engineer I	$ 125.00 /hr
Senior CAD Operator/Engineering Technician	$ 105.00 /hr
CAD Operator /Engineering Technician	$ 90.00 /hr
Project Assistant	$ 70.00 /hr

Hinton, WV

Manassas, VA

Charlottesville, VA

Blacksburg, VA

Myrtle Beach, SC

New York, NY

EXHIBIT C
BBL CARLTON PROPOSAL

WDP
& Associates

Hinton, WV

Manassas, VA

Charlottesville, VA

Blacksburg, VA

Myrtle Beach, SC

New York, NY

BBLCarlton

BBL Carlton, LLC
600 Kanawha Blvd., East
Suite 200
Charleston, West Virginia 25301

Phone 304.345.1300
Fax 304.345.1304
www.bblinc.com
WV028886

January 6, 2022

Patrick Dillon, Ph.D., P.E.
Senior Engineer I
WDP & Associates Consulting Engineers
335 Greenbrier Drive
Suite 205
Charlottesville, Virginia 22901

RE: **WV GSD Building 36 EIFS & Granite Assessment**
Investigation Contractor Scope Proposal – WDP Project No. 21333
Charleston, West Virginia

Patrick,

BBL Carlton is pleased to provide our budget estimate to provide the necessary construction support for the structural investigation outlined in WDP & Associates Scope Menu dated December 2, 2021.

Our Budget Estimate for this work is - $112,178.00

Please note that this is a budget and we believe to be a worst case scenario and the final costs should be considerably less. We have provided some unit costs in the budget for your review and use if you want to change the scope or any assumptions we have made.

The following are some of the assumptions we have made in preparing the provided budget estimate:

- Project Management & Coordination – We have assumed 5 weeks duration which includes full time on-site supervision; Project Manager 2 days a week; 2 days for clean-up or misc. on-site labor & misc. general conditions. We have provided a weekly unit cost for this item.
- Aerial Lifts – We have included 2 ea. 85' Telescopic Boom aerial lifts for one month. Two lifts may not be needed or one of these lifts may be changed to a scissors lift for the 30' high elevations along Summers Street and Washington Street depending on what's needed during the investigation. We could not find a scissors lift that would be able to access the tall elevation along Washington Street so 85' boom lift and street closure will be necessary. Per Scott's previous email this will have to be coordinated with the WVDOT and could take 4 weeks to get approval.
- Scaffolding - As you can see in the budget the cost for scaffolding is more than anticipated but we have assumed that we will need to provide three self-supporting towers for the following areas:
    - Area 1 – Capitol Street at southeast Corner of Building at Granite panels (70' high) – See description in scaffold quote.
    - Area 2 - Center south elevation of building in landscape area (70' high) – See description in scaffold quote.
    - Area 3 – West End south elevation of building in landscape area (30' high) – See description in scaffold quote.

BBLCarlton

BBL Carlton, LLC
600 Kanawha Blvd., East
Suite 200
Charleston, West Virginia 25301

Phone 304.345.1300
Fax 304.345.1304
www.bblinc.com
WV028886

- *We would bring in the 85' boom lift in early to determine which areas can be accessed using the lift and this may eliminate some or all of the scaffolding which would save considerable money.*

- Traffic Control - We have provided the necessary traffic control to shut down Washington Street for lift access. We have assumed a three week shutdown of Washington Street. We have also included some time for partial shutdowns of Capitol & Summers Street.
- Temporary Barriers/Fences – We have provided some time and material for some temporary barriers and/or fencing to protect the public.
- Crew to assist the Engineer – We have included a 3 man crew to operate any lift(s) and/or assist the engineers during their 5 day site visit.
- Demo/Patch Repairs of Areas Outlined – We have included unit cost to remove, protect and patch back the following areas as outlined in WDP's scope:
  - We have included removal of all the granite tiles from the southeast corner of the building.
  - 10 ea. Areas of EIFS. *Please note that we have not provided a final EIFS patch as this will most likely be done in colder weather. We have provided a painted panel (most likely plywood over insulation).*
  - 5 ea. Areas of interior gypsum board walls.

We have Included the following:

- All general liability insurance as required.
- City of Charleston B&O Taxes.
- State of WV sales tax on all materials.

Exclusions:

- City of Charleston Building Permit (should not be required for State projects).
- Asbestos and/or Hazardous material abatement if encountered.
- Performance and Payment Bonds.

We appreciate the opportunity to provide you with pricing on this project. We are available to begin this work at any time. Please feel free to contact me with any questions that you may have.

