

## **MINUTES OF REGULAR MEETING**

### **MONTGOMERY COUNTY COMMISSION**

**DECEMBER 18, 2017**

#### **INFORMATION SESSION**

Chairman Dean called the meeting to order at 5:12 p.m. The meeting was held at Weeping Willow Baptist Church, which is located at 2925 Forbes Drive, Montgomery, Alabama.

The meeting was opened with prayer led by Fifteenth Judicial Circuit Judge Calvin L. Williams at the request of Commissioner Sankey. All five Commissioners were present.

#### **COMMENTS FROM SCHEDULED ATTENDEES, STAFF AND COMMISSIONERS**

##### **COMMENTS FROM ADMINISTRATOR MIMS**

Administrator Mims briefed the Commission on scheduled attendees and items on the agenda.

##### **PRESENTATION BY DIRECTOR CHARLENE SMITH AND ORGANIZATIONAL TRAINER AND CONSULTANT STEPHEN WOERNER WITH TROY UNIVERSITY AND VICE PRESIDENT OF DESTINATION & BRAND DEVELOPMENT DAWN HATHCOCK WITH THE MONTGOMERY AREA CHAMBER OF COMMERCE**

Director Charlene Smith and Organizational Trainer and Consultant Stephen Woerner with Troy University and Vice President of Destination & Brand Development Dawn Hathcock with the Montgomery Area Chamber of Commerce briefed the Commission regarding the Customer Service Initiative. After discussion, the Commission agreed to waive rules and add to the agenda a Budget Change Request in the amount of \$6,400 for the program.

##### **PRESENTATION BY SHERIFF DERRICK CUNNINGHAM**

Sheriff Derrick Cunningham briefed the Commission regarding a Proposal from Norment Security Group concerning security upgrades to the Montgomery County Detention Facility. After discussion, the Commission agreed to waive rules and add the Proposal to the agenda.

Sheriff Cunningham briefed the Commission regarding a Bid Award to Workable Solutions Investigative & Protective Services, LLC, for inmate security, Bid Number 52200-18B-006, for the Montgomery County Detention Facility. After discussion, the Commission agreed to place this item on the next agenda.

Sheriff Cunningham briefed the Commission regarding the breakdown of E-Citation fees and related costs. He stated that the County needs to review the municipal ticket fee and see what can be done to enable adequate funding for the county without any increase in the cost of the citation.

After discussion, the Commission asked Sheriff Cunningham and Administrator Mims to work with the Sheriff's Association, ACCA, and the local delegation to increase the portion of the fee received by the County's General Fund without any increase in the cost of the citation. (Copies of Memorandum and Attachments, Agenda Pages 26-1 through 26-6, are attached to these Minutes.)

Sheriff Cunningham presented a letter from Macon County Sheriff Andre' Brunson requesting to purchase four decommissioned vehicles from the Montgomery County Sheriff's Office. Sheriff Cunningham recommended that the vehicles be sold for \$4,500 each. After discussion, the Commission agreed to place this item on the next agenda.

#### PRESENTATION BY ACTING JUVENILE COURT ADMINISTRATOR BEVERLY WISE

Acting Juvenile Court Administrator Beverly Wise briefed the Commission regarding the Alabama Department of Youth Services Grant/Subsidy Agreement for 2017-2018. After discussion, the Commission agreed to place this item on the next agenda.

Ms. Wise briefed the Commission on staffing issues at the Youth Facility.

#### PRESENTATION BY CHIEF INFORMATION AND TECHNOLOGY OFFICER LOU IALACCI

Chief Information and Technology Officer Lou Ialacci requested approval of the Member Agreement with the Center for Internet Security Multi-State ISAC Division, which was on the agenda, and requested that he be listed as the Primary Custodian. The Commission agreed.

Mr. Ialacci requested authorization to hire an IT Engineer at Pay Grade A09, Step 4 (\$55,987) for Information Systems. After discussion, the Commission agreed to waive rules and add this item to the agenda.

#### PRESENTATION BY COUNTY ENGINEER GEORGE SPEAKE

County Engineer George Speake briefed the Commission regarding an Agreement for Preliminary Engineering (PE) Intersection Improvements at Vaughn Road and Ryan Road Project No. STPAA-5117, MCP 51-86-17P, CPMS Ref. #100067610 and related Resolution. After discussion, the Commission agreed to place this item on the next agenda.

#### PRESENTATION BY FIFTEENTH JUDICIAL PRESIDING CIRCUIT JUDGE JOHNNY HARDWICK

Fifteenth Judicial Circuit Judge Johnny Hardwick briefed the Commission regarding repairs to two (2) County owned trailers at the Montgomery County Youth Facility. After discussion, the Commission agreed to place on the next agenda a Budget Change Request in the amount of \$9,960 for these repairs.

#### PRESENTATION BY FIFTEENTH JUDICIAL CIRCUIT JUDGE CALVIN L. WILLIAMS

Fifteenth Judicial Circuit Judge Calvin L. Williams briefed the Commission regarding the Alpha Upsilon Lambda Chapter Educational Foundation and requested funding for the Martin Luther King, Jr., Memorial Breakfast. After discussion, the Commission agreed to place on the next agenda a Budget Change Request in the amount of \$2,500 for this event.

#### COMMENTS FROM ADMINISTRATOR MIMS AND DEPUTY ADMINISTRATOR CAUTHEN

Deputy Administrator Cauthen presented a Lease Renewal Option with Faulkner University for the Alabama Cooperative Extension System Office. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Administrator Mims presented Budget Change Request Number 1 from the Recreation Board regarding funding for the Flatwood Community Center Christmas Dinner. After discussion, the Commission agreed not to pursue funding for this event through the Recreation Board.

Chairman Dean and Commission Sankey requested an \$800 miscellaneous appropriation from each of their accounts to Royal Ambassadors Med Inc., for the Flatwood Community Center's Senior Citizens Holiday Luncheon. The Commission agreed to add this item to the miscellaneous appropriations.

Deputy Administrator Cauthen briefed the Commission regarding Budget Change Request Number 6 for repairs and other improvements at the property purchased in South Montgomery County. After discussion, the Commission agreed to place this item on the next agenda.

#### PRESENTATION BY FINANCE DIRECTOR SHERRILL THOMAS

Finance Director Sherrill Thomas requested authorization to hire a Buyer I at Pay Grade A05, Step 3 (\$34,599) for the Purchasing Department. After discussion, the Commission agreed to place this item on the next agenda.

#### COMMENTS FROM ADMINISTRATOR MIMS

Administrator Mims presented an email from Executive Vice President & Chief of Staff Anna Buckalew regarding the 187<sup>th</sup> Fighter Wing Entry Control Point Project.

Administrator Mims presented an invitation from NAMI Montgomery regarding the Mental Health Summit: The Time is Now, Thursday, January 11, 2018 from 8:30 a.m. – 4:30 p.m., at the Embassy Suites Hotel.

Administrator Mims stated that he received a phone call from City Clerk Brenda Blalock regarding the appointment of Carolyn Montgomery Clark to the Montgomery County Board of Human Resources. He stated that the City Council has requested that the County Commission submit another name for their consideration for this appointment. The Commission asked Administrator Mims to find out the reason that the Council is requesting another name.

Administrator Mims presented a schedule showing the salaries of employees at Garrett Coliseum, which are paid partially by the County's \$50,000 appropriation, and Copy of the Garrett Coliseum's Income/Expense Overview.

Administrator Mims presented a Proposal from Friends of the Theatre requesting Funding in the Amount of \$5,000 for the Martin Luther King, Jr., Celebration. After discussion, Chairman Dean, Commissioner Harris and Commissioner Singleton requested a \$1,000 from each of their accounts for this event.

Administrator Mims presented a Schedule of Upcoming Bids/Contract Renewals for December 2017 – April 2018.

Administrator Mims presented a Service of Process Fee (Sheriff Process Fee) Collection Report for December 2017.

Administrator Mims presented the Revenue Reports for November 2017 from Tax and Audit Department.

Administrator Mims presented a Population Report for November 2017 for the Mac Sim Butler Detention Facility.

Administrator Mims presented a Census and Fiscal Report for November 2017 for Community Corrections.

Administrator Mims reminded the Commission of previous requests for funding from Alabama-Korea Education & Economic Partnership (A-KEEP) and Motherly Care Family Services.

#### PRESENTATION BY MANAGER OF PUBLIC AFFAIRS HANNAH HAWK

Manager of Public Affairs Hannah discussed upcoming events with the Commission.

#### **RECESS TO FORMAL SESSION**

Chairman Dean recessed the Information Session to the Formal Session.

## **FORMAL SESSION**

Chairman Dean welcomed everyone to the Formal Session.

The meeting was opened with prayer led by Leon F. Ross, Sr., Pastor of Weeping Willow Missionary Baptist Church.

The Pledge of Allegiance was led by Ja'Michael Carter, Tyler Williams and Jamie Thomas.

Administrator Mims called Roll to establish a quorum, and the following Commissioners were present: Chairman Dean, Vice Chairman Walker and Members Harris, Sankey and Singleton. Also present were County Attorney Tyrone C. Means and County Engineer George C. Speake.

Vice Chairman Walker made a motion to approve the Minutes of the Regular Meeting of December 4, 2017. The motion was seconded by Commissioner Harris and unanimously approved by the Commission.

## **CONSENT AGENDA**

Administrator Mims presented the Accounts Payable Checks and Payroll Checks Authorization for approval.

Commissioner Harris made a motion to approve the Accounts Payable and Payroll Checks, as presented by Administrator Mims. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Accounts Payable Checks and Payroll Checks Authorization, Consent Agenda Pages 1 through 5, are attached to these Minutes.)

## **NEW BUSINESS**

### **COUNTY COMMISSION – TABLED RESOLUTION AUTHORIZING THE COUNTY'S CHRISTMAS HOLIDAY OBSERVANCE ON TUESDAY, DECEMBER 26, 2017**

Commissioner Harris made the motion to Table the Resolution Authorizing the County's Christmas Holiday Observance on Tuesday, December 26, 2017. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Resolution, Agenda Pages 1-1 and 1-2, are attached to these Minutes.)

### **COUNTY COMMISSION – APPROVED INTERGOVERNMENTAL AGREEMENT WITH THE POARCH BAND OF CREEK INDIANS AND RELATED RESOLUTION**

Commissioner Singleton made a motion to approve Intergovernmental Agreement with the Poarch Band of Creek Indians and related Resolution. The motion was seconded by Vice Chairman Walker. Chairman Dean, Vice Chairman Walker, Commissioner Singleton, and Commissioner Sankey voted in favor of the motion. Commissioner Harris voted in opposition and the motion carried. (Copies of Memorandum and Resolution, Agenda Pages 2-1 through 2-17, are attached to these Minutes.)

MONTGOMERY AREA MENTAL HEALTH AUTHORITY – APPROVED BOARD MEMBER APPOINTMENT

Commissioner Sankey made a motion to approve Board Member Appointment to the Montgomery Area Mental Health Authority. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum and Board Members' Appointment Page, Agenda Pages 3-1 and 3-2, are attached to these Minutes.)

MONTGOMERY COUNTY PARKS AND RECREATION BOARD – APPROVED BOARD MEMBER REAPPOINTMENT

Commissioner Singleton made a motion to approve Board Member Reappointment to the Montgomery County Parks and Recreation Board. The motion was seconded by Commissioner Sankey and unanimously approved by the Commission. (Copies of Memorandum and Board Members' Appointment Page, Agenda Pages 4-1 and 4-2, are attached to these Minutes.)

INFORMATION SYSTEMS – APPROVED MEMBER AGREEMENT WITH THE CENTER FOR INTERNET SECURITY MULTI-STATE ISAC DIVISION

Commissioner Singleton made a motion to approve the Member Agreement with The Center For Internet Security Multi-State ISAC Division. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memoranda, Agreement and Attorney Gallion's Opinion, Agenda Pages 5-1 through 5-6, are attached to these Minutes.)

**OMNIBUS VOTE**

Chairman Dean requested that the Commission omnibus the following nine items, and the Commission concurred. Commissioner Singleton made a motion to approve the nine agenda items. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission

COUNTY COMMISSION – APPROVED AGREEMENT WITH PH&J ARCHITECTS, INC., REGARDING RENOVATION WORK AT THE MONTGOMERY COUNTY DETENTION FACILITY – BUILDING 1

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with PH&J Architects, Inc., regarding Renovation Work at the Montgomery County Detention Facility – Building 1. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, Dispute Resolution and Attorney Gallion's Opinion, Agenda Pages 6-1 through 6-29, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH PH&J ARCHITECTS, INC., REGARDING RENOVATION WORK AT THE MONTGOMERY COUNTY ADMINISTRATION BUILDING AND COURTHOUSE ANNEX I

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with PH&J Architects, Inc., regarding Renovation Work at the Montgomery County Administration Building and Courthouse Annex I. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 7-1 through 7-30, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH GOODWYN MILLS AND CAWOOD, INC., REGARDING RENOVATION WORK AT THE MONTGOMERY COUNTY ADMINISTRATION BUILDING AND COURTHOUSE ANNEX II

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Goodwyn Mills and Cawood, Inc., regarding Renovation Work at the Montgomery County Administration Building and Courthouse Annex II. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 8-1 through 8-29, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH GOODWYN MILLS AND CAWOOD, INC., REGARDING RENOVATION WORK AT THE MONTGOMERY COUNTY ADMINISTRATION BUILDING AND COURTHOUSE ANNEX III

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement the Agreement with Goodwyn Mills and Cawood, Inc., regarding Renovation Work at the Montgomery County Administration Building and Courthouse Annex III. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 9-1 through 9-29, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH GOODWYN MILLS AND CAWOOD, INC., REGARDING RENOVATION WORK AT THE SCOTT STREET PARKING DECK

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Goodwyn Mills and Cawood, Inc., regarding Renovation Work at the Scott Street Parking Deck. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 10-1 through 10-30, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH BARGANIER DAVIS AND SIMS REGARDING RENOVATION WORK AT THE PHELPS-PRICE JUSTICE CENTER

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Barganier Davis and Sims Regarding Renovation Work at the Phelps-Price

Justice Center. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 11-1 through 11-28, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH BARGANIER DAVIS AND SIMS REGARDING RENOVATION WORK AT THE GREIL MANSION

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Barganier Davis and Sims regarding Renovation Work at the Greil Mansion. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 12-1 through 12-28, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH BARGANIER DAVIS AND SIMS REGARDING RENOVATION WORK AT THE CARNEGIE BUILDING

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Barganier Davis and Sims regarding Renovation Work at the Carnegie Building. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 13-1 through 13-28, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AGREEMENT WITH BARGANIER DAVIS AND SIMS REGARDING RENOVATION WORK AT THE CAREHERE BUILDING

As approved in the Omnibus Vote, Commissioner Singleton made a motion to approve the Agreement with Barganier Davis and Sims regarding Renovation Work at the CareHere Building. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement, and Attorney Gallion's Opinion, Agenda Pages 14-1 through 14-28, are attached to these Minutes.)

**End of Omnibus Vote**

COUNTY COMMISSION – APPROVED TO PARTICIPATE WITH THE CITY OF MONTGOMERY IN AN EMPLOYEE ENGAGEMENT SURVEY TO BE FUNDED THROUGH THE CITY-COUNTY PERSONNEL DEPARTMENT

Commissioner Harris made a motion to approve to Participate with the City of Montgomery in an Employee Engagement Survey to be Funded through the City-County Personnel Department. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memoranda, Agenda Pages 15-1 and 15-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED AMENDMENT NUMBER 3 TO CONTRACT WITH MASTSEC, LLC, REGARDING A SIXTY (60) DAY EXTENSION, BEGINNING JANUARY 1, 2018 AND ENDING ON FEBRUARY 28, 2018, FOR SECURITY GUARD SERVICES, CONTRACT NUMBER 51100-16B-004

Commissioner Harris made a motion to approve Amendment Number 3 to Contract with MASTSEC, LLC, regarding a Sixty (60) Day Extension, beginning January 1, 2018 and ending on February 28, 2018, for Security Guard Services, Contract Number 51100-16B-004. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Contract, Agenda Pages 16-1 and 16-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS REPROGRAMMING REQUESTS

Administrator Mims requested approval of the miscellaneous appropriations included in his memorandum dated December 18, 2017. During the County Commission Meeting this date, Chairman Dean requested that the following miscellaneous appropriation reprogramming requests be added and his fellow commissioners concurred:

From fund code 001-59320-498 (Agency, Miscellaneous Appropriations) to:

C-2018-41: Empowering Communities Helping Ourselves (ECHO), for Program Services - \$1,000; (Harris)

NOTE: Chairman Dean requested to add an additional \$1,000 from his discretionary money and Commissioner Sankey requested to add an additional \$500 from his discretionary money, for a total of \$2,500 appropriated to Empowering Communities Helping Ourselves (ECHO), for Program Services.

C-2018-43: Royal Ambassadors Med Inc., for the Flatwood Community Center's Senior Citizens Holiday Luncheon - \$1,600; (Dean-\$800 and Sankey-\$800)

C-2018-44: Friends of the Theatre, Inc., for Multi-Cultural Event at the Davis Theatre, Honoring Dr. Martin Luther King, Jr.'s. Ideals for a "Beloved Community" - \$3,000; (Dean-\$1,000, Harris-\$1,000, and Singleton-\$1,000)

Commissioner Sankey made a motion to approve the Miscellaneous Appropriations Reprogramming Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Memorandum, Agenda Page 17-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BUDGET CHANGE REQUEST NUMBER 5 TO THE MONTGOMERY AREA CHAMBER OF COMMERCE IN THE AMOUNT OF \$50,000 FOR MAINTAINING GARRETT COLISEUM FOR AGRICULTURAL AND TOURISM DEVELOPMENT

Vice Chairman Walker made a motion to approve Budget Change Request Number 5 to the Montgomery Area Chamber of Commerce in the Amount of \$50,000 for Maintaining Garrett Coliseum for Agricultural and Tourism Development. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Budget Change Request and Invoice, Agenda Pages 18-1 and 18-2, are attached to these Minutes.)

DETENTION FACILITY – APPROVED POSITION FILL REQUESTS (1)

1. Corrections Officer Trainee, Position Number 500419115

Commissioner Harris made a motion to approve Position Fill Request, Detention Facility. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 19-1, is attached to these Minutes.)

ENGINEERING DEPARTMENT– APPROVED POSITION FILL REQUEST (1)

1. Civil Engineer Tech II, Position Number 640628005

Commissioner Harris made a motion to approve Position Fill Request, Engineering Department. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 20-1, is attached to these Minutes.)

VARIOUS DEPARTMENTS – APPROVED TRAVEL/TRAINING REQUESTS (8)

DEPARTMENTS

TRAVEL/TRAINING REQUESTS

- |                               |                         |
|-------------------------------|-------------------------|
| 1. District Attorney's Office | Request Number 2        |
| 2. Probate Judge's Office     | Request Number 8        |
| 3. Sheriff's Office           | Request Number 10       |
| 4. Detention Facility         | Request Numbers 3 and 4 |
| 5. Parks and Recreation       | Request Number 1        |
| 6. Engineering Department     | Request Number 6        |
| 7. Appraisal Department       | Request Number 4        |

Commissioner Singleton made a motion to approve Travel/Training Requests. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Travel/Training Requests, Agenda Pages 21-1 through 21-8, are attached to these Minutes.)

## **WAIVE RULES**

Chairman Dean requested to waive rules and add the following items to the agenda, and his fellow Commissioners concurred:

### **DETENTION FACILITY – APPROVED SECURITY UPGRADE TO DETENTION FACILITY**

Vice Chairman Walker made a motion to approve Security Upgrade to the Detention Facility. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum and Proposal, Agenda Pages 22-1 and 22-2, are attached to these Minutes.)

### **INFORMATION SYSTEMS – APPROVED TO HIRE AN IT ENGINEER AT PAY GRADE A09, STEP 4 (\$55,987)**

Commissioner Singleton made a motion to approve to hire an IT Engineer at Pay Grade A09, Step 4 (\$55,987). The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memoranda, Agenda Pages 23-1 and 23-2, are attached to these Minutes.)

### **COUNTY COMMISSION – APPROVED LEASE RENEWAL OPTION WITH FAULKNER UNIVERSITY FOR THE ALABAMA COOPERATIVE EXTENSION SYSTEM OFFICE**

Commissioner Harris made a motion to authorize the Administrator to negotiate a reduced lease term with Faulkner University for the Alabama Cooperative Extension System Office and to approve the Lease Renewal Term so negotiated; and if no reduction in Lease Renewal Term can be negotiated, the Commission approves that the Lease be renewed pursuant to the Renewal Option in the original lease agreement, all subject to a mutual agreement on improvements in lighting. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Memorandum, Agenda Page 24-1, is attached to these Minutes.)

### **COUNTY COMMISSION – APPROVED BUDGET CHANGE NUMBER 6 TO TROY UNIVERSITY IN THE AMOUNT OF \$6,400 FOR THE CONTINUING EDUCATION CUSTOMER SERVICE INITIATIVE**

Commissioner Singleton made a motion to approve the Budget Change Number 6 to Troy University in the Amount of \$6,400 for the Continuing Education Customer Service Initiative. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Budget Change Request and Proposal, Agenda Pages 25-1 through 25-8, are attached to these Minutes.)

## **COMMENTS BY COMMISSIONERS AND ATTENDEES**

Montgomery County Engineer George Speake said he wanted to thank everyone for their support. He said it has been a great year and that he wished everyone a Merry Christmas.

Commissioner Sankey presented the cheerleaders from Robert E. Lee High School, who performed for the audience. Cheerleader sponsor Ja'Cinta Lard thanked the Commission for allowing the cheerleaders to perform.

Ms. K. T. Brown, a Community Activist, said good afternoon to everyone and commented on the great audience. Ms. Brown credited the time change of the meeting for the great turnout. She also inquired about the hiring procedures and process of the County. She expressed concern regarding the lease renewal with Faulkner University that had been discussed during the meeting.

Ms. Camilla Hooks, a concerned citizen, said good afternoon and addressed the Commission about repaving a portion of Wares Ferry Road and Burbank Drive. She said she had spoken with the Mayor about the problem and was told the County was responsible for that location. County Engineer George Speake advised her the portion of Wares Ferry Road she was referring to was located within the Montgomery City Limits and is the responsibility of the City. He also advised her that the County has a project scheduled for the January 2018 ALDOT letting to resurface the County's portion of Wares Ferry Road from the city limits line at the CSX railroad crossing eastward to U.S. 80 (Atlanta Highway).

Ms. Cammie Austin and Bishop William Paul, of Church On The Road, greeted the Commission. Ms. Austin briefed the Commission about a Women Boxing event on Saturday, February 17, 2018 at 2525 E. South Boulevard and invited the Commissioners to attend. Bishop Paul said they operate as a non-profit organization to help train disadvantage citizens in various areas and gave background on his organization.

Dr. Felicia Bell, the Director of the Rosa Parks Museum, said good evening to everyone and informed the Commission of the Juneteenth Festival that will be held Saturday, June 23, 2018. She thanked the Commission for their generous donation of \$2,000.00 to the Festival last year and said she hopes the Commission will be even more generous this year.

Roy Lewis, James Buchanan and Jerome Hubbard of Sportsman's Association of Bass Anglers said good afternoon to the Commission and gave background information about their organization. They shared information about several upcoming community events they have planned and said they would like to partner with the City and County to sponsor these events.

Pam Riley-Boldin, Executive Director of the Riley Relief Foundation, said good afternoon and thanked the Commissioners for their support.

Tyrone Jackson of Ride With Me Adventures Family Recreation Center said good evening and addressed the Commission concerning tax incentives. He said he also plan to meet with the City Council in reference to the same topic. Chairman Dean advised Mr. Jackson to contact either the County Administrator or Deputy Administrator for further assistance.

Mr. Burt Wells, CEO of Sugar Bert Boxing and Promotion, greeted the Commission and distributed small candy packages. He shared information about some of the boxing events he will be sponsoring in Montgomery. Mr. Wells said his organization has partnered with the City

of Montgomery. He said the next event will be held at the Impact Center on January 12, 2018. Mr. Wells then thanked the Commission for their time.

Willie Douglas and Egrid Perryman, property owners near Old Selma Road, said good afternoon to everyone. Mr. Douglas said they were there to voice concerns about County development of a park on property that is near their property. He said they have questions as to what impact any development might have on the value of their property. Administrator Mims explained the types of development that would be taking place on the property. Mr. Douglas thanked the Commission for their time and clarification.

