



REQUEST FOR PROPOSALS

Cannon Beach City Hall/Police Department Design and Construction Documents

**DATE:
June 17, 2022**

CITY OF CANNON BEACH
PO Box 368
163 East Gower Street
Cannon Beach, Oregon 97110
(503) 436-1581

TABLE OF CONTENTS

SECTION 1 – INVITATION.....	3
SECTION 2 – INTRODUCTION AND GENERAL INFORMATION	5
SECTION 3 –SCOPE OF WORK.....	14
SECTION 4 – PROPOSAL AND PROPOSER REQUIREMENTS.....	22
SECTION 5 – PROPOSAL SELECTION AND EVALUATION	28
SECTION 6 – CONTRACT REQUIREMENTS	31
 ATTACHMENTS:	
A: CERTIFICATIONS.....	32
B: FORM OF PROFESSIONAL SERVICES AGREEMENT.....	34

INVITATION
CANNON BEACH
REQUEST FOR PROPOSALS (RFP)
CANNON BEACH CITY HALL/POLICE STATION
DESIGN AND CONSTRUCTION DOCUMENTS

Proposals Due by 4:00 p.m., July 19, 2022

The City of Cannon Beach (“City”) is requesting proposals from qualified design firms (“Design Firm”) to provide complete planning, design, bidding and construction administration services for a new City Hall/Police Station.

The City intends the project to be located on the eastern side of the current City Hall/Police Station site. The scope of services will include the hiring and management of subconsultants necessary for the successful completion of the project.

The entire site is 1.22 acres and the available land for construction is 0.76 acres.

The Cannon Beach City Council reviewed and approved an exemption to traditional competitive bidding to deliver the redevelopment of the property through a Construction Manager/General Contractor (“CM/GC”) delivery method. This RFP will be used to select a Design Firm well qualified to deliver the requested services within a CM/GC context. Responses to this RFP will be reviewed, scored, and ranked according to the criteria and process defined in this RFP. The City will select a Design Firm it determines to be the most qualified to provide the necessary services to redevelop the property through a CM/GC delivery method.

There will be a mandatory Pre-Proposal meeting to be held on June 29, 2022 at 2:00 pm at the site of the current City Hall/Police Station located at 163 East Gower St. in Cannon Beach. The purpose of the meeting is to share information and answer questions about the project. **Anyone or any firm intending to submit a proposal must have a representative at this meeting.**

RFP documents are available by contacting Rusty Barrett, Contract Coordinator City of Cannon Beach, at 503-436-8093, or [e-mail: rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us) The RFP may also be downloaded from the City’s website at www.ci.cannon-beach.or.us.

Proposals must be received by 4:00 p.m., July 19, 2022, by Rusty Barrett at rbarrett@ci.cannon-beach.or.us or at City Hall 163 E Gower St., PO Box 368 Cannon Beach, OR 97110. Proposals may be submitted electronically or by mailed or delivered paper copy. Facsimile proposals will not be accepted. Proposals received after the designated time and date may not be considered.

The City may reject any proposal not in compliance with all prescribed solicitation procedures and requirements and other applicable law and may reject any or all proposals in whole or in part when the cancellation or rejection is in the best interest of the City.

Dated 17th day of June 2022
Bruce St. Denis, City Manager

SECTION 2 – INTRODUCTION AND GENERAL INFORMATION

2.1 INTRODUCTION

The City of Cannon Beach (“City”) is an Oregon municipal corporation with a 2020 census population of approximately 1,489. The City is governed by a City Council comprised of four Councilors and the Mayor. The City is now accepting proposals to provide professional services for the design and construction documents for a new City Hall/Police Station at the current location of those facilities.

The project estimated cost is \$17.7M and the City’s target completion date for this project is December 2024.

The scope of services will include the hiring and management of subconsultants necessary for the successful completion of the project. Subconsultants will be paid through the fee paid to the Design Firm selected for the work. The City will deliver construction of the project through a Construction Manager/General Contractor (“CM/GC”) method. The selected Design Firm must demonstrate it has a history of successfully working with public agencies and contractors as part of a CM/GC team.

The already completed facility program projects the total square footage to be approximately 16,000 square feet. The actual size of the facility will be determined during the design process. The new facility will house the Police Department, Community Development Department, Administration, Public Works Admin, I/T, Finance, Emergency Management, the Haystack Rock Awareness Program, Farmers Market and City Council Chamber that will double as an Emergency Operations Center.

The City Hall / Police Station project website is located [here](#). Look for the Facilities Reports listed under the materials provided for previous studies.

2.2 ISSUING OFFICE AND SUBMITTAL LOCATION

Rusty Barrett, Contract Coordinator, is the point of contact for the City for questions and protests concerning this RFP. Rusty Barrett can be reached at 503-436-8093 or rbarrett@ci.cannon-beach.or.us.