Thanks,

Scott Thomas
Project Manager
BBL Carlton, LLC

Accepted By:

_____
Name, Title and Date

Attachments: BBL Carlton Budget Estimate – Bldg. 36 Structural Investigation REV 12/22/21
WDP Investigation Contractor Scope Memo – 12/2/21

.... Estimate For ....

WDP & Associates

WVGSD Building 36 EIFS & Granite Assessment

Prepared by:

BBL Carlton, LLC
600 Kanawha Blvd., East
Suite 200
Charleston, WV 25301
Phone: 304-345-1300 Fax: 304-345-1304

Estimate No: ***Estimate Date: 12/13/2021*** ***Estimator: RTC***

Design Status
Budget

Project Description
BBL to assist WDP & Associates (structural engineer) with the assessment at Building 36 (One Davis Square) located at 321 Capitol St., Charleston, WV. The intent of the project is to evaluate the existing issues in the

Estimate Comments

REVISION 12-22-21

2ND REVISION 1-6-22

ARENASOFT™

Estimate Summary

WDP & Associates / WVGSD Building 36 EIFS & Granite Assessment
BBL to assist WDP & Associates (structural engineer) with the assessment at Building 36 (
Estimate No
Estimate Date 12/13/2021

BBL Carlton, LLC
Project Estimator: RTC

ARENASOFT™

CSI	*Description*	*Labor*	*Equip*	*Material*	*Sub*	*Total*	*Override*	*Sub's Name*
013000	Project Management & Coord.	25,080 *360 MH*	1,370 *45 ED*	2,325		28,775	28,775	
015416	Aerial Lifts	779 *16 MH*	6,130 *2 ED*			6,909	6,909	
015423	Temporary Scaffolding				33,384	33,384	33,384	
015526	Traffic Control	1,947 *40 MH*	125 *5 ED*	1,810		3,882	3,882	
015600	Temporary Barriers & Fences	1,947 *40 MH*	125 *5 ED*	1,500		3,572	3,572	
017300	Execution - Crew for Engineer	5,840 *120 MH*	375 *5 ED*			6,215	6,215	
024119	Selective Demolition	4,672 *96 MH*	300 *12 ED*	480		5,452	5,452	
044200	Exterior Granite Cladding	973 *20 MH*	63 *3 ED*	250		1,286	0	In 024119
072400	Ext. Insul. & Finish System	3,184 *50 MH*	157 *6 ED*	500		3,841	3,841	
092900	Gypsum Board & Framing	1,836 *30 MH*	94 *4 ED*	150		2,080	2,080	

Total of Sections
(White Boxes only)

	Labor	Equip	Material	Sub	Total	Override Total	
	45,285	8,676	6,765	33,384	94,110	94,110	$/SF
Mhs/Equip Days	*752 MH*	*84 ED*					

WDP & Associates / WVGSD Building 36 EIFS & Granite Assessment
BBL to assist WDP & Associates (structural engineer) with the assessment at Building 36 (
Estimate No
Estimate Date 12/13/2021

BBL Carlton, LLC
Project Estimator: RTC

ARENASOFT™

Description	*Total*

Total of Sections
(White Boxes only)

	Labor	Equip	Material	Sub	Total	Override Total	
	45,285	8,676	6,765	33,384	94,110	94,110	$/SF
Mhs/Equip Days	*752 MH*	*84 ED*					

Final Adjustments

	Total
State of WV - Materials Sales Tax - 6%	926
City of Charleston - Matl. Sales Tax - 1%	154
Premium Time Labor / Wage Increases	0
TOTAL	95,190
Overhead & Fee - 15%	14,279
TOTAL	109,469
Builder's Risk Insurance - $1.25 Per M	137
General Liability - $3.00 Per M	328
TOTAL	109,934
Building Permit - City of Charleston - NOT REQ. ?	0
B&O Tax - City of Charleston - 2%	2,244

Grand Total:	112,178
Square Feet:	
$ / SF	

Section Details - Continuous

BBL Carlton, LLC
Project Estimator: RTC

w/ Takeoff, Assemblies, Man Hours

WDP & Associates / WVGSD Building 36 EIFS & Granite Assessment
Estimate No: *Estimate Date: 12/13/2021*

Line No:	Description	Quantity / Zone	Unit	Labor	Equip	Material	Sub	Total

Section: 013000 Project Management & Coord.