Commissioner Singleton said good afternoon to everyone and said he is the representative of District 5 but he grew up in District 4 in the Boylston Community. Commissioner Singleton elaborated on his childhood days growing up in the area. He thanked Weeping Willow Baptist Church family and Pastor Ross for hosting the Commission Meeting.

Commissioner Sankey again thanked the Weeping Willow Church Family, Pastor Ross and all who played a part in helping with the preparation for the meeting. He encouraged everyone to continue to stay involved in County Government and wished everyone a Merry Christmas and a Happy New Year.

Vice Chairman Walker thanked Commissioner Sankey for the hard work he put forth in organizing the meeting and wished everyone a Merry Christmas. She said she and her family enjoyed the Camellia Bowl and encouraged anyone who has never attended the event to plan to attend. Vice Chairman Walker said the Camellia Bowl gives national exposure for Montgomery, Alabama and is a well-planned, successful event.

Chairman Dean thanked everyone for attending the meeting. He said the idea of the On The Road Meeting was developed to accommodate the citizens. Chairman Dean said citizens work during the day and many could not attend the meeting so the Commission decided to bring the meetings to the communities. He asked the attendees to voice any concerns they have to the Commission. He again thanked everyone for coming.

Commissioner Harris said everything he had to say had already been said, but he thanked everyone for attending the meeting. He told Commissioner Sankey that it looks as if he has drawn the largest crowd to an On The Road Meeting. Commissioner Harris said he thinks the On the Road Commission Meetings are an excellent idea and this location was a very good one. He said even though he is elected to served, he is only one voice and he needs the community to stand with him. Commissioner Harris then reminded everyone of the real reason for the season, and said that God gave us the best gift, His only Son, so that we may have life everlasting and that we should be thankful. Commissioner Harris said this is the season of giving so he encouraged everyone to give freely and wished everyone a Merry Christmas.

Montgomery County Sheriff Derrick Cunningham wished everyone a Merry Christmas on behalf of the Sheriff's Office.

Montgomery County Probate Judge Steven Reed thanked everyone for attending the meeting and thanked Reverend Ross for hosting the County Commission Meeting. He also thanked the citizens for the excellent turnout for the election on Tuesday, December 12, 2017.

## **ADJOURNMENT**

Commissioner Harris made a motion to adjourn the meeting of the Montgomery County Commission on December 18, 2017, at 7:19 p.m. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission.

12-18-17 Meeting

## MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND  
ORDERED PAID

CHECKS ARE DATED 12-1-17

| Check Number      | To | Check Number |
|-------------------|----|--------------|
| 273673            |    | 273721       |
|                   |    |              |
| Total Checks Paid |    | \$325,713.42 |

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS  
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS  
PAYABLE CHECK REGISTER

12-18-17 Meeting

## MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND  
ORDERED PAID

CHECKS ARE DATED 12-1-17

| Check Number      | To | Check Number |
|-------------------|----|--------------|
| 273722            |    | 273780       |
|                   |    |              |
| Total Checks Paid |    | \$179,243.44 |

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS  
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS  
PAYABLE CHECK REGISTER

12-18-17 Meeting

## MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND  
ORDERED PAID

CHECKS ARE DATED 12-8-17

| Check Number      | To | Check Number |
|-------------------|----|--------------|
| 273781            |    | 273837       |
|                   |    |              |
| Total Checks Paid |    | \$345,341.69 |

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS  
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS  
PAYABLE CHECK REGISTER

# AGENDA

DEC 18 2017

12-18-17 Meeting

## MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND  
ORDERED PAID

CHECKS ARE DATED 12-8-17

| Check Number      | To | Check Number |
|-------------------|----|--------------|
| 273838            |    | 273944       |
|                   |    |              |
| Total Checks Paid |    | \$701,540.19 |

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS  
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS  
PAYABLE CHECK REGISTER

## MONTGOMERY COUNTY COMMISSION

**DEC 18 2017**

THE FOLLOWING TRANSACTIONS WERE AUDITED AND  
ORDERED PAID

CHECKS ARE DATED  
12/8/17

|                      |        |    |                      |        |    |              |
|----------------------|--------|----|----------------------|--------|----|--------------|
| Payroll Check Number | 129185 | To | Payroll Check Number | 129242 | \$ | 46,571.85    |
|                      |        |    |                      |        |    |              |
| Direct Deposits      |        |    |                      |        | \$ | 904,663.57   |
|                      |        |    |                      |        |    |              |
| Payroll Check Number | 129243 | To | Payroll Check Number | 129264 | \$ | 269,127.01   |
|                      |        |    |                      |        |    |              |
| Direct Deposits      |        |    |                      |        | \$ | 416,710.13   |
|                      |        |    |                      |        |    |              |
| Federal Deposits     |        |    |                      |        | \$ | 341,915.38   |
|                      |        |    |                      |        |    |              |
| Total Payroll Paid   |        |    |                      |        | \$ | 1,978,987.94 |

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS PAID  
ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE PAYROLL CHECK REGISTER

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

# AGENDA

DEC 18 2017

December 5, 2017

## MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims <sup>DLM</sup>  
County Administrator

SUBJECT: Authorization of Holiday Time Off for County Employees

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda a Resolution giving employees the Tuesday after Christmas off. **Alabama Code § 11-1-8** states that the County Commission can close the county courthouse and county buildings one weekday or any portion thereof each week in addition to legal holidays.

Attached for your consideration is the resolution giving employees the Tuesday after Christmas off.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. BOX 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

1-1

## **RESOLUTION**

**WHEREAS**, Alabama Code § 11-1-8 provides that the County Commission of any county in the State of Alabama may by resolution authorize the offices of the officials of the county located in the county courthouse or other county building to be closed all day one weekday or any portion thereof of each week in addition to legal holidays; and,

**WHEREAS**, the Montgomery County Commission wishes to close the county courthouse on Tuesday, December 26, 2017, to allow county employees to spend time with their families in observance of Christmas,

**NOW, THEREFORE, BE IT RESOLVED**, that the Montgomery County Commission does hereby authorize the closing of the Montgomery County Courthouse and all county offices on Tuesday, December 26, 2017.

I hereby certify that the above  
resolution was adopted by the  
Montgomery County Commission,  
on this, the 18<sup>th</sup> day of December, 2017.

ATTEST:

---

Elton N. Dean, Sr., Chairman  
Montgomery County Commission

---

Donald L. Mims, Administrator

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
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WWW.MC-ALA.ORG

## AGENDA

DEC 18 2017

December 5, 2017

### MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Intergovernmental Agreement between The Poarch Band of Creek Indians and Montgomery County

The Montgomery County Commission, during its meeting on December 4, 2017, agreed to place on the next agenda an Intergovernmental Agreement with The Poarch Band of Creek Indians to Provide for Potential Services to the Tribe and Contributions to the County by the Tribe for Mitigating Off-Reservation Impacts that may Result from the Tribe's Economic Development Activities (Exhibit 1 to Resolution Number TCR 2017-026 by the Poarch Creek Indian Tribal Council).

I am requesting that the Commission approve this Agreement.

/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. BOX 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210



*Poarch Creek Indian  
Tribal Council Resolution  
T C R 2017-026*

**RESOLUTION TO APPROVE INTERGOVERNMENTAL AGREEMENT BETWEEN  
MONTGOMERY COUNTY, ALABAMA AND  
THE POARCH BAND OF CREEK INDIANS**

**WHEREAS,** the Poarch Band of Creek Indians is a federally recognized Tribe organized pursuant to 25 CFR, Part 83;

**WHEREAS,** the Tribal Council is authorized to transact business on behalf of the Tribe and to appropriate and distribute resources needed to conduct the necessary activities and functions of a Tribal government;

**WHEREAS,** the Tribe desires to enter into an Intergovernmental Agreement with Montgomery County, Alabama which would address potential services to the Tribe and contributions to Montgomery County by the Tribe for mitigating off-reservation impacts that may result from the Tribe's economic development activities;

**WHEREAS,** the exact terms and conditions of the Intergovernmental Agreement are set forth in the hereto attached "Exhibit 1"; and

**WHEREAS,** the Tribal Council wishes to approve the Intergovernmental Agreement between Montgomery County, Alabama and the Poarch Band of Creek Indians.

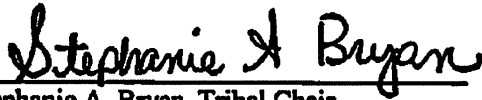
**NOW THEREFORE BE IT RESOLVED** that the Tribal Council hereby approves the Intergovernmental Agreement between Montgomery County, Alabama and the Poarch Band of Creek Indians to provide for potential services to the Tribe and contributions to the County by the Tribe for mitigating off-reservation impacts that may result from the Tribe's economic development activities, subject to the terms and conditions of the Agreement, hereto attached as "Exhibit 1";

**BE IT FURTHER RESOLVED** the Tribal Chair is authorized to execute the Intergovernmental Agreement between Montgomery County, Alabama and the Poarch Band of Creek Indians to provide for potential services to the Tribe and contributions to the County by the Tribe for mitigating off-reservation impacts that may result from the Tribe's economic development activities, and any other documents relative to this transaction; and

**BE IT FURTHER RESOLVED** that once both parties have executed the Intergovernmental Agreement that the Tribal Accounting Department shall remit the \$1,000,000 annual contribution to Montgomery County, Alabama from the Community Services Discretionary Fund.

**APPROVAL**

I, the Chair of the Poarch Band of Creek Indians, hereby affix my signature to the resolution authorizing it to become official this 6<sup>th</sup> day of April, 2017.



Stephanie A. Bryan, Tribal Chair  
Poarch Band of Creek Indians

**CERTIFICATION**

I, the Secretary of the Poarch Band of Creek Indians, certify that the foregoing is a true and extract from the minutes of the Tribal Council meeting of the Poarch Band of Creek Indians, comprised of nine members with 9 in attendance on the 6<sup>th</sup> day of April, 2017 and that the above is in conformity with the provision therein adopted by a vote of 8 in favor, and 0 against, 0 abstentions.



Charlotte M. Meckel, Tribal Secretary  
Poarch Band of Creek Indians

**Exhibit 1**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
MONTGOMERY COUNTY, ALABAMA AND  
THE POARCH BAND OF CREEK INDIANS  
TO PROVIDE FOR POTENTIAL SERVICES TO THE TRIBE  
AND CONTRIBUTIONS TO THE COUNTY  
BY THE TRIBE FOR MITIGATING  
OFF-RESERVATION IMPACTS THAT MAY  
RESULT FROM THE TRIBE'S ECONOMIC DEVELOPMENT ACTIVITIES**

**THIS AGREEMENT ("Agreement") made and entered into this \_\_\_\_ day of April 2017, by and between MONTGOMERY COUNTY, ALABAMA (the "County") and the POARCH BAND OF CREEK INDIANS (the "Tribe").**

**WHEREAS, the Tribe is a federally recognized Indian tribe organized pursuant to 25 CFR, Part 83, and included on the list of Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792), enjoys all rights, privileges, and immunities associated with such federal recognition, and possesses inherent sovereign powers, including, but not limited to, the power to exercise self-determination and the power to allocate its resources pursuant to tribal and federal law;**

**WHEREAS, the County is a political subdivision of the State of Alabama with the powers and responsibility to plan and protect for the economic and social welfare of its residents and citizens;**

**WHEREAS, the Tribe and County recognize and respect the sovereignty and legal status of one another;**

**WHEREAS, the Tribe's Tribal Council is authorized under the Tribal Constitution, Article IV, Section 4(c), to enter into agreements on behalf of the Tribe with local governments pertaining to all activities that may affect the Tribe;**

**WHEREAS, the Tribe owns and operates certain gaming and other businesses on the Tribe's Reservation and fee lands ("Tribal Lands"); and**

**WHEREAS, the Tribal Council, as the Tribe's governing body, may determine from time to time that the expansion of those businesses or the creation of new businesses on Tribal Lands is in the best interests of the Tribe and its members, and will promote the economic development of the Tribe necessary to establish and maintain a strong tribal government; and**

**WHEREAS, the parties acknowledge that the existing and expanding businesses as well as the creation of new businesses ("Economic Development Activities") may require municipal services from the County that have yet to be identified or quantified; and**

**WHEREAS, the parties further acknowledge that the Economic Development Activities may have impacts on the County that have yet to be identified or quantified;**

**NOW, THEREFORE, IN CONSIDERATION of the mutual promises hereinafter set forth and for other good and valuable consideration the adequacy and receipt of which the parties hereby acknowledge, the County and the Tribe hereby agree as follows:**

**Section 1. Services; Impacts.**

**Section 1.1. County Services. The parties acknowledge and agree that the Tribe currently and at all times during the term of this Agreement does and shall exercise jurisdiction over all Tribal Lands. The County acknowledges that it may be required to or may agree that it will furnish services to support the Economic Development Activities on Tribal Lands or to generally further the health, well-being and safety of the Tribe's members, patrons, or customers**

on and off Tribal Lands , including, but not limited to, law enforcement services, drug task forces operations, the use of detention facilities, and the use of hospital or other medical facilities, as provided in any existing or future written agreement(s) between any County department or facility and the Tribe, and any existing or subsequent amendments thereto (collectively "Services").

**Section 1.2. Mitigation of Off-Reservation Economic Impacts.** The Tribe acknowledges that the Tribe's Economic Development Activities may have caused and may cause potential, off-reservation economic impacts in the County that have not been identified as of this date and are not covered by any other agreement between the County and the Tribe in existence as of this date (collectively "Impacts"). These Impacts could include the need for road and bridge infrastructure and effects upon quality of life and community values, and the Tribe wishes to be a good neighbor.

**Section 1.3. Specific Services and Impacts.** The Services and Impacts are detailed more specifically in the attached Exhibit A.

**Section 2. Contributions.**

**Section 2.1. Annual Tribal Contribution.** To assist the County in defraying the cost of any Services that the County may provide to the Tribe with respect to the Economic Development Activities, as well as the cost and expenses of mitigating the Impacts that the County may incur as a result of the Tribe's Economic Development Activities not now or previously identified, the Tribe shall make an annual contribution of \$1,000,000 ("Annual Tribal Contribution") to the County as provided below. This Annual Tribal Contribution shall be allocated by the County for the Services outlined in Exhibit A and to mitigate the Impacts outlined in Exhibit A.

**Section 2.2. Payment.** The Annual Tribal Contribution shall be made no later than January 31<sup>st</sup> of each year. However, the Tribe, however, shall have the right to stay the obligation to make annual payments hereunder in the event of exceptional budgetary circumstances.

**Section 2.3. Annual Reporting Requirement.** In order for the Tribe to remain accountable to its tribal members and for the Tribe and County to determine the need for additional services or to address unforeseen Impacts, the County shall maintain and update, at least annually, a report to the Tribe that generally shows the allocation of the Contribution to provide Services or mitigate Impacts. If the County fails to submit a report to the Tribe within sixty days of the end of its fiscal year, such failure shall be considered a breach by the County under Section 3.2 below.

**Section 2.4. Reallocation.** If the County desires to use the Annual Tribal Contribution for a Service or Impact not specifically outlined in Exhibit A or to reallocate any funds, the County must make a formal request to the Tribe for such reallocation. If the Tribe agrees to such reallocation, then an amendment to this Agreement shall be executed by both parties.

**Section 3. Term, Breach, and Dispute Resolution.**

**Section 3.1. Term.** This Agreement shall become effective upon the date of full execution by the Tribe and the County. This Agreement shall remain in effect for three (3) years unless terminated prior to the expiration in accordance with this Agreement. The Tribe, however, shall have the right to terminate this Agreement in its entirety, in the event of exceptional budgetary circumstances.

**Section 3.2. Effect of Breach by County.** In the event that the County fails to provide the Services to which it has agreed pursuant to this Agreement and any corresponding

agreements or to use the Contribution to support those Services or mitigate the Impacts caused by the Tribe's Economic Development Activities, the Tribe shall have the right to suspend its payments, request an audit of the County's use of such payments, and seek reimbursement for any such payments for the time period during which Services were not provided or Impacts were not mitigated. Additionally, if the County fails to provide an annual report or reallocates the Annual Contribution to a Service or Impact not outlined in Exhibit A or any amendment hereto, then the Tribe shall have the right to suspend its payments, request an audit of the County's use of such payments, and seek reimbursement for any such payments for the time period during which Services were not provided or Impacts were not mitigated.

**Section 3.3. Effect of Non-Payment by Tribe.** In the event the Tribe is delinquent on the Annual Tribal Contribution payments, the County shall have the right to suspend any and all Services during such period of delinquency. The Tribe, however, shall have the right to stay the obligation to make payments hereunder, or to terminate this Agreement in its entirety, in the event of exceptional budgetary circumstances.

**Section 3.4. Mediation.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof shall be submitted to mediation, which may be initiated by either party upon written notice to the other party. All mediation proceedings shall be held at the governmental headquarters of the Tribe located within the confines of Escambia County, Alabama. The parties and the Mediator shall maintain strict confidentiality with respect to any mediation proceeding. Nothing that transpires during the mediation proceeding is intended in any way to affect the rights or prejudice the position of any of the parties to the dispute in any future proceeding. The Mediator is authorized to end the mediation whenever further efforts at mediation would not contribute to a solution of the dispute between the parties. A written report

of the mediation process will not be prepared by the Mediator. There shall be no record, electronic or otherwise, of the mediation proceeding. The Mediator's fee or time charge rate will be established at the time of selection or appointment. The expenses of the witnesses for either side shall be paid by the party providing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the Mediator, and the expenses of any witness, or the costs of any proofs or expert advice produced at the direct request of the Mediator, shall be shared equally by the parties unless they agree otherwise. Any written settlement agreement of the parties that emerges from mediation shall be final and binding once fully executed, and the contents of which shall be maintained in strict confidentiality. The mediation proceeding shall be deemed terminated if, and when: (a) the parties have not executed a written settlement agreement within forty-five (45) calendar days following conclusion of the mediation formal meeting (which deadline may be extended by mutual agreement), or (b) either party serves on the other party and on the Mediator a written notice of withdrawal from the proceedings. The Mediator shall apply all applicable laws in conducting the mediation proceedings, and in assessing the respective positions of each party to the mediation in an effort to bring about a voluntary resolution of the dispute. In addition, to the foregoing, nothing contained herein is intended to constitute a consent or agreement of any kind or nature other than the mediation proceedings expressly contemplated by this paragraph as the sole means to resolve any controversy, claim or dispute arising out of or relating to this contract or any alleged breach thereof.

#### **Section 4. Jurisdiction; Sovereign Immunity.**

**Section 4.1 Jurisdiction.** The parties acknowledge and agree that the Tribe has authority and exercises jurisdiction over the Economic Development Activities on its Tribal Lands. As such, nothing in this Agreement shall be construed as the Tribe ceding any kind of authority or jurisdiction, regulatory or otherwise, over its Economic Development Activities, to the County or any other state or local government or municipality or as the Tribe consenting to the rules, regulations, laws or jurisdiction of the County or of any state, municipality, or other local government.

**Section 4.2 Sovereign Immunity.** Nothing contained in this Agreement or in any related documents shall be construed as a waiver by the Tribe of sovereign immunity from unconsented lawsuits or as consent by the Tribe to the bringing of any action against the Tribe, its officers, agents, employees, departments or business entities or enterprises. Nothing in this Agreement or any related documents shall be construed or deemed to provide recourse against any Tribal government assets.

**Section 5. Miscellaneous.**

**Section 5.1. Notices.** All notices or other communications provided for by this Agreement shall be made in writing and shall be deemed properly delivered by the mailing of such notices to the parties entitled thereto, via certified mail, return receipt requested, postage prepaid to the parties at the following addresses (or to such other addresses designated in writing by one party to the other):

**Tribe**

Chairman  
Poarch Band of Creek Indians  
5811 Jack Springs Road  
Atmore, AL 36502

With copy to:

**County**

Chairman  
[Insert] County Commission  
[Address]  
[City], AL [Zip]

With copy to:

Chief of Staff  
Poarch Band of Creek Indians  
5811 Jack Springs Road  
Atmore, AL 36502

County Administrator  
[Insert] County Commission  
[Address]  
[City], AL [Zip]

With copy to:

With copy to:

Attorney General  
Poarch Band of Creek Indians  
5811 Jack Springs Road  
Atmore, AL 36502

County Attorney  
[Insert] County Commission  
[Address]  
[City], AL [Zip]

**Section 5.2. Waivers.** A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provisions.

**Section 5.3. Negotiations and Drafting.** This Agreement has been negotiated and drafted by all parties hereto and shall not be more strictly construed against any party because of such parties' preparation of this Agreement. All parties to this Agreement have been represented by their respective counsel. The parties hereto acknowledge having read this Agreement and discussed the terms of this Agreement with their respective counsel and that the approval and execution of this Agreement has been made freely and voluntarily with full knowledge of its legal effect.

**Section 5.4. Survivability and Assignment.** All of the terms, conditions, provisions, and representations contained in this Agreement shall survive the execution of this Agreement. Neither party may assign this Agreement to a third party without the consent of the other party hereto; provided that the Tribe may assign its rights and obligations hereunder to a political subdivision or unincorporated instrumentality of the Tribe.

**Section 5.5. Entire Agreement and Amendments.** This Agreement, including all exhibits referenced herein, constitutes the entire agreement between the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof. There are no representations, promises or undertakings between the parties other than expressly set forth herein. The parties agree that no amendments or modifications of any of the terms of this Agreement shall be valid unless in writing and executed with the same formalities as this Agreement.

**Section 5.6. Execution.** This Agreement shall be executed in duplicate and each such executed Agreement shall be deemed to be an original.

**Section 5.7. Titles to Paragraphs.** The title of each paragraph in this Agreement is for purposes of clarity and ease of reading only.

**Section 5.8. Authorization.** The Tribe and the County represent and warrant that each has the full power and authority to execute this Agreement and perform its obligations in accordance with the terms and conditions hereof, and that the representatives executing this Agreement on behalf of each party are duly and fully authorized to so execute and deliver this Agreement.

1. The Tribe has authorized its officers to execute this Agreement by the adoption of Tribal Council Resolution [Insert] adopted [Date], a copy of which is attached hereto as Exhibit I.

2. The County has authorized its officers to execute this Agreement by the adoption of Resolution No. \_\_\_\_\_ adopted \_\_\_\_\_ a copy of which is attached hereto as Exhibit II.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized representatives and delivered as of the day and year first above written.

POARCH BAND OF CREEK INDIANS:  
*Stephanie A. Bryan*

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephanie A. Bryan, as  
Tribal Chair

Attest: \_\_\_\_\_

[Insert] COUNTY, ALABAMA:

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
as Chairman of the Montgomery,  
County Commission

Attest: \_\_\_\_\_

## **MONTGOMERY COUNTY EXHIBIT A**

|                                                                        |           |
|------------------------------------------------------------------------|-----------|
| Infrastructure Projects and road clean-up projects to mitigate Impacts | \$225,000 |
| Other Services and projects to offset Impacts                          | \$775,000 |

**MEMORANDUM****October 11, 2017**

TMB

To: Donnie Mims

From: Thomas T. Gallion, III

Re: Resolution and Intergovernmental Agreement with Poarch Creek Indians

Per your request to review the, "Resolution to Approve Intergovernmental Agreement Between Elmore County, Alabama" and "The Poarch Band of Creek Indians to Provide for Potential Services to the Tribe and Contributions to the County by the Tribe for Mitigating Off-Reservation Impacts That May Result From The Tribe's Economic Development Activities."

First of all, I cannot opine to an agreement between Elmore County and the Poarch Creek Indians because I do not represent Elmore County. However, as stated in your memorandum, I am to assume that MCC will adopt the same agreement verbatim. If that is clear then I opine as follows:

- (1) This agreement is very broad and subject to various interpretations;
- (2) It does not contain our normal hold harmless clause that I put in every contract
- (3) Any disputes that may arise will be mediated on the Poarch Creek Reservation and contains no verbiage as to who selects the mediator; and
- (4) If executed, then the Resolution and Agreement legal and binding on the parties;

In order to clear matters up with the Sheriff, I suggest that if he has no objection to providing the Sheriff's Department services to the Poarch Creek Indians on tribal land, then he should inform the Commissioners of that fact. In order to protect all parties, it is my suggestion that he put in writing that he has no problem with this requirement contained in the Agreement.