In order to be considered for this project, proposals must be received no later than July 19, 2022, at 4:00 p.m. The City is allowing proposals to be submitted

electronically or by printed copy. Electronic submittal is preferred. Electronic proposals should be submitted to Rusty Barrett at rbarrett@ci.cannon-beach.or.us.

If paper copies are submitted, the Proposer must provide **five** total bound copies of the proposal; one copy should be marked “ORIGINAL”. **The outside of the sealed envelope containing the proposal should state “Design Services for the construction of a City Hall/Police Station” and shall be addressed to:**

City of Cannon Beach
Rusty Barrett, Contract Coordinator
163 East Gower Street
PO Box 368
Cannon Beach, OR 97110

2.3 ANTICIPATED RFP SCHEDULE

The City anticipates the following general timeline for receiving and evaluating the proposals and selecting a firm/individual for design development and construction documents. The schedule may be changed if it is in the City’s best interest to do so.

• RFP Advertised in Daily Journal of Commerce	June 17 & 22, 2022
• Mandatory Pre-Proposal Meeting	June 29, 2022 at 2:00 pm
• Deadline to Submit Changes/Solicitation Protest	July 6, 2022
• Last Date for an Addenda	July 12, 2022
• Receive Proposals	July 19, 2022 at 4:00 pm
• Proposer Interviews	August 2 & 4, 2022
• Notice of Intent to Award	September 2, 2022
• Award Protest Period Ends	September 9, 2022
• City Council Approval	September 13, 2022
• Commence Contract Activities	September 27, 2022
• A/E Services Completion Date	December 2024
• Target Completion Date	December 2024

There will be a mandatory Pre-Proposal meeting to be held on June 29, 2022 at 2:00 pm at the site of the current City Hall/Police Station located at 163 East Gower St. in Cannon Beach. The purpose of the meeting is to share information and answer questions about the project. **Anyone or any firm intending to submit a proposal must have a representative at this meeting.**

2.4 CHANGES TO THE SOLICITATION BY CITY ADDENDA

The City reserves the right to make changes to the RFP by written addendum, which shall be issued to all prospective Proposers who attended the mandatory pre-proposal meeting.

A prospective Proposer may request a change in the RFP by submitting a written request to the address set forth above. The request must specify the provision of the RFP in question and contain an explanation for the requested change. NOTE: All requests for changes or additional information must be submitted to the City no later than the date set in the RFP Schedule. The City will evaluate any request submitted but reserves the right to determine whether to accept the requested change. If in the City's discretion, additional information or interpretation is necessary, the information will be supplied in the form of an addendum.

Any addenda shall have the same binding effect as though contained in the main body of the RFP. Oral instructions or information concerning the scope of work of the project given out by employees, or agents to the prospective Proposers are not binding on the City and may not be relied on by Proposers.

- a) Addenda will be emailed or delivered to all prospective Proposers who attended the mandatory pre-proposal meeting.
- b) No addenda will be issued later than the date set in the RFP Schedule, except an addendum, if necessary, postponing the date for receipt of Proposals, withdrawing the invitation, modifying elements of the proposal resulting from a delayed process, or requesting additional information, clarification, or revisions of proposals leading to obtaining best offers or best and final offers.
- c) Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued, and receipt of each Addendum shall be acknowledged in the appropriate location on each Addendum and included with the Proposal submittal.

2.5 CONFIDENTIALITY

All information submitted by Proposers is a public record and is subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which Proposer requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the Proposal the Proposer requests exception from disclosure. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document

submitted to the City as a result of this RFP. Proposer may not mark the entire proposal document "Confidential."

2.6 CANCELLATION

The City reserves the right to cancel award of this contract at any time before execution of the contract by both parties if the City deems cancellation to be in the City's best interest. In no event shall the City have any liability for the cancellation of award.

2.7 LATE PROPOSALS

All Proposals that are not received by the deadline stated in the RFP schedule will be considered late. The City, in its sole discretion, may choose to accept or reject late proposals. Delays due to mail and/or delivery handling, including, but not limited to delays within City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the stated deadline.

2.8 DISPUTES

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the terms of the RFP, the decision of the City shall be final and binding upon all parties. Disputes must be in writing and should be addressed to Rusty Barrett, Contract Coordinator 163 E. Gower Street, P.O. Box 368, Cannon Beach, OR 97110 or to rbarrett@ci.cannon-beach.or.us. Any dispute or protest to the terms of the RFP must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest.

2.9 PROPOSER'S REPRESENTATION

Proposers, by the act of submitting a Proposal, represent that:

- a) They have read and understand the Proposal Documents and their Proposal is made in accordance therewith;
- b) They have familiarized themselves with the site and the general location of the project;
- c) They can demonstrate a successful history of providing professional services to public owners through a CM/GC delivery method.
- d) The Proposal is based upon the requirements described in the Proposal Documents without exception (unless exceptions are clearly stated in the response).