1

Section Estimator: RTC

10	Project Management & Coordination per Week	5.00 1	Wk *360 MH*	T A	5,015.92 25,080	274.00 1,370	465.00 2,325	0	5,754.92 28,775

Assembly Components	Quantity	Unit	Man Hrs		Equipment Days	Labor		Equip		Mat'L		Sub	Total	
Supervision	25.00	Days	8.00	200	25	655.44	16,386	32.00	800		0	0	687.44	17,186
Project Manager	10.00	Days	8.00	80	10	480.00	4,800	32.00	320		0	0	512.00	5,120
Clean-up & Misc. Labor	10.00	Days	8.00	80	10	389.36	3,894	25.00	250		0	0	414.36	4,144
Petty Cash/Office Supplies	5.00	week		0	0		0		0	100.00	500	0	100.00	500
Cell Phone	5.00	week		0	0		0		0	75.00	375	0	75.00	375
Temp. Sanity & Drinking Water	5.00	week		0	0		0		0	40.00	200	0	40.00	200
Debris Removal / Dumpster	5.00	week		0	0		0		0	250.00	1,250	0	250.00	1,250

Take-off Constants

T Line	Note	Weeks					Total Wk
10	Mobilize & Setup	1.00					1.00
20	Uncover Areas	1.00					1.00
30	Work with Engin.	1.00					1.00
40	Patch Areas	1.00					1.00
50	Demob & Remove	1.00					1.00

1 - Total	25,080 *1,800 MH*	1,370 *225 ED*	2,325	28,775
013000 Project Management & Coord. - Total	25,080 *1,800 MH*	1,370 *225 ED*	2,325	28,775

Section: 015416 Aerial Lifts

1

Section Estimator: RTC

10	85' Telescopic Boom Aerial Lift with Ground Protection Mats	2.00 1	Mnth *16 MH*	A	389.36 779	3,065.00 6,130	0	0	3,454.36 6,909

Assembly Components	Quantity	Unit	Man Hrs		Equipment Days	Labor		Equip		Mat'L		Sub	Total	
85' Telescopic Boom Lift	2.00	mnth		0	0		0	2,995.00	5,990		0	0	2,995.00	5,990
Protection Mats	2.00	mnth		0	0		0	45.00	90		0	0	45.00	90
Environmental Charge		mnth		0	0		0	19.00	0		0	0	19.00	0
Delivery & Pickup		mnth		0	0		0	230.00	0		0	0	230.00	0
Fuel & Misc. Expenses		mnth		0	0		0		0	200.00	0	0	200.00	0
Laborer to assist with Setup & Rem	2.00	Day	8.00	16	2	389.36	779	25.00	50		0	0	414.36	829

1 - Total	779 *16 MH*	6,130 *2 ED*		6,909
015416 Aerial Lifts - Total	779 *16 MH*	6,130 *2 ED*		6,909

Section: 015423 Temporary Scaffolding

1

Section Estimator: RTC

10	Scaffolding:	1			0	0	0	0	0.00 0
20	Area 1 - Capitol Street Corner	1.00 1	Mnth		0	0	0	13,803.00 13,803	13,803.00 13,803
30	Area 2 - Center Scaffold Tower	1.00 1	Mnth		0	0	0	14,124.00 14,124	14,124.00 14,124

Line No:	Description	Quantity / Zone	Unit	Labor	Equip	Material	Sub	Total
40	Area 3 - West End Short Scaffold Tower	1.00 / 1	Mnth	0	0	0	5,457.00 / 5,457	5,457.00 / 5,457
	1 - Total						33,384	33,384
	015423 Temporary Scaffolding - Total						33,384	33,384

Section: 015526 Traffic Control

1

Section Estimator: RTC

10	Traffic Control for Washington Street	3.00 / 1	Week / 24 MH	A	389.36 / 1,168	25.04 / 75	550.00 / 1,650	0	964.40 / 2,893

Assembly Components	Quantity	Unit	Man Hrs		Equipment Days		Labor		Equip		Mat'L		Sub	Total	
Traffic Control Rental - Signs, Stand	3.00	Week		0		0		0		0	550.00	1,650	0	550.00	1,650
Laborer to Adjust	24.00	mh	1.00	24		3	48.67	1,168	3.13	75		0	0	51.80	1,243

20	Traffic Control for Summers and Capitol Street as needed	16.00 / 1	mh / 16 MH	D	48.67 / 779	3.13 / 50	10.00 / 160	0	61.80 / 989
	1 - Total				1,947 / 40 MH	125 / 5 ED	1,810		3,882
	015526 Traffic Control - Total				1,947 / 40 MH	125 / 5 ED	1,810		3,882