If a majority of the County Commissioners vote to adopt Resolution and Agreement as adopted by Elmore County and receive One Million Dollars from the Poarch Creek Indians then I opine that upon execution, the Resolution and Agreement would be legally binding on Montgomery County.

50051-317

## RESOLUTION

WHEREAS, the Poarch Band of Creek Indians desires to enter into an Intergovernmental Agreement with Montgomery County, Alabama which would address potential services to the Tribe and contributions to Montgomery County by the Tribe for mitigating off-reservation impacts that may result from the Tribe's economic development activities; and

WHEREAS, the Montgomery County Commission wishes to approve the Intergovernmental Agreement between the Poarch Band of Creek Indians and Montgomery County;

NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Commission does hereby authorize the Chairman of the County Commission to execute the Intergovernmental Agreement.

We hereby certify that the above  
Resolution was adopted by the  
Montgomery County Commission  
on this, the 18<sup>th</sup> day of December, 2017.

BY: \_\_\_\_\_  
Chairman

ATTEST: \_\_\_\_\_  
County Administrator

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

# AGENDA

DEC 18 2017

December 5, 2017

## MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Montgomery Area Mental Health Authority Board Member Appointment

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda the appointment of Yulanda Tyre to replace Margaret Arthur, who requested not to be reappointed, as a board member to the Montgomery Area Mental Health Authority, for a term ending April 1, 2023.

I am requesting that the Commission approve this appointment.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

Montgomery Area Mental Health Authority

**Members:**

**Term Expires:**

Rev. Albert Perkins, III  
425 North Moye Drive  
Montgomery, AL 36109

4/1/2021

Arica Smith  
2224 Semaht Drive  
Montgomery, AL 36106  
334-224-4294  
Smithfamily2224@yahoo.com

4/1/2019

\* Margaret Arthur  
3530 Lehigh Street  
Montgomery, AL 36108

4/1/2017

Mr. Henry E. Parker, Executive Director  
Montgomery Area Mental Health Authority  
P.O. Box 3223  
Montgomery, AL 36109

**Term: 6 years**

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

# AGENDA

DEC 18 2017

December 5, 2017

## MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Board Member Reappointment to the Parks and Recreation Board

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda the reappointment of Lynn Gowan as a board member of the Montgomery County Parks and Recreation Board for a term ending December 4, 2022

I am requesting approval of this reappointment.

DLM/tn

Attachment

Montgomery County Parks and Recreation Board

**Members:**

**Term Expires:**

Andre' Howard  
143 Wilkinson Street  
Montgomery, AL 36104  
Cell: (334) 462-2696  
Work: (334) 265-1504  
howardsphd@att.net

12/4/2021

Mark Salter  
3909 Oak Street  
Montgomery, AL 36104  
Home: 262-4173  
Work: 262-7727  
Cell: 601-291-9131

12/4/2019

James B. Phillips  
2139 Yarbrough Street  
Montgomery, AL 36110  
Home: 263-9438  
Cell: 850-4667

12/4/2018

Charles Powe  
19 Stone Park Trail  
Pike Road, AL 36064  
Cell: 334220-6579  
Home: 260-9232  
Email: cbigjr8590@charter.net

12/4/2020

\* Lynn Gowan  
440 Town Lake Place  
Montgomery, AL 36117  
Cell: 391-4661

12/4/2017

**Term: 5 years**

DEC 18 2017

## Interoffice Memo

**To:** County Commission  
**From:** Lou Ialacci   
**Cc:** Donald Mims, Florence Cauthen  
**Date:** December 12, 2017  
**RE:** Center for Internet Security Member Agreement

---

I am requesting the attached standard Member Agreement be placed on the agenda for approval by the Commission in their formal meeting on December 18, 2017.

I will also need my name added to the document as the "Primary Custodian" for the County - located on page 3 of the document. This will allow me to exchange information with the Multi-State Information Sharing and Analysis Center (MS-ISAC).

Thank you

**CENTER FOR INTERNET SECURITY  
MULTI-STATE ISAC  
Member Agreement**

This Agreement ("Agreement") is made between Montgomery County, AL and the Multi-State Information Sharing and Analysis Center of the United States (MS-ISAC), a division of the Center for Internet Security.

The MS-ISAC will enable information sharing, analysis, gathering and distribution in a secure manner using facilities and methods designed to permit individual Members to submit information about security threats, vulnerabilities, incidents, and solutions securely. Only MS-ISAC members have access to review and retrieve this information. When submitting information to the MS-ISAC, Primary Custodians will identify information to the MS-ISAC in the following categories:

**Category A:** information that is provided only to the MS-ISAC and will not be shared with the MS-ISAC members or others except as authorized by the Primary Custodian. Category A information also consists of any non-categorized information provided to the MS-ISAC and/or pre-cleansed category B information.

**Category B:** information which is shared with the MS-ISAC and in consultation with the Primary Custodian is cleansed by the MS-ISAC of all identifying information and then, consistent with applicable laws, will be shared only with MS-ISAC members, or the Department of Homeland Security consistent with paragraph six (6).

**Category C:** information which is shared with the MS-ISAC and does not need to be cleansed and may be shared within the MS-ISAC and outside the MS-ISAC as appropriate.

MS-ISAC members acknowledge that Primary Custodian has certain cyber and/or critical infrastructure information and material that is exempt from disclosure to the public or other unauthorized persons under federal or state laws including the Homeland Security Act of 2002 (6 U.S.C. § 133). MS-ISAC members may provide access to this information and material in order to facilitate interstate communication regarding cyber and/or critical infrastructure readiness and response efforts. These efforts include, but are not limited to, disseminating early warnings of physical and cyber system threats, sharing security incident information between U.S. states, territories, the District of Columbia, tribal

nations and local governments, providing trends and other analysis for security planning, and distributing current proven security practices and suggestions. As a participating member of the MS-ISAC, Primary Custodian agrees that when sharing this information with MS-ISAC members it will do so through the MS-ISAC in accordance with the categories established in this document. MS-ISAC members agree to the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the above promises recited herein, the parties agree to the following:

**Definitions:**

1. Primary Custodian – the entity that developed or owns the Data. Each collection of Data (database, file, etc.) shall have a single Primary Custodian.
2. MS-ISAC members – the members (U.S. states, territories, the District of Columbia, tribal nations and local governments) who may be in possession or use of Data acquired from the Primary Custodian or from the MS-ISAC.

**Purpose:**

3. MS-ISAC members acknowledge that the protection of Category A information is essential to the security of Primary Custodian and the mission of the MS-ISAC. The purpose of this Agreement is to enable Primary Custodian to make disclosures of Category A information to MS-ISAC while still maintaining rights in, and control over, Category A information. The purpose is also to preserve confidentiality of the Category A information and to prevent its unauthorized disclosure. It is understood that this Agreement does not grant MS-ISAC or members an express or implied license or an option on a license, or any other rights to or interests in the Category A information, or otherwise. If Primary Custodian retracts any information it sent to the MS-ISAC, then, upon notification by the Primary Custodian, the MS-ISAC will destroy such information and all copies thereof, and notify MS-ISAC members to destroy the information. If an MS-ISAC member is unable to destroy the information based on applicable law, then the member will continue to maintain the confidentiality of the information consistent with

this agreement. Upon receiving such notification, MS-ISAC members will destroy such information and all copies thereof.

#### **MS-ISAC and Member Duties:**

4. MS-ISAC and members who are authorized by the Primary Custodian to receive Category A information shall, and shall cause their contractors, subcontractors, agents or any other entities acting on their behalf (hereinafter referred to as the "Affiliates") to:
  - (a) copy, reproduce or use Category A information only for the purposes of the MS-ISAC mission and not for any other purpose unless specifically authorized to do so in writing by Primary Custodian; and
  - (b) not permit any person to use or disclose the Category A information for any purpose other than those expressly authorized by this Agreement; and
  - (c) implement physical, electronic and managerial safeguards to prevent unauthorized access to or use of Category A information.

Such restrictions will be at least as stringent as those applied by the MS-ISAC and/or members to their own most valuable and confidential information.

MS-ISAC agrees to promptly notify Primary Custodian of any unauthorized release of Category A information.

5. MS-ISAC and members will not remove, obscure or alter any notice of patent, copyright, trade secret or other proprietary right from any Category A information without the prior written authorization of Primary Custodian.

#### **Multi-State ISAC Duties:**

6. The MS-ISAC and members may share with the Department of Homeland Security (DHS) pursuant to 6 U.S.C. § 133, Category A, B, and C information, unless the Primary Custodian has designated in writing that the information in question cannot be shared with our federal partners. All other information is voluntarily submitted and may be shared with the Federal Government with expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002.

7. If any third party makes a demand for any Category A or B information, the MS-ISAC or member shall immediately forward such request to the Primary Custodian and consult and cooperate with the Primary Custodian and will make reasonable efforts, consistent with applicable law to protect the confidentiality of the information. Primary Custodian will, as needed, have the opportunity to seek judicial or other appropriate avenues of redress to prevent any release.
8. In non-emergency situations, as part of its multi-state communication sharing efforts, the MS-ISAC may prepare written reports. For such reports, the Primary Custodian shall be provided a period of time to review such reports, papers, or other writings and has the right to edit out its Category A information, correct factual inaccuracies, make recommendations and comments to the content of the report, and append comments to the final version of the report. The MS-ISAC members and Primary Custodian agree to work together in good faith to reach mutually agreed upon language for the report. If the parties are unable to reach agreement on an issue, Primary Custodian has the right to edit out its Category A information.

#### **General Terms:**

9. Should any court of competent jurisdiction consider any provision of this Agreement to be invalid, illegal, or unenforceable, such provisions shall be considered severed from this Agreement. All other provisions, rights, and obligations shall continue without regard to the severed provision(s).
10. The term of the Agreement shall continue so long as Primary Custodian remains a member of the MS-ISAC, and paragraph 3 the obligations of confidentiality as provided herein shall survive the expiration of this Agreement.
11. This Agreement will be construed and enforced in all respects in accordance with United States (U.S.) federal law or other applicable laws as addressed herein.
12. This Agreement contains the entire understanding between the parties with respect to the proprietary information described herein and supersedes all prior understandings whether written or oral. Any modification, amendment, assignment or waiver of the terms of this Agreement shall require the written approval of the authorized representative of each party.

The foregoing has been agreed to and accepted by the authorized representatives of each party whose signatures appear below:

AGREED BY:

**Primary Custodian:**

**Center for Internet Security  
Multi-State ISAC Division**

|                                 |             |                      |             |
|---------------------------------|-------------|----------------------|-------------|
| <hr/>                           | <hr/>       | <hr/>                | <hr/>       |
| <i>Signature</i>                | <i>Date</i> | <i>Signature</i>     | <i>Date</i> |
| <hr/>                           |             | <hr/>                |             |
| <i>Print or Type Name/Title</i> |             | <b>MS-ISAC Chair</b> |             |



Haskell Slaughter & Gallion, LLC  
8 Commerce Street  
Suite 1200  
Montgomery, Alabama 36104  
t. 334.265.8573 | f. 334.264.7945

## MEMORANDUM

December 6, 2017

T T G

To: Donnie Mims  
From: Thomas T. Gallion, III  
Re: Member Agreement with the Center for Internet Security

---

I have reviewed the Center for Internet Security Member Agreement.

This would be similar to joining the Alabama Association of County Commissioners. We would only be a participant in a Multi-State Information Sharing and Analysis Center. The National Association of Counties and Department of Homeland Security are recommending that Counties become members of this organization.

In that the service is free and is helpful to the County and because it is a membership, not a contract, then our dispute resolution does not need to be inserted into a membership agreement. Lou Ialacci is an excellent IT employee of the County and if Lou is for the County joining this organization, then I opine that the County should do so.

I am also of the opinion that the services provided for in this membership are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why the membership should not be entered into if it is the desire of the Montgomery County Commission.

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ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

December 6, 2017

**MEMORANDUM**

TO: Thomas T. Gallion, III  
County Attorney

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Member Agreement with the Center for Internet Security

Enclosed is a memorandum from Chief Information and Technology Officer Lou Ialacci and a Member Agreement with the Center for Internet Security Multi-State ISAC Division.

The service is free and provides the County with information and resources to assist us with maintaining our security. The County's Dispute Resolution is not included in this Agreement and I question whether it would be applicable since this is a membership agreement.

Please review the documents and issue your opinion by Friday, December 8, 2017, as to whether the Agreement is acceptable.

As always, thank you for your assistance.

DLM/tn

Enclosures

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

ELTON N. DEAN, SR.  
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RONDA M. WALKER  
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## AGENDA

DEC 18 2017

December 14, 2017

### MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims  
County Administrator

SUBJECT: Agreement with PH&J Architects, Inc., regarding Montgomery County Detention Facility – Building 1 Renovation Project

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda an Agreement with PH&J Architects, Inc., regarding renovation work at the Montgomery County Detention Facility – Building 1.

I am requesting approval of this Agreement.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. BOX 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

# AIA® Document B104™ – 2007

## **Standard Form of Agreement Between Owner and Architect for a Project of Limited Scope**

**AGREEMENT** made as of the 29th day of August in the year 2017  
(In words, indicate day, month and year.)

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

Montgomery County Commission  
PO Box 1667  
Montgomery, AL 36102-1667

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

PH&J Architects, Inc.  
PO Box 215  
Montgomery, AL 36101

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

Renovation Work at the Montgomery County Detention Facility - Building 1, for the Montgomery County Commission, plus such Miscellaneous Work as the Commission, through the County Administrator, shall direct in writing to be undertaken by the Architect.  
PH&J #1712GV

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.

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- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
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- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

*(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)*

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

### ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide the professional services set forth in this Agreement 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.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services.

§ 3.1.1 The Architect shall be entitled to rely on (1) the accuracy and completeness of the information furnished by the Owner and (2) the Owner's approvals. 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.

§ 3.1.2 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. 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

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approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 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 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 discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative 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 schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner a preliminary estimate of the Cost of the Work.

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

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

### § 3.3 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct 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 3.4.4.

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

§ 3.3.3 The Architect shall update the estimate for the Cost of the Work.

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

§ 3.3.5 The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in awarding and preparing contracts for construction.

### § 3.4 CONSTRUCTION PHASE SERVICES

#### § 3.4.1 GENERAL

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A107™-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope. If the Owner and Contractor modify AIA Document A107-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 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

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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.

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

#### § 3.4.2 EVALUATIONS OF THE WORK

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.1, 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 observations 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 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.

§ 3.4.2.4 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.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

#### § 3.4.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.4.3.1 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 3.4.2 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 and that the quality of the Work is in accordance with the Contract Documents.

§ 3.4.3.2 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 3.4.4 SUBMITTALS

§ 3.4.4.1 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

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Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 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 shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

#### § 3.4.5 CHANGES IN THE WORK

The Architect may authorize 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 the provisions of Section 4.2.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

#### § 3.4.6 PROJECT COMPLETION

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

### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services are not included in Basic Services but may be required for the Project. Such Additional Services may include programming, budget analysis, financial feasibility studies, site analysis and selection, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, coordination of construction or project managers, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.1, value analysis, quantity surveys, interior architectural design, planning of tenant or rental spaces, inventories of materials or equipment, preparation of record drawings, commissioning, environmentally responsible design beyond Basic Services, LEED® Certification, fast-track design services, and any other services not otherwise included in this Agreement.

*(Insert a description of each Additional Service the Architect shall provide, if not further described in an exhibit attached to this document.)*

§ 4.2 Additional Services may be provided 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.

§ 4.2.1 The Architect has included in Basic Services one per week ( 1/week ) site visits over the duration of the Project during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.2 The Architect shall review and evaluate Contractor's proposals, and if necessary, prepare Drawings, Specifications and other documentation and data, and provide any other services made necessary by Change Orders and Construction Change Directives prepared by the Architect as an Additional Service.

§ 4.2.3 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.

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

§ 5.2 The Owner shall establish and periodically update 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. 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 furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, a written legal description of the site, and services of geotechnical engineers or other consultants when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 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 require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.5 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.

§ 5.6 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.

§ 5.7 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.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 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.

## 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 does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, 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 may 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, 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.

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§ 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 make reasonable adjustments in the program and scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. 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 requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the bidding has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, 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 current 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, without additional compensation, 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. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 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 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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 author 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

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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.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 GENERAL**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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 A107™-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope. 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 9.6.

### **§ 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** Mediation, 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. 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.

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

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other (Specify) -County Dispute Resolution "Attachment B"

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### § 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 the Agreement.

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

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

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

### ~~§ 8.3.4 CONSOLIDATION OR JOINDER~~

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common 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.~~

### 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 Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 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.

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§ 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that 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 A107-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope.

§ 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.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates 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 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. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary.

#### ARTICLE 11 COMPENSATION

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

*(Insert amount of, or basis for, compensation.)*

SEE ATTACHMENT A

§ 11.2 For Additional Services designated in Section 4.1, 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.)*

SEE ATTACHMENT A

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§ 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.)

SEE ATTACHMENT A

§ 11.4 Compensation for 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 fifty percent ( 50 %), or as otherwise stated below:

SEE ATTACHMENT A

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

SEE ATTACHMENT A

|                        |           |    |
|------------------------|-----------|----|
| Design Phase           | percent ( | %) |
| Construction Documents | percent ( | %) |
| Phase                  |           |    |
| Construction Phase     | percent ( | %) |

|                          |             |           |     |    |
|--------------------------|-------------|-----------|-----|----|
| Total Basic Compensation | one hundred | percent ( | 100 | %) |
|--------------------------|-------------|-----------|-----|----|

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. 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, if any, 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.)

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#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic 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 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, 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, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 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 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

SEE ATTACHMENT A

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 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.

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

6 % Annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to off set 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.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to 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:

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**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 Owner and Architect.

§ 13.2 This Agreement incorporates the following documents listed below:

*(List other documents, if any, including additional scopes of service and AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, forming part of the Agreement.)*

SEE ATTACHMENT A

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

**OWNER**

*(Signature)*

Elton Dean Sr., Chairman

*(Printed name and title)*

**ARCHITECT**

*(Signature)*

Patrick Addison, Vice President

*(Printed name and title)*

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**MODIFICATIONS TO AIA B104 – 2007 EDITION****Dated August 29, 2017****12.1 Add to (or modify) Article 1, INITIAL INFORMATION: as follows:****Initial Information (Modify Example for Each Specific Project):**

The Owner wishes to renovate approximately 109,000 square feet in the Montgomery County Detention Facility (Building 1) located at 225 South McDonough Street, including finishing renovations in the Jail Kitchen, stripping and repainting the inmate areas and polishing the existing concrete floors in the inmate areas of the building.

The Owner may employ the following consultants:

None

The Architect will employ the following consultants:

Structural – Blackburn, Daniels & O'Barr

Plumbing/Mechanical – Zgouvas, Eiring and Associates

Electrical – Gunn & Associates

**12.2 Add to (or modify) Article 3, SCOPE OF ARCHITECT'S BASIC SERVICES: as follows:**

**3.3.1 (Add) Construction Contract Delivery:** The anticipated construction delivery process is a single lump sum construction contract, either negotiated or competitively bid. Should the Owner subsequently select another method or Construction Management, the Architect's fee shall be adjusted and an amendment to this contract will be prepared and signed.

**3.3.2 (Modify) Governmental Review:** Design Requirements of Governmental Authorities will be incorporated into the construction documents only as they are known at the time of document publication.

**3.3.5 (Modify) Bidding and Negotiation Phase:** The Architect, following the Owner's approval of the construction documents and of the latest preliminary estimate of construction cost, shall assist the Owner in obtaining bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction. Bid documents will be distributed to prospective bidders via website. All drawings, specifications, and addenda will be available for viewing on this website by bidders at no cost. Paper copies will be available to bidders at a cost to the bidders for printing, shipping and handling.

3.3.5 (Modify) Bidding and Negotiation Phase: The Architect, following the Owner's approval of the construction documents and of the latest preliminary estimate of construction cost, shall assist the Owner in obtaining bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction. Bid documents will be distributed to prospective bidders via website. All drawings, specifications, and addenda will be available for viewing on this website by bidders at no cost. Paper copies will be available to bidders at a cost to the bidders for printing, shipping and handling.

3.4.1.1 (Modify) Owner Contractor Agreement: Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

3.4.1.1 (Modify) Construction Contract Administration: The Architect's administration of the Contract for Construction shall be as set forth in AIA Document A201 of the edition referenced in the Project Manual, and as modified by the Supplemental General Conditions, both subject to pre-bid review and approval of the Owner.

3.4.1.2 (Add) if an owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager" are involved in the project, the owner agrees the architect will maintain direct communication with the owner for "advise and consulting with the owner during the Construction Phase Services". If directed by the owner, the architect will simultaneously copy or involve the owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager".

3.4.1.3 (Modify) Construction Contract Administration: Subject to Section 4.2, the Architect's responsibility to provide construction phase services commences with the award of the contract for construction and terminates on the earlier of the date the Architect issues the final certificate for payment or 60 days after the date of substantial completion of the work.

3.4.1.4 (Modify) Construction Phase Services: The Architect shall provide to the Contractor one copy of construction documents in PDF format from which the contractor shall reproduce (at his cost) all paper or electronic copies necessary to meet contract requirements and to facilitate construction. This requirement will include any sets (paper or electronic format) legally required for permitting.

3.4.2.1 (Modify) Evaluations of the Work: Last sentence item (2) shall read: " (2) known significant defects and deficiencies observed in the work".

3.4.3.1 (Add) Certificate for Payment: As used herein, the word 'certify' shall mean an expression of the Consultant's professional opinion to the best of its information, knowledge and belief, and does not constitute a warranty or guarantee by the Consultant.

12.3 Add to (or modify) Article 4, **ADDITIONAL SERVICES**: as follows:

4.1 (Add) Record Drawings: The duty to keep and prepare record drawings will be transferred to the Contractor via construction contract provisions.

4.1 (Add) Special Consultants: The following engineering and planning consultants, as required, may be furnished by the Architect as an additional service; for which the architect shall receive an additional fee equal to 1.5 times the consultant's fee (Consultant 1 + Architect .5 = 1.5). The Owner must approve each such consultant and the fee to be paid. In the event the consultant generates a significant portion of work on which the Architect's fee is based, then that portion will be deleted from the "Cost of the Work" as defined in Article 5.

Audio/Visual Consultant  
Graphics/Signage Consultant  
Life Safety Consultant  
Food Service Consultant  
Environmental Consultant  
Acoustical Consultant  
LEED Consultant  
Landscape Architect  
Elevator Consultant  
Sound Reinforcing and Recording System Design  
Civil engineering in connection with unique or problematic site development.  
Civil Engineers in connection with special or advanced drawings for the City  
Planning and Zoning Authorities.

4.1 (Add) Landscape Architect: The Architect shall obtain the services of a registered Landscape Architect to design the landscape and irrigation systems and warranty as an extra service.

4.1 (Add) Elevator Consultant: The Architect shall obtain the services of a qualified Elevator Consultant for the design of the elevators and implementation of the maintenance and service warranties as an extra service.

4.1 (Add) Clerk-of-the-Works: If a Clerk-of-the-Works is to be employed, the Owner will so direct the Architect in writing. The Clerk will be selected and employed by the Architect, with the choice and salary approved by the Owner. The reimbursement to the Architect shall include the Clerk's basic salary, plus allowances to cover overhead and benefits as applies to the Architect's typical employees, plus such COLA's as are approved by the Owner; to which a 1.5 multiplier will be applied to compensate the Architect for the selection process, personnel management expense, office supplies, transportation, long distance telephone, vacation and sick-leave substitutes, etc.

Neither the employment of such Clerk (or Clerks), nor any act of undertaking on his part, shall create or extend any responsibility or obligation on behalf of the Architect for safety precautions and programs in connection with the Work, or for failure of the Contractor to carry out the work properly.

4.1 (Add) Clerk-of-the-Works: If a Clerk-of-the-Works is to be utilized on the project during the Construction phase, he will be employed directly by the Owner and will function under the Owner's direction and control as "Owner's Representative". All communication between such clerk and the Contractor will be issued through the Architect. The clerk's authority and duties will be communicated in writing to the Architect prior to his employment or assignment.

While such a clerk may assist the Architect in his administration of the contract, neither his employment, nor any act or undertaking on his part, shall create or extend any responsibility or obligation on behalf of the Architect for safety precautions and programs in connection with the Work, or for failure of the Contractor to carry out the work properly.