2.10 CONDITIONS OF SUBMITTAL

By submitting a Proposal, the Proposer certifies that:

- a) The Proposer and each person signing on behalf of any Proposer certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof other than as fully described in the Proposer's response to this solicitation.
- b) The Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and, if its Proposal is accepted, the Proposer shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Proposer.
- c) The Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and that no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.

2.11 PROPOSER REQUESTS INTERPRETATION OF RFP DOCUMENTS

Proposers shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of the Proposal Documents.

Proposers requiring clarification or interpretation of the Proposal Documents shall make a written request for same to Rusty Barrett, at the submittal address located in Section 2.2. Any such request must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest.

The City shall make interpretations, corrections, or changes of the Proposal Documents in writing by published Addenda. Interpretations, corrections, or changes of the Proposal Documents made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes.

Should any doubt or difference of opinion arise between the City and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this solicitation, the City's decision is final and binding on all parties.

2.12 PROPOSER REQUESTS FOR ADDITIONAL INFORMATION

Requests for information regarding City services, programs, or personnel, or any other information shall be submitted in writing directly to Rusty Barrett at the address in the Invitation. All requests for additional information shall be submitted in writing. Any such request must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest. Answers shall be provided to all Proposers of record on the date that answers are available.

2.13 COMPETITION

No later than the deadline identified above to request changes or to submit a solicitation protest, a Proposer may comment in writing on any specification or requirement within this RFP that the Proposer believes will inordinately limit competition.

2.14 COMPLAINTS AND INEQUITIES

Any complaints or perceived inequities related to this RFP or award of work referenced herein shall be in writing and directed to Rusty Barrett at the contact information listed in Section 2.8 and shall be received no later than the date identified above to request changes or to submit a solicitation protest. Such submittals will be reviewed upon receipt and will be answered in writing.

2.15 COST OF RFP AND ASSOCIATED RESPONSES

The City is not liable for any costs incurred by a proposer in the preparation and/or presentation of a proposal. The City is not liable for any cost incurred by a proposer in protesting the RFP or the City's selection decision.

2.16 CITY TO REQUEST CLARIFICATION, ADDITIONAL RESEARCH, & REVISIONS

The City reserves the right to obtain clarification of any point in a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in a finding that the Proposer is non-responsive and consequent rejection of the Proposal.

The City may obtain information from any legal source for clarification of any Proposal or for information on any Proposer. The City need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole option, investigations of the responsible Proposer. Information may include, but shall not necessarily be limited to credit history, recent financial statements, current litigation, bonding capacity and related history, and contacting references. All such documents, if requested by the City, become part of the public records and may be disclosed accordingly.

The City reserves the right to request revisions of Proposals after submission and before award for the purpose of obtaining best offers or best and final offers.

2.17 REJECTION OF PROPOSALS

The City reserves the right to reject any or all Proposals received as a result of this request. Proposals may be rejected for one or more of the following reasons, including but not limited to:

- a) Failure of the Proposer to adhere to one or more of the provisions established in this RFP.
- b) Failure of the Proposer to submit a Proposal in the format specified herein.
- c) Failure of the Proposer to submit a Proposal within the time requirements established herein.
- d) Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.

The City may reject any Proposal not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any or all Proposals upon a finding of the City that it is in the public interest to do so.

2.18 MODIFICATION OR WITHDRAWAL OF PROPOSAL BY PROPOSER

A Proposal may not be modified, withdrawn, or canceled by the Proposer for (90 (ninety) calendar days following the time and date designated for the receipt of Proposals.

Prior to the time and date designated for receipt of Proposals, Proposals submitted early may be modified or withdrawn only by notice to Rusty Barrett, at the Proposal submittal location, prior to the time designated for receipt of Proposals. Such notice shall be in writing and contain the signature of the Proposer. All such communications shall be so worded as not to reveal the

amount of the original Proposal or any other material contents of the original Proposal.

Withdrawn Proposals may be resubmitted up to the time designated for the receipt of Proposals provided that they are then fully in conformance with these Instructions to Proposers.

2.19 PROPOSAL OWNERSHIP

All Proposals submitted become and remain the property of the City and, as such, are considered public information and subject to public disclosure within the context of the laws governing public records in Oregon. As required by Oregon law, all proposals are exempt from disclosure until the City issues a Notice of Intent to award a contract to a Design Firm.

Unless certain pages or specific information are specifically marked "proprietary" and legally qualify as such, the City shall make available to any person requesting information through the City's processes for disclosure of public records, any and all information submitted as a result of this solicitation without obtaining permission from any Proposer to do so after the Notice of Intent to award has been issued.