Section: 015600 Temporary Barriers & Fences

1

Section Estimator: RTC

10	BARRIERS & FENCES:	1			0	0	0	0	0.00 / 0
20	LABOR to set up and move temporyary fences as required	40.00 / 1	mh / 40 MH	D	48.67 / 1,947	3.13 / 125	0	0	51.80 / 2,072
30	MATERIAL - temporary barriers & fences	1.00 / 1	ls		0	0	1,500.00 / 1,500	0	1,500.00 / 1,500
	1 - Total				1,947 / 40 MH	125 / 5 ED	1,500		3,572
	015600 Temporary Barriers & Fences - Total				1,947 / 40 MH	125 / 5 ED	1,500		3,572

Section: 017300 Execution - Crew for Engineer

1

Section Estimator: RTC

10	CREW to assist engineer and operate Lifts - 3 ea. Laborers	5.00 / 1	Day / 120 MH	D	1,168.08 / 5,840	75.00 / 375	0	0	1,243.08 / 6,215
	1 - Total				5,840 / 120 MH	375 / 5 ED			6,215
	017300 Execution - Crew for Engineer - Total				5,840 / 120 MH	375 / 5 ED			6,215

Section: 024119 Selective Demolition

1

Section Estimator: RTC

Line No:	Description	Quantity / Zone	Unit		Labor	Equip	Material	Sub	Total
10	Granite Tile Removal & Disposal	96.00	mh	D	48.67	3.13	5.00		56.80
		1		*96 MH*	4,672	300	480	0	5,452
	1 - Total				4,672	300	480		5,452
					96 MH	*12 ED*			
	024119 Selective Demolition - Total				4,672	300	480		5,452
					96 MH	*12 ED*			

044200 Exterior Granite Cladding
Overridden to... 0
See Distribution Below

Section: 044200 Exterior Granite Cladding

044200 Exterior Granite Cladding - Total

1 - Override Column (In)(024119)	**0**
044200 Exterior Granite Cladding - Total	**0**

Section: 072400 Ext. Insul. & Finish System

1

Section Estimator: RTC

10	EIFS - Remove 3 sf area and provide temporary cover; patch with painted plywood	10.00	ea	A	318.40	15.65	50.00		384.05
		1		*50 MH*	3,184	157	500	0	3,841

Assembly Components	Quantity	Unit	Man Hrs		Equipment Days		Labor		Equip		Mat'L		Sub		Total	
LABOR				0		0		0		0		0		0	0.00	0
Remove 3 sf area of EIFS and backe	20.00	mh	1.00	20		2	63.68	1,274	3.13	63		0		0	66.81	1,337
Install Temporary Covering	10.00	mh	1.00	10		1	63.68	637	3.13	31		0		0	66.81	668
Install Foam Insulation & Painted Pl	20.00	mh	1.00	20		2	63.68	1,274	3.13	63		0		0	66.81	1,337
MATERIAL:				0		0		0		0		0		0	0.00	0
Tempoary cover, Foam Insualtion &	10.00	ea		0		0		0		0	50.00	500		0	50.00	500
				0		0		0		0		0		0	0.00	0

1 - Total	3,184	157	500	3,841
	50 MH	*6 ED*		
072400 Ext. Insul. & Finish System - Total	3,184	157	500	3,841
	50 MH	*6 ED*		

Section: 092900 Gypsum Board & Framing

1

Section Estimator: RTC

10	DRYWALL Removal & Patch Back	5.00	ea	A	367.24	18.78	30.00		416.02
		1		*30 MH*	1,836	94	150	0	2,080

Assembly Components	Quantity	Unit	Man Hrs		Equipment Days		Labor		Equip		Mat'L		Sub		Total	
LABOR				0		0		0		0		0		0	0.00	0
Remove 3 sf area of Drywall and bac	5.00	mh	1.00	5		1	63.68	318	3.13	16		0		0	66.81	334
Install Drywall & Tape/Finish Patch	15.00	mh	1.00	15		2	63.68	955	3.13	47		0		0	66.81	1,002
Paint Area of Patch	10.00	mh	1.00	10		1	56.26	563	3.13	31		0		0	59.39	594
MATERIAL				0		0		0		0		0		0	0.00	0
Drywall, Tape, Compound, Paint &	5.00	ea		0		0		0		0	30.00	150		0	30.00	150

1 - Total	1,836	94	150	2,080
	30 MH	*4 ED*		
092900 Gypsum Board & Framing - Total	1,836	94	150	2,080
	30 MH	*4 ED*		

EXHIBIT D
RIB US COST PROPOSAL

WDP
& Associates

Hinton, WV

Manassas, VA

Charlottesville, VA

Blacksburg, VA

Myrtle Beach, SC

New York, NY

RIB U.S.COST
running together
241 Garriosnville Road, Suite 202, Stafford, VA 703.415.0835
www.uscost.com