4.2.1 (Add) Construction Overrun: Inasmuch as the Building Contractor's failure to perform in a timely manner is beyond the control of the Architect, it is agreed that any Construction Administration by the Architect which exceeds 120% of the initial construction period agreed to by the Owner and contractor, will constitute additional service.

4.2.2 (Add) Substitutions: The Architect agrees that evaluating the Contractor's proposed substitutions during the Bidding and Construction Phase is part of Basic Services unless such substitutions involves revisions to the Drawings and is approved by the Owner.

12.4 Add to (or Modify) the following to Article 5, **OWNER'S RESPONSIBILITIES**:

5.3 (Add) Test Labs and Surveys: The Owner shall also be responsible for any necessary Environmental assessments and survey of the site and for rezoning and replatting.

5.3.1 Any recommendation or other participation by the Architect in the selection or employment by the Owner of a soil engineering consultant, testing laboratory, insurance consultant, hazardous material consultant, or engineer who prepares surveys and topographic maps, shall not act to make the Architect responsible for the performance of these individuals or entities.

5.6 (Add) Insurance Counsel: The Owner agrees that he is responsible for the insurance provisions in the final construction documents, and that any draft prepared by the Architect shall constitute only a convenient starting point for the final development of those provisions by the Owner's insurance adviser.

12.5 Add to (or Modify) Article 6, **COST OF THE WORK:**

6.1 Sales Tax: If Sales Tax Savings Program is implemented by the Owner, the Construction cost employed to compute the Architect's fee shall include the amount of any sales or use tax that would have been applicable had the job been bid in the private sector.

6.7 (Modify) Cost Overrun: The Architect shall be reimbursed for revising the plans and specifications as an additional service where the bid overrun is up to 10% of the project budget. If the bid overrun is greater than 10% of the project budget, the architect will revise the plans and specifications to conform to the project budget at no cost to the awarding authority. However, such redesign at the architect's expense is applicable only if: 1) The awarding authority has received bids for the work within 90 days after final approval of the plans and specifications and; 2) The reason that the overrun exceeds 10% of the project budget is not attributable to a unique or unexpected market condition, which the Architect would not have reasonably contemplated in it's estimates of the cost of construction.

12.6 Add to (or Modify) the following to Article 7, **COPYRIGHTS AND LICENSES:**

7.3 (Add) Use of Instruments of Service: Use of the Architect's instruments of service for altering and adding to the project shall be permitted only with written approval from the Architect.

7.5 (Add) Reports and Studies: No third party shall be entitled to rely on any report, study, survey, as-built design, etc. generated by the Architect in connection with this contract, unless explicit written permission is granted otherwise by the Architect.

12.7 Add to (or Modify) Article 8, **CLAIMS AND DISPUTES**, as follows:

8.1.2 (Modify) Owner Contractor Agreement: Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

8.1.2 (Add) Subrogation: The Owner agrees that he does and will waive his permanent property insurer's right of subrogation against the Architect on such policies as might exist now or be taken out in the future.

The Owner further agrees that he will require in the Construction Documents provisions which will protect both the Architect and Owner from subrogation by the Contractor's insurers of workmen compensation, builders risk and comprehensive general liability.

8.1.4 (Add) **Limitation of Liability.** In recognition of equitable division of risk and to the fullest extent permitted by law, the Owner agrees that any award for damages, regardless of the cause, shall be no greater than the Architect's fees for service performed up to the time of a request for dispute resolution.

12.8 Add to (or Modify) the following to Article 9, **TERMINATION or SUSPENSION**

9.1.1 (Add) **Timely Payment:** Owner agrees to pay all invoices from Architect not in dispute within 30 days of receipt. The Owner further agrees to call the Architect's attention to any charge or portion thereof held to be in dispute within two weeks of its receipt.

9.1.2 (Add) **Other Parties:** The Owner agrees to protect the Architect from any claim by others arising out of the Architect's suspension of activity due to failure of timely payment.

12.9 Add to (or Modify) Article 10, **MISCELLANEOUS PROVISIONS**, as follows:

10.2 (Modify) **Owner Contractor Agreement:** Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

10.3 **Assignments of this Agreement:** Modify paragraph by deleting all words after "consent of the other."

10.8 (Add) **Project Betterment:** If, due to the Architect's error or omission, any required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the actual cost to add such item or component to the extent that such item or component would have been otherwise necessary for the project or otherwise adds value or betterment to the project. In no event will the Architect be responsible for any costs or expense that provides betterment, upgrade or enhancement of the project.

10.9 (Add) **Exclusive Remedy:** It is intended by the parties of this Agreement that the Architect's services in connection with the project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the Owner agrees that the Owner's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Architect, an Alabama corporation, and not against any of the Architect's employees, officers or directors.

Add to (or modify) Article 11, **COMPENSATION**, as follows:

11.5 (Modify) Compensation for Basic Services:

The phases shall be as follows:

|                              |            |
|------------------------------|------------|
| Schematic Design Phase       | 15%        |
| Design Development Phase     | 20%        |
| Construction Document Phase  | 40%        |
| Bidding or Negotiation Phase | 5%         |
| <u>Construction Phase</u>    | <u>20%</u> |
| Total Basic Compensation     | 100%       |

11.6 (Add) Alternates: Compensation for design of work not constructed shall also include Alternates prepared by the Architect.

11.8.1.12 (Add) Expense of any and all copies of computer software or license fees mandated by the owner or the owner's agent.

11.9 (Add) Licensing Fee: The licensing fee shall be determined at the time of termination.

12.10 Insert the following to Paragraph 11.1, **BASIC COMPENSATION:**

Fee Schedule: The Architect's fee for Basic Architectural Services shall be based on the following fee schedule:

| CONSTRUCTION VALUE |    |            | FEE PERCENTAGE (Cat. III) |
|--------------------|----|------------|---------------------------|
| Up                 | to | \$100,000  | 10.0                      |
| 100,001            | to | 200,000    | 9.0                       |
| 200,001            | to | 300,000    | 8.0                       |
| 300,001            | to | 400,000    | 7.9                       |
| 400,001            | to | 500,000    | 7.8                       |
| 500,001            | to | 600,000    | 7.7                       |
| 600,001            | to | 700,000    | 7.6                       |
| 700,001            | to | 800,000    | 7.5                       |
| 800,001            | to | 900,000    | 7.4                       |
| 900,001            | to | 1,000,000  | 7.3                       |
| 1,000,001          | to | 1,250,000  | 7.2                       |
| 1,250,001          | to | 1,500,000  | 7.1                       |
| 1,500,001          | to | 1,750,000  | 7.0                       |
| 1,750,001          | to | 2,000,000  | 6.9                       |
| 2,000,001          | to | 2,500,000  | 6.8                       |
| 2,500,001          | to | 3,000,000  | 6.7                       |
| 3,000,001          | to | 3,500,000  | 6.6                       |
| 3,500,001          | to | 4,000,000  | 6.5                       |
| 4,000,001          | to | 5,000,000  | 6.4                       |
| 5,000,001          | to | 6,000,000  | 6.3                       |
| 6,000,001          | to | 8,000,000  | 6.2                       |
| 8,000,001          | to | 10,000,000 | 6.1                       |
| 10,000,001         | to | 12,000,000 | 6.0                       |
| 12,000,001         | to | 14,000,000 | 5.9                       |
| 14,000,001         | to | 16,000,000 | 5.8                       |
| 16,000,001         | to | 18,000,000 | 5.7                       |
| 18,000,001         | to | 20,000,000 | 5.6                       |
| 20,000,001         | to | 22,000,000 | 5.5                       |
| 22,000,001         | to | 24,000,000 | 5.4                       |
| 24,000,001         | to | 27,000,000 | 5.3                       |
| 27,000,001         | to | 30,000,000 | 5.2                       |

This Basic Fee shall increase by 25% as applied to any portion of the work, which involves substantial renovation, or alterations of existing facilities.

The Basic Fee shall increase by 25% as applied to any portion of the work, which involves working with or at the direction of an owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager"

12.11 Insert the following into Par 11.2, **COMPENSATION for ADDITIONAL SERVICES**

**Hourly Rates:** (Shall apply also to Paragraphs 11.3 and 11.7)

Current Hourly Rates: The following is the Architects hourly rate schedule. When fees are not based on a percentage of the work, the hourly rates are employed:

|                        |          |
|------------------------|----------|
| Principal Architect -  | \$225.00 |
| Project Architect -    | \$145.00 |
| Intern Architect -     | \$115.00 |
| Interior Designer      | \$110.00 |
| Cost Estimator         | \$140.00 |
| Draftsman/CADD -       | \$115.00 |
| Clerical -             | \$100.00 |
| Field Representative - | \$125.00 |
| Specification Writer   | \$125.00 |

|                                                               |          |
|---------------------------------------------------------------|----------|
| Civil, Structural, Mechanical, Electrical, Plumbing Engineers |          |
| Primary Consulting Engineers (CSMEP)                          | \$200.00 |
| Design Engineers                                              | \$150.00 |
| Draftsman/CADD                                                | \$115.00 |
| Clerical                                                      | \$100.00 |
| Specification Writer                                          | \$190.00 |
| Cost Estimator                                                | \$185.00 |

The Architect shall submit invoices, which reflect the actual hours worked, with appropriate hourly rates.

The published rates are 2017 rates and are subject to change according to the Architect's pay rate inflation.

12.12 Insert the following into Par 11.8.1.12, **REIMBURSABLE EXPENSES**

11.8.1.12 The Owner will reimburse the Architect for the cost of the required publication of advertisement for bids for the project.

11.10.2 (Add) Payment Due: The agreed interest rate will be 6% per annum. In addition, the Architect shall be reimbursed for the cost (including reasonable attorney's fees) for collection of accounts.

## DISPUTE RESOLUTION

If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and PH&J Architects, Inc.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/19/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                                                                              |                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PRODUCER<br>Risk Strategies Company<br>109 Columbiana Road<br><br>Birmingham AL 35209<br><br>INSURED<br>PH&J Architects Inc.<br>P.O. Box 215<br><br>Montgomery AL 36101-0215 | CONTACT NAME: Jackie Murk<br>PHONE (A/C, No, Ext):<br>FAX (A/C, No):<br>E-MAIL ADDRESS: jackie@crowfriedman.com<br>INSURER(S) AFFORDING COVERAGE<br>INSURER A: Navigators Insurance Company NAIC # 42307<br>INSURER B:<br>INSURER C:<br>INSURER D:<br>INSURER E:<br>INSURER F: |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## COVERAGES

CERTIFICATE NUMBER: CL176736024

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                         | ADDL SUBR INSD / MVD                                                   | POLICY NUMBER   | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                   |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER: |                                                                        |                 |                         |                         | EACH OCCURRENCE \$<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$<br>MED EXP (Any one person) \$<br>PERSONAL & ADV INJURY \$<br>GENERAL AGGREGATE \$<br>PRODUCTS - COMP/OP AGG \$<br>\$ |
|          | AUTOMOBILE LIABILITY<br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input type="checkbox"/> HIRED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> NON-OWNED AUTOS                     |                                                                        |                 |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                    |
|          | UMBRELLA LIAB<br>EXCESS LIAB<br>DED <input type="checkbox"/> RETENTION \$                                                                                                                                                                                 | <input type="checkbox"/> OCCUR<br><input type="checkbox"/> CLAIMS-MADE |                 |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$                                                                                                                                                 |
|          | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                    | Y/N<br><input type="checkbox"/> N/A                                    |                 |                         |                         | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/><br>E.L. EACH ACCIDENT \$<br>E.L. DISEASE - EA EMPLOYEE \$<br>E.L. DISEASE - POLICY LIMIT \$                         |
| A        | Professional Liability                                                                                                                                                                                                                                    |                                                                        | CM17DPL026710IV | 6/1/2017                | 6/1/2018                | Per Claim \$1,000,000<br>Annual Aggregate \$2,000,000                                                                                                                                    |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of insurance only.

## CERTIFICATE HOLDER

## CANCELLATION

Specimen  
For Proposal Only  
Cancellation Clause Does Not Apply

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

M Christian/MELROS

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ACORD 25 (2014/01)

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INS025 (2014/01)



Company ID Number: 488843

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer PH&J Architects, Inc.

**Harrell Gandy**

Name (Please Type or Print)

Title

**Electronically Signed**

**01/12/2012**

Signature

Date

Department of Homeland Security – Verification Division

**USCIS Verification Division**

Name (Please Type or Print)

Title

**Electronically Signed**

**01/12/2012**

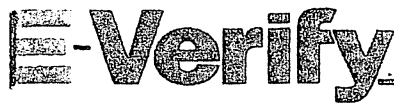
Signature

Date

### Information Required for the E-Verify Program

#### Information relating to your Company:

|                                 |                           |
|---------------------------------|---------------------------|
| Company Name:                   | PH&J Architects, Inc.     |
| Company Facility Address:       | 807 S. McDonough Street   |
|                                 | Montgomery, AL 36104      |
| Company Alternate Address:      | P.O. Box 215              |
|                                 | Montgomery, AL 36101-0215 |
| County or Parish:               | MONTGOMERY                |
| Employer Identification Number: | 830568195                 |

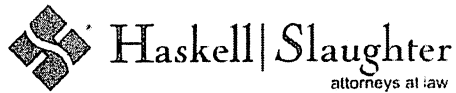


**Company ID Number: 488843**

|                                                                                                                       |          |
|-----------------------------------------------------------------------------------------------------------------------|----------|
| North American Industry Classification Systems Code:                                                                  | 541      |
| Administrator:                                                                                                        |          |
| Number of Employees:                                                                                                  | 20 to 99 |
| Number of Sites Verified for:                                                                                         | 1        |
| <b>Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:</b> |          |
| o ALABAMA 1 site(s)                                                                                                   |          |

**Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:**

|                   |                       |             |                  |
|-------------------|-----------------------|-------------|------------------|
| Name:             | Chevette B Culver     | Fax Number: | (334) 265 - 9208 |
| Telephone Number: | (334) 265 - 8781      |             |                  |
| E-mail Address:   | phjarch@bellsouth.net |             |                  |
| Name:             | Harrell G Gandy       | Fax Number: | (334) 265 - 9208 |
| Telephone Number: | (334) 265 - 8781      |             |                  |
| E-mail Address:   | phjarch@bellsouth.net |             |                  |



Haskell Slaughter & Gallion, LLC  
8 Commerce Street  
Suite 1200  
Montgomery, Alabama 36104  
t. 334.265.8573 | f. 334.264.7945

**MEMORANDUM**

**December 13, 2017**

T TG

To: Donnie Mims  
From: Thomas T. Gallion, III  
Re: Architect Agreement Detention Facility- Building 1 Renovation Project

I have reviewed your request for opinion on architect agreement PH&J Architect, Inc., regarding renovation work at the Montgomery County Detention Facility- Building 1, plus such miscellaneous work as the Commission, through the County Administrator, shall direct in writing to be undertaken by the Architect.

It is my opinion that the 8.3.4, 8.3.4.1-8.3.4.3 CONSOLIDATION OR JOINDER should be removed from the agreement. The only language needed is the County's standard Dispute Resolution which is attached as Attachment B. Attachment B overrides any other dispute language contained in the agreement.

I am also of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why the agreement should not be executed if it is the desire of the Montgomery County Commission.

50051-317

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

December 12, 2017

**MEMORANDUM**

TO: Thomas T. Gallion, III  
County Attorney

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Owner/Architect Agreement for Detention Facility – Building 1 Renovation Project

Enclosed is an Owner/Architect Agreement with PH&J Architect, Inc., regarding renovation work at the Montgomery County Detention Facility – Building 1, plus such miscellaneous work as the Commission, through the County Administrator, shall direct in writing to be undertaken by the Architect.

The Dispute Resolution is included in the Agreement and referenced on page 8, §8.2.3 as "Attachment B".

Please review the Agreement and issue your opinion by Thursday, December 14, 2017, as to whether it is acceptable.

As always, thank you for your assistance.

DLM/tn

Enclosure

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

## AGENDA

DEC 18 2017

December 14, 2017

### MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims  
County Administrator

SUBJECT: Agreement with PH&J Architects, Inc., regarding Annex I Renovation Project

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda an Agreement with PH&J Architects, Inc., regarding renovation work at the Montgomery County Administration Building and Courthouse Annex I.

I am requesting approval of this Agreement.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

7-1

# AIA® Document B104™ – 2007

## **Standard Form of Agreement Between Owner and Architect for a Project of Limited Scope**

**AGREEMENT** made as of the 29th day of August in the year 2017  
(In words, indicate day, month and year.)

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

Montgomery County Commission  
PO Box 1667  
Montgomery, AL 36102-1667

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

PH&J Architects, Inc.  
PO Box 215  
Montgomery, AL 36101

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

Renovation Work at the Montgomery County Courthouse - Annex 1, for the Montgomery County Commission, plus such Miscellaneous Work as the Commission, through the County Administrator, shall direct in writing to be undertaken by the Architect.  
PH&J #1714GV

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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User Notes: (3B9ADA12)

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

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

*(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)*

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

### ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide the professional services set forth in this Agreement 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.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services.

§ 3.1.1 The Architect shall be entitled to rely on (1) the accuracy and completeness of the information furnished by the Owner and (2) the Owner's approvals. 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.

§ 3.1.2 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. 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

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User Notes: (3B9ADA14)

2

7-3

approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 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 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 discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative 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 schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner a preliminary estimate of the Cost of the Work.

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

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

### § 3.3 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct 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 3.4.4.

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

§ 3.3.3 The Architect shall update the estimate for the Cost of the Work.

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

§ 3.3.5 The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in awarding and preparing contracts for construction.

### § 3.4 CONSTRUCTION PHASE SERVICES

#### § 3.4.1 GENERAL

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A107™-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope. If the Owner and Contractor modify AIA Document A107-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 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

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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.

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

#### § 3.4.2 EVALUATIONS OF THE WORK

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.1, 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 observations 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 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.

§ 3.4.2.4 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.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

#### § 3.4.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.4.3.1 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 3.4.2 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 and that the quality of the Work is in accordance with the Contract Documents.

§ 3.4.3.2 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 3.4.4 SUBMITTALS

§ 3.4.4.1 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

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Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 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 shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

#### § 3.4.5 CHANGES IN THE WORK

The Architect may authorize 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 the provisions of Section 4.2.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

#### § 3.4.6 PROJECT COMPLETION

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

### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services are not included in Basic Services but may be required for the Project. Such Additional Services may include programming, budget analysis, financial feasibility studies, site analysis and selection, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, coordination of construction or project managers, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.1, value analysis, quantity surveys, interior architectural design, planning of tenant or rental spaces, inventories of materials or equipment, preparation of record drawings, commissioning, environmentally responsible design beyond Basic Services, LEED® Certification, fast-track design services, and any other services not otherwise included in this Agreement.

*(Insert a description of each Additional Service the Architect shall provide, if not further described in an exhibit attached to this document.)*

§ 4.2 Additional Services may be provided 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.

§ 4.2.1 The Architect has included in Basic Services one per week ( 1/week ) site visits over the duration of the Project during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.2 The Architect shall review and evaluate Contractor's proposals, and if necessary, prepare Drawings, Specifications and other documentation and data, and provide any other services made necessary by Change Orders and Construction Change Directives prepared by the Architect as an Additional Service.

§ 4.2.3 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.

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

§ 5.2 The Owner shall establish and periodically update 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. 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 furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, a written legal description of the site, and services of geotechnical engineers or other consultants when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 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 require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.5 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.

§ 5.6 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.

§ 5.7 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.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 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.

## 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 does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, 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 may 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, 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.

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§ 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 make reasonable adjustments in the program and scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. 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 requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the bidding has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, 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 current 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, without additional compensation, 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. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 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 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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 author 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

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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.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 GENERAL**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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 A107™-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope. 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 9.6.

### **§ 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** Mediation, 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. 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.

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

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other (Specify) - County Dispute Resolution "Attachment B"

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### § 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 the Agreement.

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

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

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

### § 8.3.4 CONSOLIDATION OR JOINDER

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common 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.~~

### 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 Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 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.

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§ 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that 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 A107-2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope.

§ 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.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates 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 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. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary.

#### ARTICLE 11 COMPENSATION

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

*(Insert amount of, or basis for, compensation.)*

SEE ATTACHMENT A

§ 11.2 For Additional Services designated in Section 4.1, 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.)*

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§ 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.)

SEE ATTACHMENT A

§ 11.4 Compensation for 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 fifty percent ( 50 %), or as otherwise stated below:

SEE ATTACHMENT A

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

SEE ATTACHMENT A

|                        |           |    |
|------------------------|-----------|----|
| Design Phase           | percent ( | %) |
| Construction Documents | percent ( | %) |
| Phase                  |           |    |
| Construction Phase     | percent ( | %) |

|                          |             |           |     |    |
|--------------------------|-------------|-----------|-----|----|
| Total Basic Compensation | one hundred | percent ( | 100 | %) |
|--------------------------|-------------|-----------|-----|----|

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. 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, if any, 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 ATTACHMENT A

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User Notes: (389ADA05)

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7-12

(Table Deleted)

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic 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 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, 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, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 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 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

SEE ATTACHMENT A

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 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.

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

6 % Annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to off set 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.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to 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:

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**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 Owner and Architect.

**§ 13.2** This Agreement incorporates the following documents listed below:

*(List other documents, if any, including additional scopes of service and AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, forming part of the Agreement.)*

SEE ATTACHMENT A

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

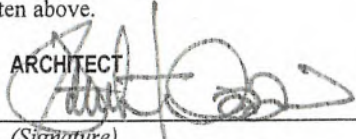
**OWNER**

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

Elton Dean Sr., Chairman

\_\_\_\_\_  
*(Printed name and title)*

**ARCHITECT**

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

Patrick Addison, Vice President

\_\_\_\_\_  
*(Printed name and title)*

Init.

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**MODIFICATIONS TO AIA B104 – 2007 EDITION****Dated August 29, 2017**

- 12.1 Add to (or modify) Article 1, **INITIAL INFORMATION**: as follows:

**Initial Information (Modify Example for Each Specific Project):**

The Owner wishes to renovate approximately 30,000 square feet for County IT and County Engineering in the Montgomery County Courthouse Annex 1 located at 100 South Lawrence Street.

The Owner may employ the following consultants:

None

The Architect will employ the following consultants:

Structural – Blackburn, Daniels & O'Barr

Plumbing/Mechanical – HHB

Electrical – Gunn & Associates

Elevator – Dieter Consulting Services

- 12.2 Add to (or modify) Article 3, **SCOPE OF ARCHITECT'S BASIC SERVICES**: as follows:

3.3.1 (Add) **Construction Contract Delivery**: The anticipated construction delivery process is a single lump sum construction contract, either negotiated or competitively bid. Should the Owner subsequently select another method or Construction Management, the Architect's fee shall be adjusted and an amendment to this contract will be prepared and signed.

3.3.2 (Modify) **Governmental Review**: Design Requirements of Governmental Authorities will be incorporated into the construction documents only as they are known at the time of document publication.

3.3.5 (Modify) Bidding and Negotiation Phase: The Architect, following the Owner's approval of the construction documents and of the latest preliminary estimate of construction cost, shall assist the Owner in obtaining bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction. Bid documents will be distributed to prospective bidders via website. All drawings, specifications, and addenda will be available for viewing on this website by bidders at no cost. Paper copies will be available to bidders at a cost to the bidders for printing, shipping and handling.

3.4.1.1 (Modify) Owner Contractor Agreement: Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

3.4.1.1 (Modify) Construction Contract Administration: The Architect's administration of the Contract for Construction shall be as set forth in AIA Document A201 of the edition referenced in the Project Manual, and as modified by the Supplemental General Conditions, both subject to pre-bid review and approval of the Owner.

3.4.1.2 (Add) if an owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager" are involved in the project, the owner agrees the architect will maintain direct communication with the owner for "advise and consulting with the owner during the Construction Phase Services". If directed by the owner, the architect will simultaneously copy or involve the owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager".

3.4.1.3 (Modify) Construction Contract Administration: Subject to Section 4.2, the Architect's responsibility to provide construction phase services commences with the award of the contract for construction and terminates on the earlier of the date the Architect issues the final certificate for payment or 60 days after the date of substantial completion of the work.

3.4.1.4 (Modify) Construction Phase Services: The Architect shall provide to the Contractor one copy of construction documents in PDF format from which the contractor shall reproduce (at his cost) all paper or electronic copies necessary to meet contract requirements and to facilitate construction. This requirement will include any sets (paper or electronic format) legally required for permitting.

3.4.2.1 (Modify) Evaluations of the Work: Last sentence item (2) shall read: " (2) known significant defects and deficiencies observed in the work".

3.4.3.1 (Add) Certificate for Payment: As used herein, the word 'certify' shall mean an expression of the Consultant's professional opinion to the best of its information, knowledge and belief, and does not constitute a warranty or guarantee by the Consultant.

12.3 Add to (or modify) Article 4, **ADDITIONAL SERVICES**: as follows:

4.1 (Add) Record Drawings: The duty to keep and prepare record drawings will be transferred to the Contractor via construction contract provisions.

4.1 (Add) Special Consultants: The following engineering and planning consultants, as required, may be furnished by the Architect as an additional service; for which the architect shall receive an additional fee equal to 1.5 times the consultant's fee (Consultant 1 + Architect .5 = 1.5). The Owner must approve each such consultant and the fee to be paid. In the event the consultant generates a significant portion of work on which the Architect's fee is based, then that portion will be deleted from the "Cost of the Work" as defined in Article 5.

Audio/Visual Consultant  
Graphics/Signage Consultant  
Life Safety Consultant  
Food Service Consultant  
Environmental Consultant  
Acoustical Consultant  
LEED Consultant  
Landscape Architect  
**Elevator Consultant**  
Sound Reinforcing and Recording System Design  
Civil engineering in connection with unique or problematic site development.  
Civil Engineers in connection with special or advanced drawings for the City  
Planning and Zoning Authorities.

4.1 (Add) Landscape Architect: The Architect shall obtain the services of a registered Landscape Architect to design the landscape and irrigation systems and warranty as an extra service.

4.1 (Add) Elevator Consultant: The Architect shall obtain the services of a qualified Elevator Consultant for the design of the elevators and implementation of the maintenance and service warranties as an extra service.

4.1 (Add) Clerk-of-the-Works: If a Clerk-of-the-Works is to be employed, the Owner will so direct the Architect in writing. The Clerk will be selected and employed by the Architect, with the choice and salary approved by the Owner. The reimbursement to the Architect shall include the Clerk's basic salary, plus allowances to cover overhead and benefits as applies to the Architect's typical employees, plus such COLA's as are approved by the Owner; to which a 1.5 multiplier will be applied to compensate the Architect for the selection process, personnel management expense, office supplies, transportation, long distance telephone, vacation and sick-leave substitutes, etc.

Neither the employment of such Clerk (or Clerks), nor any act of undertaking on his part, shall create or extend any responsibility or obligation on behalf of the Architect for safety precautions and programs in connection with the Work, or for failure of the Contractor to carry out the work properly.

4.1 (Add) Clerk-of-the-Works: If a Clerk-of-the-Works is to be utilized on the project during the Construction phase, he will be employed directly by the Owner and will function under the Owner's direction and control as "Owner's Representative". All communication between such clerk and the Contractor will be issued through the Architect. The clerk's authority and duties will be communicated in writing to the Architect prior to his employment or assignment.

While such a clerk may assist the Architect in his administration of the contract, neither his employment, nor any act or undertaking on his part, shall create or extend any responsibility or obligation on behalf of the Architect for safety precautions and programs in connection with the Work, or for failure of the Contractor to carry out the work properly.

4.2.1 (Add) Construction Overrun: Inasmuch as the Building Contractor's failure to perform in a timely manner is beyond the control of the Architect, it is agreed that any Construction Administration by the Architect which exceeds 120% of the initial construction period agreed to by the Owner and contractor, will constitute additional service.

4.2.2 (Add) Substitutions: The Architect agrees that evaluating the Contractor's proposed substitutions during the Bidding and Construction Phase is part of Basic Services unless such substitutions involves revisions to the Drawings and is approved by the Owner.

12.4 Add to (or Modify) the following to Article 5, **OWNER'S RESPONSIBILITIES**:

5.3 (Add) Test Labs and Surveys: The Owner shall also be responsible for any necessary Environmental assessments and survey of the site and for rezoning and replatting.

5.3.1 Any recommendation or other participation by the Architect in the selection or employment by the Owner of a soil engineering consultant, testing laboratory, insurance consultant, hazardous material consultant, or engineer who prepares surveys and topographic maps, shall not act to make the Architect responsible for the performance of these individuals or entities.

5.6 (Add) Insurance Counsel: The Owner agrees that he is responsible for the insurance provisions in the final construction documents, and that any draft prepared by the Architect shall constitute only a convenient starting point for the final development of those provisions by the Owner's insurance adviser.

12.5 Add to (or Modify) Article 6, **COST OF THE WORK:**

6.1 Sales Tax: If Sales Tax Savings Program is implemented by the Owner, the Construction cost employed to compute the Architect's fee shall include the amount of any sales or use tax that would have been applicable had the job been bid in the private sector.

6.7 (Modify) Cost Overrun: The Architect shall be reimbursed for revising the plans and specifications as an additional service where the bid overrun is up to 10% of the project budget. If the bid overrun is greater than 10% of the project budget, the architect will revise the plans and specifications to conform to the project budget at no cost to the awarding authority. However, such redesign at the architect's expense is applicable only if: 1) The awarding authority has received bids for the work within 90 days after final approval of the plans and specifications and; 2) The reason that the overrun exceeds 10% of the project budget is not attributable to a unique or unexpected market condition, which the Architect would not have reasonably contemplated in it's estimates of the cost of construction.

12.6 Add to (or Modify) the following to Article 7, **COPYRIGHTS AND LICENSES:**

7.3 (Add) Use of Instruments of Service: Use of the Architect's instruments of service for altering and adding to the project shall be permitted only with written approval from the Architect.

7.5 (Add) Reports and Studies: No third party shall be entitled to rely on any report, study, survey, as-built design, etc. generated by the Architect in connection with this contract, unless explicit written permission is granted otherwise by the Architect.

12.7 Add to (or Modify) Article 8, **CLAIMS AND DISPUTES**, as follows:

8.1.2 (Modify) Owner Contractor Agreement: Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

8.1.2 (Add) Subrogation: The Owner agrees that he does and will waive his permanent property insurer's right of subrogation against the Architect on such policies as might exist now or be taken out in the future.

The Owner further agrees that he will require in the Construction Documents provisions which will protect both the Architect and Owner from subrogation by the Contractor's insurers of workmen compensation, builders risk and comprehensive general liability.

8.1.4 (Add) **Limitation of Liability.** In recognition of equitable division of risk and to the fullest extent permitted by law, the Owner agrees that any award for damages, regardless of the cause, shall be no greater than the Architect's fees for service performed up to the time of a request for dispute resolution.

12.8 Add to (or Modify) the following to Article 9, **TERMINATION or SUSPENSION**

9.1.1 (Add) **Timely Payment:** Owner agrees to pay all invoices from Architect not in dispute within 30 days of receipt. The Owner further agrees to call the Architect's attention to any charge or portion thereof held to be in dispute within two weeks of its receipt.

9.1.2 (Add) **Other Parties:** The Owner agrees to protect the Architect from any claim by others arising out of the Architect's suspension of activity due to failure of timely payment.

12.9 Add to (or Modify) Article 10, **MISCELLANEOUS PROVISIONS**, as follows:

10.2 (Modify) **Owner Contractor Agreement:** Shall be A101-2007 edition Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum.

10.3 **Assignments of this Agreement:** Modify paragraph by deleting all words after "consent of the other."

10.8 (Add) **Project Betterment:** If, due to the Architect's error or omission, any required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the actual cost to add such item or component to the extent that such item or component would have been otherwise necessary for the project or otherwise adds value or betterment to the project. In no event will the Architect be responsible for any costs or expense that provides betterment, upgrade or enhancement of the project.

10.9 (Add) **Exclusive Remedy:** It is intended by the parties of this Agreement that the Architect's services in connection with the project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the Owner agrees that the Owner's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Architect, an Alabama corporation, and not against any of the Architect's employees, officers or directors.

Add to (or modify) Article 11, **COMPENSATION**, as follows:

11.5 (Modify) Compensation for Basic Services:

The phases shall be as follows:

|                              |            |
|------------------------------|------------|
| Schematic Design Phase       | 15%        |
| Design Development Phase     | 20%        |
| Construction Document Phase  | 40%        |
| Bidding or Negotiation Phase | 5%         |
| <u>Construction Phase</u>    | <u>20%</u> |
| Total Basic Compensation     | 100%       |

11.6 (Add) Alternates: Compensation for design of work not constructed shall also include Alternates prepared by the Architect.

11.8.1.12 (Add) Expense of any and all copies of computer software or license fees mandated by the owner or the owner's agent.

11.9 (Add) Licensing Fee: The licensing fee shall be determined at the time of termination.

12.10 Insert the following to Paragraph 11.1, **BASIC COMPENSATION:**

Fee Schedule: The Architect's fee for Basic Architectural Services shall be based on the following fee schedule:

| CONSTRUCTION VALUE |    |            | FEE PERCENTAGE (Cat. III) |
|--------------------|----|------------|---------------------------|
| Up                 | to | \$100,000  | 10.0                      |
| 100,001            | to | 200,000    | 9.0                       |
| 200,001            | to | 300,000    | 8.0                       |
| 300,001            | to | 400,000    | 7.9                       |
| 400,001            | to | 500,000    | 7.8                       |
| 500,001            | to | 600,000    | 7.7                       |
| 600,001            | to | 700,000    | 7.6                       |
| 700,001            | to | 800,000    | 7.5                       |
| 800,001            | to | 900,000    | 7.4                       |
| 900,001            | to | 1,000,000  | 7.3                       |
| 1,000,001          | to | 1,250,000  | 7.2                       |
| 1,250,001          | to | 1,500,000  | 7.1                       |
| 1,500,001          | to | 1,750,000  | 7.0                       |
| 1,750,001          | to | 2,000,000  | 6.9                       |
| 2,000,001          | to | 2,500,000  | 6.8                       |
| 2,500,001          | to | 3,000,000  | 6.7                       |
| 3,000,001          | to | 3,500,000  | 6.6                       |
| 3,500,001          | to | 4,000,000  | 6.5                       |
| 4,000,001          | to | 5,000,000  | 6.4                       |
| 5,000,001          | to | 6,000,000  | 6.3                       |
| 6,000,001          | to | 8,000,000  | 6.2                       |
| 8,000,001          | to | 10,000,000 | 6.1                       |
| 10,000,001         | to | 12,000,000 | 6.0                       |
| 12,000,001         | to | 14,000,000 | 5.9                       |
| 14,000,001         | to | 16,000,000 | 5.8                       |
| 16,000,001         | to | 18,000,000 | 5.7                       |
| 18,000,001         | to | 20,000,000 | 5.6                       |
| 20,000,001         | to | 22,000,000 | 5.5                       |
| 22,000,001         | to | 24,000,000 | 5.4                       |
| 24,000,001         | to | 27,000,000 | 5.3                       |
| 27,000,001         | to | 30,000,000 | 5.2                       |

This Basic Fee shall increase by 25% as applied to any portion of the work, which involves substantial renovation, or alterations of existing facilities.

The Basic Fee shall increase by 25% as applied to any portion of the work, which involves working with or at the direction of an owner's agent, a "Construction Manager", a "Program Manager" or "Consulting Project Manager"

12.11 Insert the following into Par 11.2, **COMPENSATION for ADDITIONAL SERVICES**

**Hourly Rates:** (Shall apply also to Paragraphs 11.3 and 11.7)

Current Hourly Rates: The following is the Architects hourly rate schedule. When fees are not based on a percentage of the work, the hourly rates are employed:

|                        |          |
|------------------------|----------|
| Principal Architect -  | \$225.00 |
| Project Architect -    | \$145.00 |
| Intern Architect -     | \$115.00 |
| Interior Designer      | \$110.00 |
| Cost Estimator         | \$140.00 |
| Draftsman/CADD -       | \$115.00 |
| Clerical -             | \$100.00 |
| Field Representative - | \$125.00 |
| Specification Writer   | \$125.00 |

|                                                               |          |
|---------------------------------------------------------------|----------|
| Civil, Structural, Mechanical, Electrical, Plumbing Engineers |          |
| Primary Consulting Engineers (CSMEP)                          | \$200.00 |
| Design Engineers                                              | \$150.00 |
| Draftsman/CADD                                                | \$115.00 |
| Clerical                                                      | \$100.00 |
| Specification Writer                                          | \$190.00 |
| Cost Estimator                                                | \$185.00 |

The Architect shall submit invoices, which reflect the actual hours worked, with appropriate hourly rates.

The published rates are 2017 rates and are subject to change according to the Architect's pay rate inflation.

12.12 Insert the following into Par 11.8.1.12, **REIMBURSABLE EXPENSES**

11.8.1.12 The Owner will reimburse the Architect for the cost of the required publication of advertisement for bids for the project.

11.10.2 (Add) Payment Due: The agreed interest rate will be 6% per annum. In addition, the Architect shall be reimbursed for the cost (including reasonable attorney's fees) for collection of accounts.

## DISPUTE RESOLUTION

If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and PH&J Architects, Inc.



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/21/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                           |  |                                                                                                                                                                                                                                                                                                               |  |
|-------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>PRODUCER</b><br>BancorpSouth Insurance Services, Inc.<br>828 U.S. 231<br>Troy AL 36061 |  | <b>CONTACT NAME:</b> Sandy Redmon<br><b>PHONE (A/C, No, Ext):</b> 334-386-3333 <b>FAX (A/C, No):</b> 334-566-2551<br><b>E-MAIL ADDRESS:</b> sandy.redmon@bxs.com                                                                                                                                              |  |
| <b>INSURED</b><br>PH&J Architects, Inc.<br>P.O. Box 215<br>Montgomery AL 36101            |  | <b>INSURER(S) AFFORDING COVERAGE</b><br><b>INSURER A:</b> Pennsylvania National Mutual Casual <b>NAIC #</b> 14990<br><b>INSURER B:</b> Alabama Self-Insured Worker's Comp<br><b>INSURER C:</b> Midwest Employers Casualty Company <b>23612</b><br><b>INSURER D:</b><br><b>INSURER E:</b><br><b>INSURER F:</b> |  |

**COVERAGES**

CERTIFICATE NUMBER: 338896256

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATION MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                                    | ADDL. SUBR. INSD. INVD. | POLICY NUMBER         | POLICY EFF. (MM/DD/YYYY) | POLICY EXP. (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                   |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------------|--------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br>OTHER: |                         | CL90651946            | 12/23/2016               | 12/23/2017               | EACH OCCURRENCE \$1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000<br>MED EXP (Any one person) \$5,000<br>PERSONAL & ADV INJURY \$1,000,000<br>GENERAL AGGREGATE \$2,000,000<br>PRODUCTS - COMPROP AGG \$2,000,000<br>\$ |
| A        | <input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY                                     |                         | AU90651946            | 12/23/2016               | 12/23/2017               | COMBINED SINGLE LIMIT (Ea accident) \$1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                           |
| A        | <input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR<br><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE<br><input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$0                                                                               |                         | UL90651946            | 12/23/2016               | 12/23/2017               | EACH OCCURRENCE \$2,000,000<br>AGGREGATE \$<br>\$                                                                                                                                                                                        |
| B<br>C   | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                                                        | Y/N<br>N/A              | 184200<br>PNAL-129001 | 1/1/2017<br>1/1/2017     | 1/1/2018<br>1/1/2018     | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$1,000,000<br>E.L. DISEASE - EA EMPLOYEE \$1,000,000<br>E.L. DISEASE - POLICY LIMIT \$1,000,000                                   |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional insured/waiver of subrogation status, if indicated above, applies only where required by written contract and is subject to full policy conditions.

**CERTIFICATE HOLDER****CANCELLATION**PH&J Architects, Inc.  
P.O. Box 215  
Montgomery AL 36101

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/19/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                              |  |                                                                                                                                                       |  |
|----------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>PRODUCER</b><br>Risk Strategies Company<br>109 Columbiana Road<br><br>Birmingham AL 35209 |  | <b>CONTACT NAME:</b> Jackie Murk<br><b>PHONE (A/C No. Ext):</b><br><b>E-MAIL:</b> jackie@crowfriedman.com<br><b>ADDRESS:</b>                          |  |
| <b>INSURED</b><br>PH&J Architects Inc.<br>P.O. Box 215<br><br>Montgomery AL 36101-0215       |  | <b>INSURER(S) AFFORDING COVERAGE</b><br>INSURER A: Navigators Insurance Company<br>INSURER B:<br>INSURER C:<br>INSURER D:<br>INSURER E:<br>INSURER F: |  |
|                                                                                              |  | <b>NAIC #</b><br>42307                                                                                                                                |  |

**COVERAGES** **CERTIFICATE NUMBER:** CL176736024 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                | ADDL SUBR INSD WVD                                                                 | POLICY NUMBER   | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                   |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER: |                                                                                    |                 |                         |                         | EACH OCCURRENCE \$<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$<br>MED EXP (Any one person) \$<br>PERSONAL & ADV INJURY \$<br>GENERAL AGGREGATE \$<br>PRODUCTS - COMP/OP AGG \$<br>\$ |
|          | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS                           |                                                                                    |                 |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                    |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br><b>DED</b> <input type="checkbox"/> <b>RETENTION \$</b> <input type="checkbox"/>                                                               |                                                                                    |                 |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$                                                                                                                                                 |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                    | <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A |                 |                         |                         | <input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$<br>E.L. DISEASE - EA EMPLOYEE \$<br>E.L. DISEASE - POLICY LIMIT \$                         |
| A        | Professional Liability                                                                                                                                                                                                                                           |                                                                                    | CM17DPL026710IV | 6/1/2017                | 6/1/2018                | Per Claim \$1,000,000<br>Annual Aggregate \$2,000,000                                                                                                                                    |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Evidence of insurance only.

## CERTIFICATE HOLDER

Specimen  
For Proposal Only  
Cancellation Clause Does Not Apply

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

M Christian/MELROS

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ACORD 25 (2014/01)  
INS025 (201401)

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Company ID Number: 488843

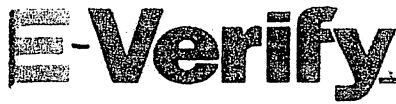
To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

|                                                                |                           |
|----------------------------------------------------------------|---------------------------|
| <b>Employer PH&amp;J Architects, Inc.</b>                      |                           |
| <b>Harrell Gandy</b><br>Name (Please Type or Print)            | Title                     |
| <b>Electronically Signed</b><br>Signature                      | <b>01/12/2012</b><br>Date |
| <b>Department of Homeland Security – Verification Division</b> |                           |
| <b>USCIS Verification Division</b>                             |                           |
| Name (Please Type or Print)                                    | Title                     |
| <b>Electronically Signed</b><br>Signature                      | <b>01/12/2012</b><br>Date |

**Information Required for the E-Verify Program**

**Information relating to your Company:**

|                                 |                                  |
|---------------------------------|----------------------------------|
| Company Name:                   | <b>PH&amp;J Architects, Inc.</b> |
| Company Facility Address:       | <b>807 S. McDonough Street</b>   |
|                                 | <b>Montgomery, AL 36104</b>      |
| Company Alternate Address:      | <b>P.O. Box 215</b>              |
|                                 | <b>Montgomery, AL 36101-0215</b> |
| County or Parish:               | <b>MONTGOMERY</b>                |
| Employer Identification Number: | <b>830568195</b>                 |

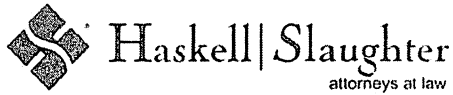


**Company ID Number: 488843**

|                                                                                                                       |          |
|-----------------------------------------------------------------------------------------------------------------------|----------|
| North American Industry Classification Systems Code:                                                                  | 541      |
| Administrator:                                                                                                        |          |
| Number of Employees:                                                                                                  | 20 to 99 |
| Number of Sites Verified for:                                                                                         | 1        |
| <b>Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:</b> |          |
| <ul style="list-style-type: none"><li>• ALABAMA 1 site(s)</li></ul>                                                   |          |

**Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:**

|                   |                       |             |                  |
|-------------------|-----------------------|-------------|------------------|
| Name:             | Chevette B Culver     | Fax Number: | (334) 265 - 9208 |
| Telephone Number: | (334) 265 - 8781      |             |                  |
| E-mail Address:   | phjarch@bellsouth.net |             |                  |
| Name:             | Harrell G Gandy       | Fax Number: | (334) 265 - 9208 |
| Telephone Number: | (334) 265 - 8781      |             |                  |
| E-mail Address:   | phjarch@bellsouth.net |             |                  |



Haskell Slaughter & Gallion, LLC

8 Commerce Street

Suite 1200

Montgomery, Alabama 36104

t. 334.265.8573 | f. 334.264.7945

## MEMORANDUM

December 13, 2017

TTG

To: Donnie Mims

From: Thomas T. Gallion, III

Re: Owner/Architect Agreement for Annex I Renovation -PH&J Architect, Inc.

---

I have reviewed your request for opinion on architect agreement with PH&J Architect, Inc., for Annex I Renovation project.

It is my opinion that the 8.3.4, 8.3.4.1-8.3.4.3 CONSOLIDATION OR JOINDER should be removed from the agreement. The only language needed is the County's standard Dispute Resolution which is attached as Attachment B. Attachment B overrides any other dispute language contained in the agreement.

I am also of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why the agreement should not be executed if it is the desire of the Montgomery County Commission.

50051-317

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

December 12, 2017

**MEMORANDUM**

TO: Thomas T. Gallion, III  
County Attorney

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Owner/Architect Agreement for Annex I Renovation Project

Enclosed is an Owner/Architect Agreement with PH&J Architect, Inc., regarding renovation work at the Montgomery County Courthouse – Annex I, plus such miscellaneous work as the Commission, through the County Administrator, shall direct in writing to be undertaken by the Architect.

The Dispute Resolution is included in the Agreement and referenced on page 8, §8.2.3 as "Attachment B".

Please review the Agreement and issue your opinion by Thursday, December 14, 2017, as to whether it is acceptable.

As always, thank you for your assistance.

DLM/tn

Enclosure

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

*7-30*

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

# AGENDA

DEC 18 2017

December 14, 2017

## MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims  
County Administrator

SUBJECT: Agreement with Goodwyn, Mills and Cawood, Inc., regarding Annex II  
Renovation Project

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda an Agreement with Goodwyn, Mills and Cawood, Inc., regarding renovation work at the Montgomery County Administration Building and Courthouse Annex II.

I am requesting approval of this Agreement.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. BOX 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

# AIA<sup>®</sup> Document B101<sup>™</sup> – 2007

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Fifth day of October in the year Two Thousand Seventeen  
(In words, indicate day, month and year.)

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

Montgomery County Commission  
P.O. Box 1667  
Montgomery, AL 36102

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

Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, AL 36117

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

Annex 2 Office Building Renovations  
Montgomery, AL  
Renovations to the exterior and interior of an existing 28,000 SF, three story structure.  
GMC Project No. AMGM170022

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.

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

## EXHIBIT A INITIAL INFORMATION

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

#### Architect's Consultants:

##### Mechanical/Plumbing/Fire Protection:

Borden Morris Garner  
903 South Perry Street  
Montgomery, Alabama 36104  
Jack Morris, AL Reg.#16984

##### Electrical:

Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, Alabama 36117  
John Averett, AL Reg.#16232

##### Civil:

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Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, Alabama 36117  
Cedric Campbell, AL Reg.#25059

**If Needed:**

Structural Engineering:  
Blackburn, Daniels, O'Barr  
8805 County Road 40 East  
Lowndesboro, Alabama 36752  
Jack Daniels, AL Reg.#16984

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To Be Determined

.2 Substantial Completion date:

To Be Determined

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 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 for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

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.1 General Liability

\$1,000,000-Each Occurrence / \$2,000,000-General Aggregate

.2 Automobile Liability

\$1,000,000

.3 Workers' Compensation

\$1,000,000

.4 Professional Liability

\$3,000,000-Each Claim / \$6,000,000 -Aggregate

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

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

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, 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 the accuracy and completeness 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 made without the Architect's approval.

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

§ 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, and the proposed procurement or 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

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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, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible 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 other environmentally responsible design services under Article 4.

§ 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 such other elements as may be appropriate. 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.

§ 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 of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct 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.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and 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.