December 29, 2021

WDP Associates
335 Greenbrier Dr. Suite 205
Charlottesville VA, 22901

Subject: WV GSD Bldg. 36 - EFIS & Granite Assessment
321 Capitol Street, Charleston, WV
Tiers 1, & 2 Recommendations - Interim and Final
Submission Based -Construction Cost Estimating
REVISION 1

Ms. Dillon,

RIB U.S.COST (RIBUSC) is pleased to submit this proposal for cost estimating services. Our team will provide two estimate submissions, an Interim and Final submission for each of the two tiers of recommendations identified in the study assessment.

Base Proposal:

All estimates will be executed using the SUCCESS Cost Estimate Cost Management Software Any client requested special cost breakouts must be identified prior to the start of the estimating submission effort. All construction phasing and Division 1 work items that have a cost impact on this project must be clearly identified by the A/E prior to starting work so that their cost can be captured in the estimate. If Hazmat cost is to be added to the estimate, quantities and disposal methodology is to be provided by others

The estimating team will need a minimum of two (2) weeks to produce each submission and one (1) week advance notice of any upcoming estimating task.

Exclusions:

- ROM, Preliminary Estimates, or any other Estimate Submission not listed Above
- Working from In-Progress Documents
- Estimate Report Reproduction
- Attendance at Charrette, Design Meetings, VE Sessions, Review Conferences or Presentations
- Multiple Estimates to get Project within Budget
- Estimate Format Changes or Conversions into Excel or Other Estimating Systems
- Developing Costs for Moving Equipment/ Furnishings, Storage or Swing Space
- Cost for, Data/ IT or AV
- Developing Owners Soft Costs
- Furnish and/or Install Proprietary Equipment or Furnishings
- Hazmat Quantities and Disposal Method
- Estimates for Interior Fit-out, or Leasing Costs
- Submission of Quantity Take Off / Calculation
- Core and Shell, Tenant Fit Out Cost Breakouts
- Cost for A/E Design Fees
- Design to Cost Requirements Report
- Formal Market Study, Risk Analysis & Sensitivity Analysis
- Scheduling, Constructability and Phasing Analysis
- Estimate Reconciliations, Value engineering, Life Cycle cost Analysis, Bid Support Services, Negotiations with Bidders
- Post Award Services, Bid Analysis, RFI, Change Orders

RIBUSC is requesting lump sums fee to perform the services describe above in the amount of **$7,626**. Please refer to the attached matrix for a breakdown of our fee. This fee is based on the submissions listed, should a submission be dropped or added the fees becomes void and must be repriced.

We appreciate being considered for this assignment and look forward to working with your design team on this project. If additional information is needed, or if there are any questions, please feel free to call me at (703) 415-0835 ext.7106 or steve.curran@rib-uscost.com.

Sincerely,

RIB U.S.COST

Steve Curran
Vice President

WDP Associates
335 Greenbrier Drive, Suite 205
Charlottesville VA 22901
O:434.292.5513
D:434.218.8868

RIB U.S.COST
running together

WV GSD Bldg. 36 EFIS & Granite Assessment Study

Submission Based Estimating Services
Tiers 1 & 2 - Recommendations
A/E WDP
CONTACT Patrick Dillon
OWNER WV GSD

AV BASE. RATE:
AV HR. RATE:
G&A/OH:
PROFIT:

SERVICE: COST ESTIMATING
PROCESS METHOD: SUCCESS
PROPOSAL DATE: 29-Dec-21
PREPARED BY: Steve Curran
FEE REVISION #: REV 1
USC JOB #:

RESOURCE CATEGORY	BASE RATE	Hrs	Interim	Hrs	Final	Hrs		Hrs		Hrs		Total Hrs	TOTAL DIRECT COST
Sr . Estimator	135.93	18	2,447	6	816							24	3,262
Estimator	106.01	22	2,332	8	848							30	3,180
		40		14								54	
Subtotals Direct Labor Cost			4,779		1,664								6,443
Overhead													1,183
Sub Total Labor Costs			4,779		1,664								7,626
Profit on Labor													
Total Labor Costs													
EXPENSES													
Hotel	125.00												
Mileage	0.50												
Parking Airport	18.00												
Air Fare	650.00												
Auto Expenses	58.000												
Meal Perdiem	41.00												
Subtotal Expenses													
Profit on Expenses													
Total Expenses													
TOTALS (Labor & Expenses)			4,779		1,664								7,626