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

## § 3.5 BIDDING OR NEGOTIATION 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. procuring the reproduction of Bidding Documents for distribution to prospective bidders;
2. distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
3. organizing and conducting a pre-bid conference for prospective bidders;
4. preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
5. 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 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall 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. procuring the reproduction 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; and
3. 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 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall 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™-2007, General Conditions of the Contract for Construction. If the Owner

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and Contractor modify AIA Document A201–2007, 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 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 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 A201–2007, 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 and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract

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Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 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. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, 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, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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 Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, 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 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 authorize 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 the provisions of Section 4.3, 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.

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### § 3.6.6 PROJECT COMPLETION

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

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

§ 3.6.6.3 When the Work is found to be substantially complete, 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 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional 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.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

| Additional Services                                  | Responsibility<br>(Architect, Owner<br>or Not Provided) | Location of Service Description<br>(Section 4.2 below or in an<br>exhibit attached to this document<br>and identified below) |
|------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| § 4.1.1 Programming (B202™-2009)                     | Architect                                               |                                                                                                                              |
| § 4.1.2 Multiple preliminary designs                 | Not Provided                                            |                                                                                                                              |
| § 4.1.3 Measured drawings                            | Architect                                               | See Article 4.2                                                                                                              |
| § 4.1.4 Existing facilities surveys                  | Architect                                               |                                                                                                                              |
| § 4.1.5 Site Evaluation and Planning (B203™-2007)    | Architect                                               |                                                                                                                              |
| § 4.1.6 Building Information Modeling (E202™-2008)   | Not Included                                            |                                                                                                                              |
| § 4.1.7 Civil engineering                            | Architect                                               |                                                                                                                              |
| § 4.1.8 Landscape design                             | Not Provided                                            |                                                                                                                              |
| § 4.1.9 Architectural Interior Design (B252™-2007)   | Architect                                               |                                                                                                                              |
| § 4.1.10 Value Analysis (B204™-2007)                 | Not Provided                                            |                                                                                                                              |
| § 4.1.11 Detailed cost estimating                    | Not Provided                                            |                                                                                                                              |
| § 4.1.12 On-site Project Representation (B207™-2008) | Not Provided                                            |                                                                                                                              |
| § 4.1.13 Conformed construction documents            | Not Provided                                            |                                                                                                                              |
| § 4.1.14 As-Designed Record drawings                 | Not Provided                                            |                                                                                                                              |
| § 4.1.15 As-Constructed Record drawings              | Not Provided                                            |                                                                                                                              |
| § 4.1.16 Post occupancy evaluation                   | Not Provided                                            |                                                                                                                              |
| § 4.1.17 Facility Support Services (B210™-2007)      | Not Provided                                            |                                                                                                                              |
| § 4.1.18 Tenant-related services                     | Not Provided                                            |                                                                                                                              |

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|          |                                                           |              |  |
|----------|-----------------------------------------------------------|--------------|--|
| § 4.1.19 | Coordination of Owner's consultants                       | Not Provided |  |
| § 4.1.20 | Telecommunications/data design                            | Not Provided |  |
| § 4.1.21 | Security Evaluation and Planning (B206™-2007)             | Not Provided |  |
| § 4.1.22 | Commissioning (B211™-2007)                                | Not provided |  |
| § 4.1.23 | Extensive environmentally responsible design              | Not Provided |  |
| § 4.1.24 | LEED® Certification (B214™-2012)                          | Not Provided |  |
| § 4.1.25 | Fast-track design services                                | Not Provided |  |
| § 4.1.26 | Historic Preservation (B205™-2007)                        | Not Provided |  |
| § 4.1.27 | Furniture, Furnishings, and Equipment Design (B253™-2007) | Not Provided |  |
|          |                                                           |              |  |

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

As-Built Drawings: Architect will measure existing building to produce measured drawings sufficient for construction and bidding documents.

§ 4.3 Additional Services may be provided 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 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 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 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, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .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 data 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 bidders or persons providing 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.

§ 4.3.2 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 the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to 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

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- 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;
- 5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- 6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 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 submittal of the Contractor
- 2 Twenty ( 20 ) visits to the site by the Architect over the duration of the Project during construction
- 3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- 4 Two ( 2 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Twelve ( 12 ) 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. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update 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. 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 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 but are not limited to 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 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

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Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated 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 maintain professional liability insurance as appropriate to the services provided.

§ 5.7 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.

§ 5.8 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.

§ 5.9 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.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 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.

§ 5.12 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.

#### 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 does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, 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 may 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, 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. 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 requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, 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.

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§ 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, without additional compensation, 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. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 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 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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 author 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.

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## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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 A201-2007, 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.

### § 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the 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. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other (Specify) See Section 8.4.1 of this Agreement

### § 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,

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mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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

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

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

#### **§ 8.3.4 CONSOLIDATION OR JOINDER**

**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common 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 OTHER-DISPUTE RESOLUTION PROCESSES**

**§ 8.4.1** If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute

first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to either party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution, any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama, governed by the laws of the State of Alabama.

#### **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 Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that 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 A201-2007, 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.

§ 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

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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.

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

#### ARTICLE 11 COMPENSATION

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

*(Insert amount of, or basis for, compensation.)*

Fee shall be based on Alabama Building Commission Chapter 4, Section B schedule of Base Fee Rates, including a 25% increase for Major Renovations. Construction cost for this project is anticipated to be \$1,400,000.00. At this cost, the fee percentage would be 8.875%.

§ 11.2 For Additional Services designated in Section 4.1, 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.)*

As-Built Documents: \$1500.00

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

See Exhibit A-Hourly Rate Sheet.

§ 11.4 Compensation for 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 Ten percent ( 10 %), or as otherwise stated below:

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

|                              |             |           |     |    |
|------------------------------|-------------|-----------|-----|----|
| Schematic Design Phase       | Ten         | percent ( | 10  | %) |
| Design Development Phase     | Fifteen     | percent ( | 15  | %) |
| Construction Documents Phase | Fifty       | percent ( | 50  | %) |
| Bidding or Negotiation Phase | Five        | percent ( | 5   | %) |
| Construction Phase           | Twenty      | percent ( | 20  | %) |
| Total Basic Compensation     | one hundred | percent ( | 100 | %) |

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. 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, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

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(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit A-Hourly Rate Sheet

| Employee or Category | Rate |
|----------------------|------|
|----------------------|------|

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic 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 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, 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, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

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

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Based upon a mutually agreed upon fee depending on the percentage of work complete.

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

0 % Zero Per Cent

§ 11.10.3 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.

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

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## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

See Exhibit B

## 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 Owner and Architect.

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

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

.3 Other documents:

*(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)*

Exhibit A: GMC Hourly Rate Sheet

Exhibit B: Attachment to Standard Form of Agreement Between Owner and Architect.

Exhibit C: Certificate of Insurance

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

OWNER

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

Elton N. Dean, Sr., Chairman, Montgomery County  
Commission

\_\_\_\_\_  
*(Printed name and title)*

ARCHITECT

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

Freddie E. Lynn, Jr., AIA Sr. Vice President,  
Architecture

\_\_\_\_\_  
*(Printed name and title)*

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RATE SCHEDULE

| Principal Architect/Engineer                                                               |                               |                                 |                               | \$250.00 per hour        |
|--------------------------------------------------------------------------------------------|-------------------------------|---------------------------------|-------------------------------|--------------------------|
| Jeffrey Brewer, AIA                                                                        | George Goodwyn, PE            | Galen Thackston, PE, LEED GA    |                               |                          |
| Steve Cawood, PE                                                                           | David Reed, PE, PLS           | Bill Wallace, AIA               |                               |                          |
| Executive VP/Senior VP                                                                     |                               |                                 |                               | \$200.00 per hour        |
| Sara Butler, AIA, LEED GA                                                                  | Burt Hankins, PE, PLS         | Kevin Laird, PE                 | Jim Teel                      |                          |
| Chris Engel, AIA, LEED BD+C                                                                | Mike Keeshen, AIA             | Freddie Lynn, Jr., AIA, LEED GA | Derril Strickland, PE         |                          |
| Robert Gray, AIA, LEED AP                                                                  | Buddy Koonce, PE              | Jof Mehaffey, PWS               | Lee Walters, PWS              |                          |
| Vice President                                                                             |                               |                                 |                               | \$190.00 per hour        |
| Steve Alby, AIA, LEED                                                                      | John Averrett, PE, LEED       | John Bricken, ASLA, LEED GA     | Wheeler Crook, PE             | Gary Owen, AIA, LEED GA  |
| Al Allenback                                                                               | Tracy Bassett, AIA            | Kirk Clayton, PLS               | Gary Greenshields, AIA        | Kevin Wales, PE          |
| Paul Anderson, AIA                                                                         | Amy Bell, AIA, LEED GA        | Yann Cowart, AIA                | Bobby Kemp, PE                |                          |
| Senior Architect/Engineer/Planner                                                          |                               |                                 |                               | \$190.00 per hour        |
| Tim Blaydes, PE                                                                            | Mark Coyle, AIA               | John Hoover                     | Russ Roberts, PE              | Max Vaughn, PE           |
| Bruce Bodner, PE                                                                           | Murray Dodd, PE               | Gregory P.(Chuck) Jones, AIA    | Jane Ross                     | Larry Watts, FAICP       |
| Cedric Campbell, PE                                                                        | Jim Fibbe, PE                 | Jennifer Landry, NCIDQ, LEED GA | Jeremy Sasser, PE             | Rick Wendling, AIA       |
| Jonathan Carn                                                                              | Paul Fridl, AIA               | Robert Littleton, AIA           | Doug Seagle, PE               | Burns Whittaker, PE      |
| Bob Carter, PE, PLS                                                                        | Bryant Griffin, PE, LEED GA   | Charles Powell, PE              | Jeff Slaton, AIA, LEED        | Brian Winkler, PE        |
| Gerald Clark, ASLA                                                                         | Mike Hamrick, AIA             | David Parker, PE                | Keith Strickland, PE          | Cole Williams, PE        |
| Rick Clay, PLS                                                                             | Jimmy Highers                 | Josh Pierce, PE                 | Mark Tiller, AIA              | Carla Young, AIA         |
| Architect I/Engineer/Interior Design/Project Manager/Hydrogeologist                        |                               |                                 |                               | \$175.00 per hour        |
| Bonnie Austin, AIA                                                                         | Juan Gacha, PE                | Nadine Nacy                     | John Raiford, PE, PhD         | Jim Walker, AIA, LEED GA |
| Curtis Barber                                                                              | Jacqui Hart, NCIDQ, AIA, LEED | Patrick Neuber, AIA             | Jymalyn Redmond               | Charles (Corky) Welch    |
| Lance Bellenger                                                                            | Natalie Hobbs, PE             | Ed Niel, PLS                    | James Robinson, PE            | Ben Whittenburg, AIA     |
| Richard Clegg                                                                              | Stephen Karas, PE             | Topper Parham, AIA              | Leonard Robinson, AIA         | Bob Woodham, PE, PLS     |
| Mike Christensen                                                                           | Denise King, PE               | Andy Perry, PE                  | Kenneth Shelton, PE           |                          |
| Caleb Dean, PE                                                                             | Michael McNeill, PE           | Joe Pester                      | Katy Thomas, NCIDQ            |                          |
| Sheppard Dearing                                                                           | Bobby McClure                 | Richard Peterson                | David Turner                  |                          |
| Jeff Fennell, PE                                                                           | Jeff Miller, AIA, LEED        | Jay Purkey                      | James Vaughn                  |                          |
| Architect II/Engineer/Interior Design/ Project Manager/Land Surveyor/Ecologist             |                               |                                 |                               | \$150.00 per hour        |
| Justin Barrett, PE                                                                         | Rob Carlton, PWS              | Melanie Lang                    | Andrew Olds, AIA, JD, LEED AP | Matt Walker, PE          |
| Chris Beasley                                                                              | Trent Catron, NCIDQ           | Corley Lauderdale, PE           | Richard Painter, AIA          |                          |
| Rusty Blackwell, PLS LEED GA                                                               | Brent Davis                   | Joshua Lindstrom, PE            | Mary Catherine Price, PE      |                          |
| Stuart Blackwell, PWS                                                                      | Jay Gunther, PE               | Susan McGallagher               | Anthony Reid, PE              |                          |
| Catherine Brooks, NCIDQ                                                                    | Jill Puncocar Hall            | William McLemore, PE, LEED GA   | Kyonta Smith, AIA             |                          |
| Gary Brown                                                                                 | David Hughes                  | Melissa Mehaffey                | Tim Smitherman, LEED GA       |                          |
| Scott Campbell                                                                             | Dina Knight, PM (GIS)         | Michelle Morton                 | Hieu Vo                       |                          |
| Intern I/Architect/Engineer/Interior Design/Geologist/Biologist/Resource Analyst/Ecologist |                               |                                 |                               | \$130.00 per hour        |
| Tanner Backman                                                                             | Kevin Downing                 | Marisa Lappin                   | Soraya Saffouri               | Lori Woodham             |
| Brandon Bias, AICP, LEED GA                                                                | Grant Dozier, LEED GA         | Chris Murphy                    | Kathryn Strickland            |                          |
| Shannon Bittle                                                                             | Reid Fincher                  | Robert Ramsey                   | Dustin Till                   |                          |
| Rachel Crafton-Stiver                                                                      | Joseph Herman                 | Lauren Rainey                   | Felipe Velastegui             |                          |

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| Intern I/Architect/Engineer/Interior Design/Geologist/Biologist/Resource Analyst/Ecologist |                       |                     |                     | \$130.00 per hour      |
|--------------------------------------------------------------------------------------------|-----------------------|---------------------|---------------------|------------------------|
| Dale Brasher, ASLA                                                                         | Catarina Echols, LEED | Case O'Dell         | Lauren Sanford      | Matthew Smith          |
| Alecia Brightwell, PE                                                                      | Savannah Dunson       | Patrick O'Leary, PE | Corey Shoop         | Cameron Weldy, LEED GA |
| John Cleghorn                                                                              | Andrew Fuller         | Ryan Pearce, PE     | Ashley Shorter      |                        |
| Erik Consuegra                                                                             | Milvia Gonzalez       | Joe Pester          | Edward Smith, EI    |                        |
| Patrick Cox                                                                                | Alina Hallaq          | Andrew Pippin       | Lori Smith, LEED GA |                        |

| Intern II/Architect/Engineer/Interior Design/Biologist/Resource Analyst/Airport Planner |                          |                 |                      | \$110.00 per hour      |
|-----------------------------------------------------------------------------------------|--------------------------|-----------------|----------------------|------------------------|
| Taylor Bradley                                                                          | Mary-Whitney Evins, LEED | Steven Major EI | Cody Reed, PE        | Alexa Turner, LEED     |
| Oliver Busagara                                                                         | Bea Forniss              | Joshua Macbeth  | Evan Reid, Biologist | Josh Vickers           |
| Lisa Bowen-Whaley, PE                                                                   | Quintavious Guyton       | Amber McKinley  | Cole Roberson        | Frank Wang             |
| Stacey Browning                                                                         | Jessica Haag             | Clint Mitchell  | Jordan Russell, EI   | Matthew Wert           |
| Wesley Caputo, EI                                                                       | Daniel Hall              | Hillary Morgan  | Tabb Sanford         | April Yates, Biologist |
| Parker Cliatt, Biologist                                                                | Joseph Herman            | Dustin Murphy   | Jay Shaddix          | Jonathan Ziegler       |
| Michelle Conway                                                                         | Rhys Gratz, EI           | Johanna Nemetz  | Matt Thomason        |                        |
| Grant Dozier, LEED GA                                                                   | Andrew King              |                 |                      |                        |

| Technical I/CA/QC |                |                     |               | \$140.00 per hour |
|-------------------|----------------|---------------------|---------------|-------------------|
| James Bagley, AIA | Kevin Jett     | Jeremy Lewis        | Frank Noble   | Jeff Smith        |
| Justin Barker     | Margie Lambert | Tom McElroy         | Matt Pate     | John Sumerlin     |
| Lamar Davis, CSI  | David Langford | Nathaniel McFarland | Steve Pendley | Mike Swinson      |
| Kurt Hankins      |                |                     |               |                   |

| CA/ROW Acquisition |                |                   |               | \$125.00 per hour  |
|--------------------|----------------|-------------------|---------------|--------------------|
| Ted Arrington      | Kevin Diamond  | Jason McCord      | Tylon Smith   | John Turner        |
| Jeff Bell          | Terrance Duke  | Jason Pierce      | Bobby Spencer | Anthony Van De Ryt |
| Bo Boykin          | Jamie Faust    | Don Rector        | Terry Staggs  | David Waters       |
| Mike Brown         | Charlie Harris | A. Dale Robertson | John Snead    | Jeff White         |
| Mark Butcher       | Judy Jones     | Jody Scales       | Alex Staton   |                    |
| Shane Cox          | Brent Maddox   | DeAndrea Sellers  | Jim Sullivan  |                    |

| Technical II/CA/QC |                |                 |              | \$110.00 per hour |
|--------------------|----------------|-----------------|--------------|-------------------|
| Jason Atkins       | John Bruner    | Donald Jackson  | James Patten | Larry Stavish     |
| William Benyo      | Adam Clinard   | Dianne Massey   | Jason Price  | Brent Tucker      |
| Michael Camp       | Kenya Chillous | Travis McKnight | Wes Spires   |                   |

| Technical III/CA |                 |                  |                    | \$80.00 per hour |
|------------------|-----------------|------------------|--------------------|------------------|
| Josh Amacher     | Andy Gregory    | Zach Merritt     | Jason Moorehouse   | Mark Smith       |
| Scott Arendsen   | Greg Harrison   | Allen Miller     | Cody Pierce        | Bobby Spencer    |
| Daniel Brown     | Mark Hohnhorst  | David Miller     | Jason Pierce       | Terry Staggs     |
| Skip Dickinson   | Ryan Jessie     | Forrest Milstead | Jimmy Pho          |                  |
| Donnie Earnest   | Christian Loden | Scott Montgomery | Winston Richardson |                  |

| Administrative  |                 |                 |                      | \$70.00 per hour |
|-----------------|-----------------|-----------------|----------------------|------------------|
| Tiffany Adams   | Riley Davis     | Renee Fowler    | Missy Lee            | Beth Shepherd    |
| Kaci Bledsoe    | Carrie Day      | Patricia Gerech | Ashley Morris        | JeanAnn Smith    |
| LuAnn Bowser    | Pat Dew         | Andrea Hodges   | Jill Nelson          | Patsy Stinson    |
| Rebecca Connell | Lanita Evans    | Tammy Huff      | Carli Small, LEED GA | Leah Swinney     |
| Elizabeth Cox   | Lauren Faulkner | Sue Jones       |                      |                  |

| Surveying                         |       |
|-----------------------------------|-------|
| Party Chief                       | \$100 |
| Two-Man Survey Party w/GPS        | \$145 |
| Three-Man Survey Party w/GPS; PLS | \$165 |

8-22

Exhibit B

ATTACHMENT TO STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ARCHITECT  
(B101-2007, 2007 Edition)

ANNEX 2 OFFICE BUILDING RENOVATIONS  
FOR THE MONTGOMERY COUNTY COMMISSION  
MONTGOMERY, ALABAMA  
GMC PROJECT NO. AMGM170022

October 5, 2017

ARTICLE 12  
Special Terms and Conditions

The Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services governs over the Exhibit "B" when the two are in conflict.

ARCHITECT'S RESPONSIBILITIES

12.1 Supplement To Article 2 Architect's Responsibilities.

Responsibilities for Delays

- a. The Architect is not responsible for delays caused by factors beyond the Architect's reasonable control, including but not limited to delays because of strikes, lockouts, work slow downs or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Owner to furnish timely information or approve or disprove of the Architect's services or work product promptly, failure to obtain funding, failure to obtain major lease agreements or delays caused by faulty performance by the Owner or by the Contractors of any level. When such delays beyond the Architect's reasonable control occur, the Owner agrees the Architect is not responsible for damages, nor shall the Architect be deemed to be in default of this Agreement.

ADDITIONAL SERVICES

12.2 Project Representation Beyond Basic Services

- a. If more extensive representation at the site is required than is described under Article 3.4, Construction Phase, and if the Owner and Architect agree, one or more full-time Project Representative(s) shall be provided.
- b. It is agreed: (i) the Owner may elect, at its sole option, to provide full-time Project Representative(s), to be employed and compensated by the Owner and who shall be fully responsible to the Owner; or (ii) the Owner may elect, at its sole option, for the Architect to provide full-time Project Representative(s) as an Amendment to this Agreement.
- c. Through the on-site observations by full-time Project Representative(s) of the work in progress, the Architect shall endeavor to provide further protection for the Owner against defects in the work, but providing such project representation shall not modify the rights, responsibilities, or obligations or the Architect under this Agreement nor make the Architect responsible for construction means, methods,

techniques, sequences, or procedures, or for safety precautions and programs, or for the Contractor's failure to perform the work in accordance with the Contract Documents.

### 12.3 Document Revisions

Providing services to change drawings, related documents, and providing associated construction administration after the Owner has approved Design Development Documents, to include but not be limited to:

- a. Making changes to alter the Owner approved Construction Cost Budget to: (i) to reduce the Estimate of Probable Construction Cost below the current Construction Cost Budget to reflect a savings to the Owner or (ii) to upgrade the quality or scope of the Project by increasing the Estimate of Probable Construction Cost up to, but within the current Construction Cost Budget.
- b. Making changes caused by the Owner's representatives (including users, special engineer(s) and/or consultant(s)) due to (i) errors and omissions in their drawings, specifications and related documents (ii) conflicts between the Architect's documents and the Owner's representatives, user's, special engineer's and/or consultant's documents which do not conform to the parameters of the Architect's documents or (iii) the failure to provide the Architect with design information on a timely basis for the orderly progress of the Project, in accordance with the Project Design Schedule where the Architect was not in prior possession of information.
- c. In cases where any changes are required as a result of discrepancies in the Architect's documents and its basic consultants' documents, (normal and special) the Architect shall, within the Basic Service Compensation, provide the professional services necessary to affect like changes to its documents.
- d. The Architect will provide an estimate of additional cost, based on the Architect's hourly rates, and submit to the Owner for approval.

### 12.4 Other Additional Services

- a. Providing services to review, attend meetings and revise documents for Governmental directed changes after the documents have been approved by the Governmental Agency having jurisdiction over the Project.
- b. Providing services to accommodate concealed conditions after construction documents are complete, not to include normal or common coordination issues that can and should be expected in a renovation project.

### 12.5 Additional Consultants

- a. It is understood and agreed that: (i) the Owner may elect, at its sole option, to provide additional special consultant(s), beyond those included as part of the Specialty Consultants currently employed for the project, to be employed and compensated by the Owner and who shall be fully responsible to the Owner, or (ii) the Owner may elect, as its sole option, for the Architect to provide the additional special consultant(s) as an Amendment to this Agreement.

## MISCELLANEOUS PROVISIONS

### 12.6 Supplement to Article 10, Miscellaneous Provisions

- 10.9 There shall be no reduction in fee for actual services provided due to deductive Change Order items or deductive Alternates.
- 10.10 If a Change Order is generated as a result of an error or omission by the Architect, there will be no cost to the Owner for A/E fees.
- 10.11 Project Betterment  
If, due to the Architect's error, any required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the actual cost to add such item or component to the extent that such item or component would have been otherwise necessary for the project or otherwise adds value or betterment to the project. If due to Architect's error, the Architect will be responsible for added cost due to demolition, corrective or other rework and on upcharges for out of sequence work.
- 10.12 Consequential Damages  
Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Owner or the Architect, their employees, agents, subconsultants or subcontractors. Consequential damages include but are not limited to loss of use and loss of profit.
- 10.13 Indemnification  
Owner agrees to indemnify, hold harmless and defend the Architect and its Consultants from and against each and every claim made against Architect for loss of business, damages, equitable remedies, penalties, litigation expenses, attorney fees and insurance deductibles, or any combination thereof, brought against the Architect by reason of Architect's participation with the Project (as opposed to a claim based on Architect's own negligence, errors, or omissions) and arising out of interruption of public utilities, closing of public streets, and/or any injury to or destruction of tangible property, including the loss of use resulting from construction activities in and around the Project and other areas that must remain in use during the construction period. It is agreed and understood that the Owner, through itself and/or its Construction Manager, is responsible for providing access to restricted areas and for ensuring the proper and timely interruption and closing of public streets, as applicable. The Architect shall remain liable, however, for any claims brought against Architect, Owner, or others based upon Architect's professional negligent acts, errors or omissions in connection with Architect's performance under this Agreement or in connection with this Project.

### **END OF ARTICLE 12 Special Terms and Conditions**

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/06/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                            |  |                                                                                                                                                                             |               |
|------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| <b>PRODUCER</b><br>Harmon Dennis Bradshaw, Inc.<br>334-273-7277<br>P.O. Box 241667<br>Montgomery, AL 36124 |  | <b>CONTACT NAME:</b> Julie Faulkner<br><b>PHONE (A/C, No, Ext):</b> 334-517-1839<br><b>FAX (A/C, No):</b> 334-273-9197<br><b>E-MAIL ADDRESS:</b> jfaulkner@hdbinsurance.com |               |
| <b>INSURED</b><br>Goodwyn Mills & Cawood, Inc.<br>2660 Eastchase Lane, Suite 200<br>Montgomery, AL 36117   |  | <b>INSURER(S) AFFORDING COVERAGE</b>                                                                                                                                        | <b>NAIC #</b> |
|                                                                                                            |  | INSURER A : Charter Oak Fire Insurance Co.                                                                                                                                  | 25615         |
|                                                                                                            |  | INSURER B : Travelers Property Casualty Co of Ameri                                                                                                                         | 25674         |
|                                                                                                            |  | INSURER C : AL Branch of AGC of AM Inc SIF                                                                                                                                  |               |
|                                                                                                            |  | INSURER D : Midwest Employers Casualty Company                                                                                                                              | 23612         |
|                                                                                                            |  | INSURER E : Phoenix Insurance Company                                                                                                                                       | 25623         |
|                                                                                                            |  | INSURER F : CNA                                                                                                                                                             |               |

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                    | ADDL INSR | SUBR WVD | POLICY NUMBER    | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                     |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|------------------|-------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER: | X         | X        | 6600J635966      | 03/03/2017              | 03/03/2018              | EACH OCCURRENCE \$1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000<br>MED EXP (Any one person) \$5,000<br>PERSONAL & ADV INJURY \$1,000,000<br>GENERAL AGGREGATE \$2,000,000<br>PRODUCTS - COMP/OP AGG \$2,000,000<br>\$ |
| E        | AUTOMOBILE LIABILITY<br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS                               | X         | X        | 8100J635966      | 03/03/2017              | 03/03/2018              | COMBINED SINGLE LIMIT (Ea accident) \$1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                             |
| B        | <input checked="" type="checkbox"/> UMBRELLA LIAB<br><input type="checkbox"/> EXCESS LIAB<br><input checked="" type="checkbox"/> RETENTION \$10,000<br><input type="checkbox"/> OCCUR<br><input type="checkbox"/> CLAIMS-MADE                                                                        |           |          | CUP9J063976TIL17 | 08/31/2017              | 08/31/2018              | EACH OCCURRENCE \$4,000,000<br>AGGREGATE \$4,000,000<br>\$                                                                                                                                                                                 |
| C        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                                                                                                                                                                                                                        |           |          | CA1452017AL      | 01/01/2017              | 01/01/2018              | <input checked="" type="checkbox"/> PER STATUTE<br><input type="checkbox"/> OTH-ER                                                                                                                                                         |
| D        | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?                                                                                                                                                                                                                                            |           |          | EWC009234        |                         |                         | E.L. EACH ACCIDENT \$1,000,000                                                                                                                                                                                                             |
| D        | (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                                                                                                                                             | N         | N/A      | PBSC180024       |                         |                         | E.L. DISEASE - EA EMPLOYEE \$1,000,000                                                                                                                                                                                                     |
| F        | Excess                                                                                                                                                                                                                                                                                               |           |          | 6050024662       | 08/31/2017              | 08/31/2018              | 6,000,000<br>6,000,000<br>\$10,000 Retention                                                                                                                                                                                               |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project Name: AMGM170022 Annex 2 Office Building Renovations

## CERTIFICATE HOLDER

## CANCELLATION

Montgomery County Board of Commissioners  
 PO Box 1667  
 Montgomery, AL 36102

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Brian H. Harrison*

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/9/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Crow Friedman Group  
A Risk Strategies Company  
109 Columbiana Road  
Birmingham, AL 35209

CONTACT NAME: Jackie Murk  
PHONE (A/C, No, Ext): 901-820-0400 FAX (A/C, No): 901-820-0402  
E-MAIL ADDRESS: jackie@crowfriedman.com

www.risk-strategies.com

INSURED Goodwyn, Mills & Cawood, Inc.  
P.O. Box 242128  
Montgomery AL 36124

INSURER(S) AFFORDING COVERAGE NAIC #  
INSURER A: Berkley Insurance Company 32603  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:  
INSURER F:

## COVERAGES

CERTIFICATE NUMBER: 38275058

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                              | ADDL INSD | SUBR WVD | POLICY NUMBER  | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                          |
|----------|------------------------------------------------------------------------------------------------|-----------|----------|----------------|-------------------------|-------------------------|-------------------------------------------------|
|          | COMMERCIAL GENERAL LIABILITY                                                                   |           |          |                |                         |                         | EACH OCCURRENCE \$                              |
|          | <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR                            |           |          |                |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$    |
|          |                                                                                                |           |          |                |                         |                         | MED EXP (Any one person) \$                     |
|          |                                                                                                |           |          |                |                         |                         | PERSONAL & ADV INJURY \$                        |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:                                                             |           |          |                |                         |                         | GENERAL AGGREGATE \$                            |
|          | <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |           |          |                |                         |                         | PRODUCTS - COMP/OP AGG \$                       |
|          | OTHER:                                                                                         |           |          |                |                         |                         | \$                                              |
|          | AUTOMOBILE LIABILITY                                                                           |           |          |                |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$          |
|          | <input type="checkbox"/> ANY AUTO                                                              |           |          |                |                         |                         | BODILY INJURY (Per person) \$                   |
|          | <input type="checkbox"/> OWNED AUTOS ONLY                                                      |           |          |                |                         |                         | BODILY INJURY (Per accident) \$                 |
|          | <input type="checkbox"/> HIRED AUTOS ONLY                                                      |           |          |                |                         |                         | PROPERTY DAMAGE (Per accident) \$               |
|          | <input type="checkbox"/> SCHEDULED AUTOS                                                       |           |          |                |                         |                         | \$                                              |
|          | <input type="checkbox"/> NON-OWNED AUTOS ONLY                                                  |           |          |                |                         |                         |                                                 |
|          | UMBRELLA LIAB                                                                                  |           |          |                |                         |                         | EACH OCCURRENCE \$                              |
|          | <input type="checkbox"/> EXCESS LIAB                                                           |           |          |                |                         |                         | AGGREGATE \$                                    |
|          | <input type="checkbox"/> OCCUR                                                                 |           |          |                |                         |                         | \$                                              |
|          | <input type="checkbox"/> CLAIMS-MADE                                                           |           |          |                |                         |                         |                                                 |
|          | DED                                                                                            |           |          |                |                         |                         | RETENTION \$                                    |
|          | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                  |           |          |                |                         |                         | PER STATUTE                                     |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                    |           |          |                |                         |                         | OTH-ER                                          |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below                                         |           |          |                |                         |                         | E.L. EACH ACCIDENT \$                           |
|          |                                                                                                |           |          |                |                         |                         | E.L. DISEASE - EA EMPLOYEE \$                   |
|          |                                                                                                |           |          |                |                         |                         | E.L. DISEASE - POLICY LIMIT \$                  |
| A        | Professional Liability                                                                         |           |          | AEC-9015704-01 | 7/1/2017                | 7/1/2018                | Each Claim \$2,000,000<br>Aggregate \$4,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

AMGM170022 Annex 2 Office Building Renovations

## CERTIFICATE HOLDER

## CANCELLATION

Montgomery County Commission  
PO Box 1667  
Montgomery AL 36102

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

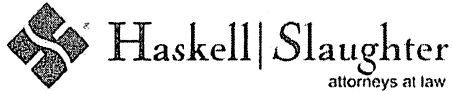
AUTHORIZED REPRESENTATIVE

Michael Christian

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ACORD 25 (2016/03)

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Haskell Slaughter & Gallion, LLC

8 Commerce Street

Suite 1200

Montgomery, Alabama 36104

t. 334.265.8573 | f. 334.264.7945

## MEMORANDUM

December 13, 2017

TTG

To: Donnie Mims

From: Thomas T. Gallion, III

Re: Architect Agreement with Goodwyn Mills Cawood for Annex II Renovation

---

I have reviewed your request for opinion on architect agreement with Goodwyn Mills Cawood for Annex II Renovation.

It is my opinion that the 8.3.4, 8.3.4.1-8.3.4.3 CONSOLIDATION OR JOINDER should be removed from the agreement. The only language needed is the County's standard Dispute Resolution which is attached as Attachment B. Attachment B overrides any other dispute language contained in the agreement.

I am also of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why the agreement should not be executed if it is the desire of the Montgomery County Commission.

50051-317

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

December 12, 2017

**MEMORANDUM**

TO: Thomas T. Gallion, III  
County Attorney

FROM: Donald L. Mims *DLM*  
County Administrator

SUBJECT: Owner/Architect Agreement for Annex II Renovation Project

Enclosed is an Owner/Architect Agreement with Goodwyn Mills and Cawood, Inc., regarding renovation work at the Montgomery County Courthouse – Annex II.

The Dispute Resolution is included in the Agreement and referenced on page 15, §8.4.1.

Please review the Agreement and issue your opinion by Thursday, December 14, 2017, as to whether it is acceptable.

As always, thank you for your assistance.

DLM/tn

Enclosure

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

# AGENDA

DEC 18 2017

December 14, 2017

## MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims  
County Administrator

SUBJECT: Agreement with Goodwyn, Mills and Cawood, Inc., regarding Annex III  
Renovation Project

The Montgomery County Commission, at its meeting on December 4, 2017, agreed to place on the next agenda an Agreement with Goodwyn, Mills and Cawood, Inc., regarding renovation work at the Montgomery County Administration Building and Courthouse Annex III.

I am requesting approval of this Agreement.

DLM/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

# **AIA**® Document B101™ – 2007

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

**AGREEMENT** made as of the Thirteenth day of December in the year Two Thousand Seventeen

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

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

Montgomery County Commission  
P.O. Box 1667  
Montgomery, AL 36102

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

Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, AL 36117

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

Annex 3 Office Building Renovations  
Montgomery, AL  
Renovations to the exterior and interior of the existing Annex 3 building and  
Grounds..  
GMC Project No. AMGM170049

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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User Notes:

(3B9ADA16)

1  
9-2

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- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
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- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

## EXHIBIT A INITIAL INFORMATION

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

#### Architect's Consultants:

##### Mechanical/Plumbing/Fire Protection:

Borden Morris Garner  
903 South Perry Street  
Montgomery, Alabama 36104  
Jack Morris, AL Reg.#16984

##### Electrical:

Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, Alabama 36117  
John Averett, AL Reg.#16232

##### Civil:

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Goodwyn Mills and Cawood, Inc.  
2660 EastChase Lane, Suite 200  
Montgomery, Alabama 36117  
Cedric Campbell, AL Reg.#25059

**If Needed:**

Structural Engineering:  
Blackburn, Daniels, O'Barr  
8805 County Road 40 East  
Lowndesboro, Alabama 36752  
Jack Daniels, AL Reg.#16984

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To Be Determined

.2 Substantial Completion date:

To Be Determined

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 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 for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

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.1 General Liability

\$1,000,000-Each Occurrence / \$2,000,000-General Aggregate

.2 Automobile Liability

\$1,000,000

.3 Workers' Compensation

\$1,000,000

.4 Professional Liability

\$3,000,000-Each Claim / \$6,000,000 -Aggregate

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

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

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, 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 the accuracy and completeness 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 made without the Architect's approval.

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

§ 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, and the proposed procurement or 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

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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, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible 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 other environmentally responsible design services under Article 4.

§ 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 such other elements as may be appropriate. 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.

§ 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 of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct 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.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and 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.

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

### § 3.5 BIDDING OR NEGOTIATION 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 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 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 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall 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 procuring the reproduction 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; and
- .3 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 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall 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™-2007, General Conditions of the Contract for Construction. If the Owner

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and Contractor modify AIA Document A201–2007, 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 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 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 A201–2007, 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 and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract

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Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 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. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, 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, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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 Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, 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 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 authorize 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 the provisions of Section 4.3, 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.

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### § 3.6.6 PROJECT COMPLETION

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

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

§ 3.6.6.3 When the Work is found to be substantially complete, 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 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional 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.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

| Additional Services                                  | Responsibility<br>(Architect, Owner<br>or Not Provided) | Location of Service Description<br>(Section 4.2 below or in an exhibit<br>attached to this document and<br>identified below) |
|------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| § 4.1.1 Programming (B202™-2009)                     | Architect                                               |                                                                                                                              |
| § 4.1.2 Multiple preliminary designs                 | Not Provided                                            |                                                                                                                              |
| § 4.1.3 Measured drawings                            | Architect                                               | See Article 4.2                                                                                                              |
| § 4.1.4 Existing facilities surveys                  | Architect                                               |                                                                                                                              |
| § 4.1.5 Site Evaluation and Planning (B203™-2007)    | Architect                                               |                                                                                                                              |
| § 4.1.6 Building Information Modeling (E202™-2008)   | Not Included                                            |                                                                                                                              |
| § 4.1.7 Civil engineering                            | Architect                                               |                                                                                                                              |
| § 4.1.8 Landscape design                             | Not Provided                                            |                                                                                                                              |
| § 4.1.9 Architectural Interior Design (B252™-2007)   | Architect                                               |                                                                                                                              |
| § 4.1.10 Value Analysis (B204™-2007)                 | Not Provided                                            |                                                                                                                              |
| § 4.1.11 Detailed cost estimating                    | Not Provided                                            |                                                                                                                              |
| § 4.1.12 On-site Project Representation (B207™-2008) | Not Provided                                            |                                                                                                                              |
| § 4.1.13 Conformed construction documents            | Not Provided                                            |                                                                                                                              |
| § 4.1.14 As-Designed Record drawings                 | Not Provided                                            |                                                                                                                              |
| § 4.1.15 As-Constructed Record drawings              | Not Provided                                            |                                                                                                                              |
| § 4.1.16 Post occupancy evaluation                   | Not Provided                                            |                                                                                                                              |
| § 4.1.17 Facility Support Services (B210™-2007)      | Not Provided                                            |                                                                                                                              |
| § 4.1.18 Tenant-related services                     | Not Provided                                            |                                                                                                                              |
| § 4.1.19 Coordination of Owner's consultants         | Not Provided                                            |                                                                                                                              |
| § 4.1.20 Telecommunications/data design              | Not Provided                                            |                                                                                                                              |

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|                                                                    |              |  |
|--------------------------------------------------------------------|--------------|--|
| § 4.1.21 Security Evaluation and Planning (B206™-2007)             | Not Provided |  |
| § 4.1.22 Commissioning (B211™-2007)                                | Not provided |  |
| § 4.1.23 Extensive environmentally responsible design              | Not Provided |  |
| § 4.1.24 LEED® Certification (B214™-2012)                          | Not Provided |  |
| § 4.1.25 Fast-track design services                                | Not Provided |  |
| § 4.1.26 Historic Preservation (B205™-2007)                        | Not Provided |  |
| § 4.1.27 Furniture, Furnishings, and Equipment Design (B253™-2007) | Not Provided |  |
|                                                                    |              |  |

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

As-Built Drawings: Architect will measure existing building to produce measured drawings sufficient for construction and bidding documents.

Architectural Facility Assessment (Optional): Architect will work with Hixon Consultants to prepare a facility assessment for both the interior and exterior of the existing building and grounds. A written report will be given to the Owner at the conclusion of this assessment.

§ 4.3 Additional Services may be provided 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 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 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 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, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .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 data 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 bidders or persons providing 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.

§ 4.3.2 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 the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;

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- .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;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

**§ 4.3.3** 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 submittal of the Contractor
- .2 Twenty ( 20 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion

**§ 4.3.4** If the services covered by this Agreement have not been completed within Twelve ( 12 ) 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. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

**§ 5.2** The Owner shall establish and periodically update 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. 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 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 but are not limited to 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.

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§ 5.6 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 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 maintain professional liability insurance as appropriate to the services provided.

§ 5.7 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.

§ 5.8 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.

§ 5.9 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.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 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.

§ 5.12 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.

#### 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 does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, 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 may 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, 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. 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 requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, 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.

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§ 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, without additional compensation, 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. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 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 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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 author 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.

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## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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 A201-2007, 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.

### § 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the 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. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other (Specify) See Section 8.4.1 of this Agreement

### § 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,

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mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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

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

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

#### ~~§ 8.3.4 CONSOLIDATION OR JOINDER~~

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common 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 OTHER-DISPUTE RESOLUTION PROCESSES

§ 8.4.1 If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute

first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to either party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution, any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama, governed by the laws of the State of Alabama.

#### 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 Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that 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 A201-2007, 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.

§ 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

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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.

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

#### ARTICLE 11 COMPENSATION

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

*(Insert amount of, or basis for, compensation.)*

Fee shall be based on Alabama Building Commission Chapter 4, Section B schedule of Base Fee Rates, including a 25% increase for Major Renovations. Construction cost for this project is anticipated to be \$750,000.00. At this cost, the fee percentage would be 9.375%.

§ 11.2 For Additional Services designated in Section 4.1, 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.)*

As-Built Documents: \$750.00

Architectural Facility Assessment (Optional): Hourly Rates not to exceed \$7,500.00

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

See Exhibit A-Hourly Rate Sheet.

§ 11.4 Compensation for 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 Ten percent ( 10 %), or as otherwise stated below:

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

|                              |             |           |     |    |
|------------------------------|-------------|-----------|-----|----|
| Schematic Design Phase       | Ten         | percent ( | 10  | %) |
| Design Development Phase     | Fifteen     | percent ( | 15  | %) |
| Construction Documents Phase | Fifty       | percent ( | 50  | %) |
| Bidding or Negotiation Phase | Five        | percent ( | 5   | %) |
| Construction Phase           | Twenty      | percent ( | 20  | %) |
| Total Basic Compensation     | one hundred | percent ( | 100 | %) |

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. 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, if any, 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 A-Hourly Rate Sheet

Employee or Category

Rate

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic 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 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, 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, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

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

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Based upon a mutually agreed upon fee depending on the percentage of work complete.

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
*(Insert rate of monthly or annual interest agreed upon.)*

0 % Zero Per Cent

§ 11.10.3 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.

Init.

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User Notes:

(3B9ADA16)

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§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to 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:

See Exhibit B

## 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 Owner and Architect.

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

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:  
*(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)*

Exhibit A: GMC Hourly Rate Sheet

Exhibit B: Attachment to Standard Form of Agreement Between Owner and Architect.

Exhibit C: Certificate of Insurance

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

### OWNER

*(Signature)*

Elton N. Dean, Sr., Chairman, Montgomery County  
Commission

*(Printed name and title)*

### ARCHITECT

*(Signature)*

Freddie E. Lynn, Jr., AIA, Sr. Vice President,  
Architecture

*(Printed name and title)*

Init.

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User Notes:

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# RATE SCHEDULE

| Principal Architect/Engineer                                                               |                               |                                 |                               | \$250.00 per hour        |
|--------------------------------------------------------------------------------------------|-------------------------------|---------------------------------|-------------------------------|--------------------------|
| Jeffrey Brewer, AIA                                                                        | George Goodwyn, PE            | Galen Thackston, PE, LEED GA    |                               |                          |
| Steve Cawood, PE                                                                           | David Reed, PE, PLS           | Bill Wallace, AIA               |                               |                          |
| Executive VP/Senior VP                                                                     |                               |                                 |                               | \$200.00 per hour        |
| Sara Butler, AIA, LEED GA                                                                  | Burt Hankins, PE, PLS         | Kevin Laird, PE                 | Jim Teel                      |                          |
| Chris Engel, AIA, LEED BD+C                                                                | Mike Keeshen, AIA             | Freddie Lynn, Jr., AIA, LEED GA | Derril Strickland, PE         |                          |
| Robert Gray, AIA, LEED AP                                                                  | Buddy Koonce, PE              | Jof Mehaffey, PWS               | Lee Walters, PWS              |                          |
| Vice President                                                                             |                               |                                 |                               | \$190.00 per hour        |
| Steve Alby, AIA, LEED                                                                      | John Averrett, PE, LEED       | John Bricken, ASLA, LEED GA     | Wheeler Crook, PE             | Gary Owen, AIA, LEED GA  |
| Al Allenback                                                                               | Tracy Bassett, AIA            | Kirk Clayton, PLS               | Gary Greenshields, AIA        | Kevin Wales, PE          |
| Paul Anderson, AIA                                                                         | Amy Bell, AIA, LEED GA        | Yann Cowart, AIA                | Bobby Kemp, PE                |                          |
| Senior Architect/Engineer/Planner                                                          |                               |                                 |                               | \$190.00 per hour        |
| Tim Blaydes, PE                                                                            | Mark Coyle, AIA               | John Hoover                     | Russ Roberts, PE              | Max Vaughn, PE           |
| Bruce Bodner, PE                                                                           | Murray Dodd, PE               | Gregory P.(Chuck) Jones, AIA    | Jane Ross                     | Larry Watts, FAICP       |
| Cedric Campbell, PE                                                                        | Jim Fibbe, PE                 | Jennifer Landry, NCIDQ, LEED GA | Jeremy Sasser, PE             | Rick Wendling, AIA       |
| Jonathan Carn                                                                              | Paul Fridl, AIA               | Robert Littleton, AIA           | Doug Seagle, PE               | Burns Whittaker, PE      |
| Bob Carter, PE, PLS                                                                        | Bryant Griffin, PE, LEED GA   | Charles Powell, PE              | Jeff Slaton, AIA, LEED        | Brian Winkler, PE        |
| Gerald Clark, ASLA                                                                         | Mike Hamrick, AIA             | David Parker, PE                | Keith Strickland, PE          | Cole Williams, PE        |
| Rick Clay, PLS                                                                             | Jimmy Highers                 | Josh Pierce, PE                 | Mark Tiller, AIA              | Carla Young, AIA         |
| Architect I/Engineer/Interior Design/Project Manager/Hydrogeologist                        |                               |                                 |                               | \$175.00 per hour        |
| Bonnie Austin, AIA                                                                         | Juan Gacha, PE                | Nadine Nacy                     | John Raiford, PE, PhD         | Jim Walker, AIA, LEED GA |
| Curtis Barber                                                                              | Jacqui Hart, NCIDQ, AIA, LEED | Patrick Neuber, AIA             | Jymalyn Redmond               | Charles (Corky) Welch    |
| Lance Bellenger                                                                            | Natalie Hobbs, PE             | Ed Niel, PLS                    | James Robinson, PE            | Ben Whittenburg, AIA     |
| Richard Clegg                                                                              | Stephen Karas, PE             | Topper Parham, AIA              | Leonard Robinson, AIA         | Bob Woodham, PE, PLS     |
| Mike Christensen                                                                           | Denise King, PE               | Andy Perry, PE                  | Kenneth Shelton, PE           |                          |
| Caleb Dean, PE                                                                             | Michael McNeill, PE           | Joe Pester                      | Katy Thomas, NCIDQ            |                          |
| Sheppard Dearing                                                                           | Bobby McClure                 | Richard Peterson                | David Turner                  |                          |
| Jeff Fennell, PE                                                                           | Jeff Miller, AIA, LEED        | Jay Purkey                      | James Vaughn                  |                          |
| Architect II/Engineer/Interior Design/ Project Manager/Land Surveyor/Ecologist             |                               |                                 |                               | \$150.00 per hour        |
| Justin Barrett, PE                                                                         | Rob Carlton, PWS              | Melanie Lang                    | Andrew Olds, AIA, JD, LEED AP | Matt Walker, PE          |
| Chris Beasley                                                                              | Trent Catron, NCIDQ           | Corley Lauderdale, PE           | Richard Painter, AIA          |                          |
| Rusty Blackwell, PLS LEED GA                                                               | Brent Davis                   | Joshua Lindstrom, PE            | Mary Catherine Price, PE      |                          |
| Stuart Blackwell, PWS                                                                      | Jay Gunther, PE               | Susan McGallagher               | Anthony Reid, PE              |                          |
| Catherine Brooks, NCIDQ                                                                    | Jill Puncochar Hall           | William McLemore, PE, LEED GA   | Kyonta Smith, AIA             |                          |
| Gary Brown                                                                                 | David Hughes                  | Melissa Mehaffey                | Tim Smitherman, LEED GA       |                          |
| Scott Campbell                                                                             | Dina Knight, PM (GIS)         | Michelle Morton                 | Hieu Vo                       |                          |
| Intern I/Architect/Engineer/Interior Design/Geologist/Biologist/Resource Analyst/Ecologist |                               |                                 |                               | \$130.00 per hour        |
| Tanner Backman                                                                             | Kevin Downing                 | Marisa Lappin                   | Soraya Saffouri               | Lori Woodham             |
| Brandon Bias, AICP, LEED GA                                                                | Grant Dozier, LEED GA         | Chris Murphy                    | Kathryn Strickland            |                          |
| Shannon Bittle                                                                             | Reid Fincher                  | Robert Ramsey                   | Dustin Till                   |                          |
| Rachel Crafton-Stiver                                                                      | Joseph Herman                 | Lauren Rainey                   | Felipe Velastegui             |                          |

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| Intern I/Architect/Engineer/Interior Design/Geologist/Biologist/Resource Analyst/Ecologist |                       |                     |                     | \$130.00 per hour      |
|--------------------------------------------------------------------------------------------|-----------------------|---------------------|---------------------|------------------------|
| Dale Brasher, ASLA                                                                         | Catarina Echols, LEED | Case O'Dell         | Lauren Sanford      | Matthew Smith          |
| Alecia Brightwell, PE                                                                      | Savannah Dunson       | Patrick O'Leary, PE | Corey Shoop         | Cameron Weldy, LEED GA |
| John Cleghorn                                                                              | Andrew Fuller         | Ryan Pearce, PE     | Ashley Shorter      |                        |
| Erik Consuegra                                                                             | Milvia Gonzalez       | Joe Pester          | Edward Smith, EI    |                        |
| Patrick Cox                                                                                | Alina Hallaq          | Andrew Pippin       | Lori Smith, LEED GA |                        |

| Intern II/Architect/Engineer/Interior Design/Biologist/Resource Analyst/Airport Planner |                          |                 |                      | \$110.00 per hour      |
|-----------------------------------------------------------------------------------------|--------------------------|-----------------|----------------------|------------------------|
| Taylor Bradley                                                                          | Mary-Whitney Evins, LEED | Steven Major EI | Cody Reed, PE        | Alexa Turner, LEED     |
| Oliver Busagara                                                                         | Bea Forniss              | Joshua Macbeth  | Evan Reid, Biologist | Josh Vickers           |
| Lisa Bowen-Whaley, PE                                                                   | Quintavious Guyton       | Amber McKinley  | Cole Roberson        | Frank Wang             |
| Stacey Browning                                                                         | Jessica Haag             | Clint Mitchell  | Jordan Russell, EI   | Matthew Wert           |
| Wesley Caputo, EI                                                                       | Daniel Hall              | Hillary Morgan  | Tabb Sanford         | April Yates, Biologist |
| Parker Cliatt, Biologist                                                                | Joseph Herman            | Dustin Murphy   | Jay Shaddix          | Jonathan Ziegler       |
| Michelle Conway                                                                         | Rhys Gratz, EI           | Johanna Nemetz  | Matt Thomason        |                        |
| Grant Dozier, LEED GA                                                                   | Andrew King              |                 |                      |                        |

| Technical I/CA/QC |                |                     |               | \$140.00 per hour |
|-------------------|----------------|---------------------|---------------|-------------------|
| James Bagley, AIA | Kevin Jett     | Jeremy Lewis        | Frank Noble   | Jeff Smith        |
| Justin Barker     | Margie Lambert | Tom McElroy         | Matt Pate     | John Sumerlin     |
| Lamar Davis, CSI  | David Langford | Nathaniel McFarland | Steve Pendley | Mike Swinson      |
| Kurt Hankins      |                |                     |               |                   |

| CA/ROW Acquisition |                |                   |               | \$125.00 per hour  |
|--------------------|----------------|-------------------|---------------|--------------------|
| Ted Arrington      | Kevin Diamond  | Jason McCord      | Tylon Smith   | John Turner        |
| Jeff Bell          | Terrance Duke  | Jason Pierce      | Bobby Spencer | Anthony Van De Ryt |
| Bo Boykin          | Jamie Faust    | Don Rector        | Terry Staggs  | David Waters       |
| Mike Brown         | Charlie Harris | A. Dale Robertson | John Snead    | Jeff White         |
| Mark Butcher       | Judy Jones     | Jody Scales       | Alex Staton   |                    |
| Shane Cox          | Brent Maddox   | DeAndrea Sellers  | Jim Sullivan  |                    |

| Technical II/CA/QC |                |                 |              | \$110.00 per hour |
|--------------------|----------------|-----------------|--------------|-------------------|
| Jason Atkins       | John Bruner    | Donald Jackson  | James Patten | Larry Stavish     |
| William Benyo      | Adam Clinard   | Dianne Massey   | Jason Price  | Brent Tucker      |
| Michael Camp       | Kenya Chillous | Travis McKnight | Wes Spires   |                   |

| Technical III/CA |                 |                  |                    | \$80.00 per hour |
|------------------|-----------------|------------------|--------------------|------------------|
| Josh Amacher     | Andy Gregory    | Zach Merritt     | Jason Moorehouse   | Mark Smith       |
| Scott Arendsen   | Greg Harrison   | Allen Miller     | Cody Pierce        | Bobby Spencer    |
| Daniel Brown     | Mark Hohnhorst  | David Miller     | Jason Pierce       | Terry Staggs     |
| Skip Dickinson   | Ryan Jessie     | Forrest Milstead | Jimmy Pho          |                  |
| Donnie Earnest   | Christian Loden | Scott Montgomery | Winston Richardson |                  |

| Administrative  |                 |                  |                      | \$70.00 per hour |
|-----------------|-----------------|------------------|----------------------|------------------|
| Tiffany Adams   | Riley Davis     | Renee Fowler     | Missy Lee            | Beth Shepherd    |
| Kaci Bledsoe    | Carrie Day      | Patricia Gerecht | Ashley Morris        | JeanAnn Smith    |
| LuAnn Bowser    | Pat Dew         | Andrea Hodges    | Jill Nelson          | Patsy Stinson    |
| Rebecca Connell | Lanita Evans    | Tammy Huff       | Carli Small, LEED GA | Leah Swinney     |
| Elizabeth Cox   | Lauren Faulkner | Sue Jones        |                      |                  |

| Surveying                         |  |       |
|-----------------------------------|--|-------|
| Party Chief                       |  | \$100 |
| Two-Man Survey Party w/GPS        |  | \$145 |
| Three-Man Survey Party w/GPS; PLS |  | \$165 |

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**Exhibit B**

**ATTACHMENT TO STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ARCHITECT  
(B101-2007, 2007 Edition)**

**ANNEX 3 OFFICE BUILDING RENOVATIONS  
FOR THE MONTGOMERY COUNTY COMMISSION  
MONTGOMERY, ALABAMA  
GMC PROJECT NO. AMGM170022**

**December 13, 2017**

**ARTICLE 12  
Special Terms and Conditions**

**The Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services governs over the Exhibit "B" when the two are in conflict.**

**ARCHITECT'S RESPONSIBILITIES**

**12.1 Supplement To Article 2 Architect's Responsibilities.**

**Responsibilities for Delays**

- a. The Architect is not responsible for delays caused by factors beyond the Architect's reasonable control, including but not limited to delays because of strikes, lockouts, work slow downs or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Owner to furnish timely information or approve or disprove of the Architect's services or work product promptly, failure to obtain funding, failure to obtain major lease agreements or delays caused by faulty performance by the Owner or by the Contractors of any level. When such delays beyond the Architect's reasonable control occur, the Owner agrees the Architect is not responsible for damages, nor shall the Architect be deemed to be in default of this Agreement.

**ADDITIONAL SERVICES**

**12.2 Project Representation Beyond Basic Services**

- a. If more extensive representation at the site is required than is described under Article 3.4, Construction Phase, and if the Owner and Architect agree, one or more full-time Project Representative(s) shall be provided.
- b. It is agreed: (i) the Owner may elect, at its sole option, to provide full-time Project Representative(s), to be employed and compensated by the Owner and who shall be fully responsible to the Owner; or (ii) the Owner may elect, at its sole option, for the Architect to provide full-time Project Representative(s) as an Amendment to this Agreement.
- c. Through the on-site observations by full-time Project Representative(s) of the work in progress, the Architect shall endeavor to provide further protection for the Owner against defects in the work, but providing such project representation shall not modify the rights, responsibilities, or obligations or the Architect under this Agreement nor make the Architect responsible for construction means, methods,

techniques, sequences, or procedures, or for safety precautions and programs, or for the Contractor's failure to perform the work in accordance with the Contract Documents.

### 12.3 Document Revisions

Providing services to change drawings, related documents, and providing associated construction administration after the Owner has approved Design Development Documents, to include but not be limited to:

- a. Making changes to alter the Owner approved Construction Cost Budget to: (i) to reduce the Estimate of Probable Construction Cost below the current Construction Cost Budget to reflect a savings to the Owner or (ii) to upgrade the quality or scope of the Project by increasing the Estimate of Probable Construction Cost up to, but within the current Construction Cost Budget.
- b. Making changes caused by the Owner's representatives (including users, special engineer(s) and/or consultant(s)) due to (i) errors and omissions in their drawings, specifications and related documents (ii) conflicts between the Architect's documents and the Owner's representatives, user's, special engineer's and/or consultant's documents which do not conform to the parameters of the Architect's documents or (iii) the failure to provide the Architect with design information on a timely basis for the orderly progress of the Project, in accordance with the Project Design Schedule where the Architect was not in prior possession of information.
- c. In cases where any changes are required as a result of discrepancies in the Architect's documents and its basic consultants' documents, (normal and special) the Architect shall, within the Basic Service Compensation, provide the professional services necessary to affect like changes to its documents.
- d. The Architect will provide an estimate of additional cost, based on the Architect's hourly rates, and submit to the Owner for approval.

### 12.4 Other Additional Services

- a. Providing services to review, attend meetings and revise documents for Governmental directed changes after the documents have been approved by the Governmental Agency having jurisdiction over the Project.
- b. Providing services to accommodate concealed conditions after construction documents are complete, not to include normal or common coordination issues that can and should be expected in a renovation project.

### 12.5 Additional Consultants

- a. It is understood and agreed that: (i) the Owner may elect, at its sole option, to provide additional special consultant(s), beyond those included as part of the Specialty Consultants currently employed for the project, to be employed and compensated by the Owner and who shall be fully responsible to the Owner, or (ii) the Owner may elect, as its sole option, for the Architect to provide the additional special consultant(s) as an Amendment to this Agreement.

## MISCELLANEOUS PROVISIONS

### 12.6 Supplement to Article 10, Miscellaneous Provisions

- 10.9 There shall be no reduction in fee for actual services provided due to deductive Change Order items or deductive Alternates.
- 10.10 If a Change Order is generated as a result of an error or omission by the Architect, there will be no cost to the Owner for A/E fees.
- 10.11 Project Betterment  
If, due to the Architect's error, any required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the actual cost to add such item or component to the extent that such item or component would have been otherwise necessary for the project or otherwise adds value or betterment to the project. If due to Architect's error, the Architect will be responsible for added cost due to demolition, corrective or other rework and on upcharges for out of sequence work.
- 10.12 Consequential Damages  
Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Owner or the Architect, their employees, agents, subconsultants or subcontractors. Consequential damages include but are not limited to loss of use and loss of profit.
- 10.13 Indemnification  
Owner agrees to indemnify, hold harmless and defend the Architect and its Consultants from and against each and every claim made against Architect for loss of business, damages, equitable remedies, penalties, litigation expenses, attorney fees and insurance deductibles, or any combination thereof, brought against the Architect by reason of Architect's participation with the Project (as opposed to a claim based on Architect's own negligence, errors, or omissions) and arising out of interruption of public utilities, closing of public streets, and/or any injury to or destruction of tangible property, including the loss of use resulting from construction activities in and around the Project and other areas that must remain in use during the construction period. It is agreed and understood that the Owner, through itself and/or its Construction Manager, is responsible for providing access to restricted areas and for ensuring the proper and timely interruption and closing of public streets, as applicable. The Architect shall remain liable, however, for any claims brought against Architect, Owner, or others based upon Architect's professional negligent acts, errors or omissions in connection with Architect's performance under this Agreement or in connection with this Project.

### **END OF ARTICLE 12 Special Terms and Conditions**

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ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/06/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|--|-------------------------------------------|------------------------------------|---------------------------------------------------|--|--------------------------------------|--|--------------------------------------------------|---------------------|-----------------------------------------------------------|-------|--------------------------------------------------|--|------------------------------------------------------|-------|---------------------------------------------|-------|-----------------------|--|
| <b>PRODUCER</b><br>Harmon Dennis Bradshaw, Inc.<br>334-273-7277<br>P.O. Box 241667<br>Montgomery, AL 36124 | <table border="1"> <tr> <td colspan="2"><b>CONTACT NAME:</b> Julie Faulkner</td> </tr> <tr> <td><b>PHONE (A/C, No, Ext):</b> 334-517-1839</td> <td><b>FAX (A/C, No):</b> 334-273-9197</td> </tr> <tr> <td colspan="2"><b>E-MAIL ADDRESS:</b> jfaulkner@hdbinsurance.com</td> </tr> <tr> <td colspan="2"><b>INSURER(S) AFFORDING COVERAGE</b></td> </tr> <tr> <td><b>INSURER A:</b> Charter Oak Fire Insurance Co.</td> <td><b>NAIC #</b> 25615</td> </tr> <tr> <td><b>INSURER B:</b> Travelers Property Casualty Co of Ameri</td> <td>25674</td> </tr> <tr> <td><b>INSURER C:</b> AL Branch of AGC of AM Inc SIF</td> <td></td> </tr> <tr> <td><b>INSURER D:</b> Midwest Employers Casualty Company</td> <td>23612</td> </tr> <tr> <td><b>INSURER E:</b> Phoenix Insurance Company</td> <td>25623</td> </tr> <tr> <td><b>INSURER F:</b> CNA</td> <td></td> </tr> </table> | <b>CONTACT NAME:</b> Julie Faulkner |  | <b>PHONE (A/C, No, Ext):</b> 334-517-1839 | <b>FAX (A/C, No):</b> 334-273-9197 | <b>E-MAIL ADDRESS:</b> jfaulkner@hdbinsurance.com |  | <b>INSURER(S) AFFORDING COVERAGE</b> |  | <b>INSURER A:</b> Charter Oak Fire Insurance Co. | <b>NAIC #</b> 25615 | <b>INSURER B:</b> Travelers Property Casualty Co of Ameri | 25674 | <b>INSURER C:</b> AL Branch of AGC of AM Inc SIF |  | <b>INSURER D:</b> Midwest Employers Casualty Company | 23612 | <b>INSURER E:</b> Phoenix Insurance Company | 25623 | <b>INSURER F:</b> CNA |  |
| <b>CONTACT NAME:</b> Julie Faulkner                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>PHONE (A/C, No, Ext):</b> 334-517-1839                                                                  | <b>FAX (A/C, No):</b> 334-273-9197                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>E-MAIL ADDRESS:</b> jfaulkner@hdbinsurance.com                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER(S) AFFORDING COVERAGE</b>                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER A:</b> Charter Oak Fire Insurance Co.                                                           | <b>NAIC #</b> 25615                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER B:</b> Travelers Property Casualty Co of Ameri                                                  | 25674                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER C:</b> AL Branch of AGC of AM Inc SIF                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER D:</b> Midwest Employers Casualty Company                                                       | 23612                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER E:</b> Phoenix Insurance Company                                                                | 25623                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURER F:</b> CNA                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |
| <b>INSURED</b><br>Goodwyn Mills & Cawood, Inc.<br>2660 Eastchase Lane, Suite 200<br>Montgomery, AL 36117   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |  |                                           |                                    |                                                   |  |                                      |  |                                                  |                     |                                                           |       |                                                  |  |                                                      |       |                                             |       |                       |  |

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

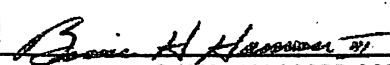
| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                    | ADDL INSR | SUBR WVD | POLICY NUMBER    | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                     |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|------------------|-------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER: | X         | X        | 6600J635966      | 03/03/2017              | 03/03/2018              | EACH OCCURRENCE \$1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000<br>MED EXP (Any one person) \$5,000<br>PERSONAL & ADV INJURY \$1,000,000<br>GENERAL AGGREGATE \$2,000,000<br>PRODUCTS - COMP/OP AGG \$2,000,000<br>\$ |
| E        | AUTOMOBILE LIABILITY<br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS                                     | X         | X        | 8100J635966      | 03/03/2017              | 03/03/2018              | COMBINED SINGLE LIMIT (Ea accident) \$1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                             |
| B        | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR<br><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE<br><input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000                                      |           |          | CUP9J063976TIL17 | 08/31/2017              | 08/31/2018              | EACH OCCURRENCE \$4,000,000<br>AGGREGATE \$4,000,000<br>\$                                                                                                                                                                                 |
| C        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                                                                                                                                                                                                                        |           |          | CA1452017AL      | 01/01/2017              | 01/01/2018              | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER                                                                                                                                                            |
| D        | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?                                                                                                                                                                                                                                            |           |          | EWCO09234        |                         |                         | E.L. EACH ACCIDENT \$1,000,000                                                                                                                                                                                                             |
| D        | (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                                                                                                                                             | N         | N/A      | PBSC180024       |                         |                         | E.L. DISEASE - EA EMPLOYEE \$1,000,000                                                                                                                                                                                                     |
|          |                                                                                                                                                                                                                                                                                                      |           |          |                  |                         |                         | E.L. DISEASE - POLICY LIMIT \$1,000,000                                                                                                                                                                                                    |
| F        | Excess                                                                                                                                                                                                                                                                                               |           |          | 6050024662       | 08/31/2017              | 08/31/2018              | 6,000,000<br>6,000,000<br>\$10,000 Retention                                                                                                                                                                                               |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project Name: AMGM170049 Annex 3 Office Building Renovations

## CERTIFICATE HOLDER

## CANCELLATION

|                                                                                        |                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Montgomery County Board of Commissioners</b><br>PO Box 1667<br>Montgomery, AL 36102 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br>AUTHORIZED REPRESENTATIVE<br> |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/9/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                                            |                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| PRODUCER<br>Crow Friedman Group<br>A Risk Strategies Company<br>109 Columbiana Road<br>Birmingham, AL 35209<br><br>www.risk-strategies.com | CONTACT NAME: Jackie Murk                                      |
|                                                                                                                                            | PHONE (A/C, No, Ext): 901-820-0400 FAX (A/C, No): 901-820-0402 |
|                                                                                                                                            | E-MAIL ADDRESS: jackie@crowfriedman.com                        |
|                                                                                                                                            | INSURER(S) AFFORDING COVERAGE                                  |
|                                                                                                                                            | INSURER A: Berkley Insurance Company                           |
|                                                                                                                                            | INSURER B:                                                     |
|                                                                                                                                            | INSURER C:                                                     |
|                                                                                                                                            | INSURER D:                                                     |
|                                                                                                                                            | INSURER E:                                                     |
|                                                                                                                                            | INSURER F:                                                     |

|           |                              |                  |
|-----------|------------------------------|------------------|
| COVERAGES | CERTIFICATE NUMBER: 38275058 | REVISION NUMBER: |
|-----------|------------------------------|------------------|

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                     | ADDL INSD | SUBR WVD | POLICY NUMBER  | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                               |
|----------|---------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|----------------|-------------------------|-------------------------|----------------------------------------------------------------------|
|          | COMMERCIAL GENERAL LIABILITY                                                                                                          |           |          |                |                         |                         | EACH OCCURRENCE \$                                                   |
|          | CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>                                                                   |           |          |                |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$                         |
|          |                                                                                                                                       |           |          |                |                         |                         | MED EXP (Any one person) \$                                          |
|          |                                                                                                                                       |           |          |                |                         |                         | PERSONAL & ADV INJURY \$                                             |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:                                                                                                    |           |          |                |                         |                         | GENERAL AGGREGATE \$                                                 |
|          | <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC                                        |           |          |                |                         |                         | PRODUCTS - COMP/OP AGG \$                                            |
|          | OTHER:                                                                                                                                |           |          |                |                         |                         | \$                                                                   |
|          | AUTOMOBILE LIABILITY                                                                                                                  |           |          |                |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$                               |
|          | ANY AUTO                                                                                                                              |           |          |                |                         |                         | BODILY INJURY (Per person) \$                                        |
|          | OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/>                               |           |          |                |                         |                         | BODILY INJURY (Per accident) \$                                      |
|          | HIRED AUTOS ONLY <input type="checkbox"/>                                                                                             |           |          |                |                         |                         | PROPERTY DAMAGE (Per accident) \$                                    |
|          |                                                                                                                                       |           |          |                |                         |                         | \$                                                                   |
|          | UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/>                                                                 |           |          |                |                         |                         | EACH OCCURRENCE \$                                                   |
|          | EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/>                                                             |           |          |                |                         |                         | AGGREGATE \$                                                         |
|          | DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>                                                                    |           |          |                |                         |                         | \$                                                                   |
|          | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                                                         |           |          |                |                         |                         | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A |           |          |                |                         |                         | E.L. EACH ACCIDENT \$                                                |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                |           |          |                |                         |                         | E.L. DISEASE - EA EMPLOYEE \$                                        |
|          |                                                                                                                                       |           |          |                |                         |                         | E.L. DISEASE - POLICY LIMIT \$                                       |
| A        | Professional Liability                                                                                                                |           |          | AEC-9015704-01 | 7/1/2017                | 7/1/2018                | Each Claim \$2,000,000<br>Aggregate \$4,000,000                      |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

AMGM170049 Annex 3 Office Building Renovations

## CERTIFICATE HOLDER

Montgomery County Commission  
PO Box 1667  
Montgomery AL 36102

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

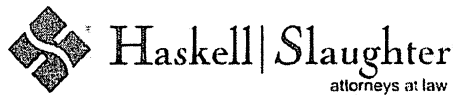
Michael Christian

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ACORD 25 (2016/03)

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8275058 | Master Professional 07/01/17-18 | Dena Long | 10/9/2017 10:29:27 AM (CDT) | Page 1 of 1



Haskell Slaughter & Gallion, LLC  
8 Commerce Street  
Suite 1200  
Montgomery, Alabama 36104  
t. 334.265.8573 | f. 334.264.7945

## MEMORANDUM

December 14, 2017

TTG

To: Donnie Mims  
From: Thomas T. Gallion, III  
Re: Architect Agreement with Goodwyn Mills Cawood for Annex III Renovation

---

I have reviewed your request for opinion on architect agreement with Goodwyn Mills Cawood for Annex III Renovation.

It is my opinion that the 8.3.4, 8.3.4.1-8.3.4.3 CONSOLIDATION OR JOINDER should be removed from the agreement. The only language needed is the County's standard Dispute Resolution which is contained in Section 8.4.1 on page 15. This language overrides any other dispute language contained in the agreement.

I am also of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why the agreement should not be executed if it is the desire of the Montgomery County Commission.

50051-317

ELTON N. DEAN, SR.  
CHAIRMAN  
RONDA M. WALKER  
VICE CHAIRMAN

DANIEL HARRIS, JR.  
ISAIAH SANKEY  
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA  
ADMINISTRATOR  
FLORENCE M. CAUTHEN  
DEPUTY ADMINISTRATOR  
334.832.1210  
FAX: 334.832.2533  
TDD: 334.265.3568  
WWW.MC-ALA.ORG

December 14, 2017

**MEMORANDUM**

TO: Thomas T. Gallion, III  
County Attorney

FROM: Donald L. Mims  
County Administrator

SUBJECT: Owner/Architect Agreement for Annex III Renovation Project

Enclosed is an Owner/Architect Agreement with Goodwyn Mills and Cawood, Inc., regarding renovation work at the Montgomery County Courthouse – Annex III.

The Dispute Resolution is included in the Agreement and referenced on page 15, §8.4.1.

Please review the Agreement and issue your opinion by 10:00 a.m., Thursday, December 14, 2017, as to whether it is acceptable.

As always, thank you for your assistance.

DLM/tn

Enclosure

- A COUNTY OLDER THAN THE STATE -

P.O. BOX 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210