2.20 DURATION OF PROPOSAL

Proposal prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of submittal. The successful proposal shall not be subject to future price escalation or changes of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

2.21 INTERGOVERNMENTAL COOPERATIVE AGREEMENT

Not applicable to this solicitation.

2.22 AFFIRMATIVE ACTION/NONDISCRIMINATION

By submitting a proposal, the Proposer agrees to comply with the Fair Labor Standard Act, Civil Rights Act of 1964, Executive Order 11246, Fair Employment Practices, Equal Employment Opportunity Act, Americans with Disabilities Act, and Oregon Revised Statutes. By submitting a proposal, the Proposer specifically certifies, under penalty of perjury, that the Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

2.23 PERFORMANCE AND PAYMENT BONDS

No performance and payment bonds are required.

SECTION 3 - SCOPE OF WORK

The following is a general description of the scope of services that the City wants the selected Design Firm to provide. A detailed scope of services will be developed with the selected Design Firm.

3.1 Services Provided By City: Proposers shall assume that the City will provide specialty services as follows:

- Geotechnical
- Environmental Testing
- Specialty inspections and/or materials testing as needed for items such as steel and concrete and roofing
- Archeological surveys

Information Provided by City:

- Provide the use of existing maps, aerials and AutoCAD base map for design and reproduction purposes.
- Provide existing studies or community development plans that may affect decisions or recommendations. The City will provide any zoning and land division ordinances or information that is relevant to the project.
- Provide stakeholder contact information.
- Schedule and facilitate City Council meetings and prepare agendas as needed.

3.2 Design Phase Responsibilities and Deliverables

3.2.1 Have a project “kick-off” meeting that introduces a review of existing conditions review including: 1) Introduction of team members, 2) site tour 3) review any existing design or scoping information.

3.2.1 Develop projected project design schedule.

The schedule will be comprised of 6 distinct phases that are part of the overall “**Design Process**”:

- A. **Pre-design Phase:** This is a time for the selected firm to become familiar with the Cannon Beach design aesthetic and the ongoing efforts to re-capture and maintain it’s village

atmosphere. The site is located in what is known as “Mid-Town” and the current facility does little to add to the area’s ambiance. Pre-design is a time designated for the Design Firm to become familiar with the site including the physical and environmental aspects of the site, adjacent properties, traffic patterns and to conduct multiple sessions with Council, the public and other interested parties to learn about what people want to see from the project.

- B. **Schematic Design Phase:** This phase is where ideas are put to paper to explore options. Over time ideas will coalesce into concepts that reflect the ideas of residents and interested parties. At some point this phase will produce a single concept that is adopted by the city council that will become the “Base” for future design phases. The Schematic Design Phase is where conversations regarding sustainability elements of the project are introduced.

The space available for construction of the new facility is very limited as it is being shared with the current City Hall/Police Station and associated parking. The city would like to see some design options to maximize the opportunities of the site that may include removing the existing structures to have the new facility have a maximum positive impact on the Mid-Town neighborhood.

The residents want the new facility to enhance and reflect the aesthetic values of the community.

- C. **Design Development Phase:** This is where the “base” concept from the schematic design phase is further developed including more detailed drawings of interiors/exterior, finishes and preliminary ideas about required structural improvements and mechanical systems begin to develop.

Prior to completion of the design development phase, hold a meeting to present the design to the City Council and public for final comment. If needed, revise design development documents until approved.

- D. **Contract Drawing Phase:** this is where decisions about finishes, design details for interiors and exteriors and the literal “nuts and bolts” decisions regarding floor, wall, mechanical, structural, lighting, sound system specifications are finalized down to the allowable options list.
- E. **Bidding Phase:** This is where that bidding for the subcontractors submit their proposals based on the Contract Drawings.
- F. **Construction Administration Phase:** This is where the contractor undertakes the work of completing the improvements and the Design Firm monitors the work for quality and compliance with the Contract Drawings.

- 3.2.3 Throughout the design process and especially during the schematic design phase the selected Design Firm is expected to work closely with the City Council, City staff, and the broader community to provide conceptual designs as options for the new Facility.
- 3.2.4 Assist the City in selecting a CM/GC and work closely with the selected CM/GC from the design development phase to complete the design up to the point of construction documents.
- 3.2.5 Take primary responsibility for planning and coordination with local planning and building officials during pre-design to ensure compliance with City requirements.
- 3.2.6 Throughout the design process as needed, conduct progressive reviews with City staff and the CM/GC to obtain City approvals with design and specification decision, and adherence to design schedule and budget. Work with CM/GC to permit CM/GC to present City with Guaranteed Maximum Price (GMP) proposal for construction phase.
- 3.2.7 Meet regularly and as necessary with appropriate city officials to assure that developing and final designs and drawings are

consistent with applicable codes as interpreted by the officials having jurisdiction.

- 3.2.8 Prior to completion of the design development phase, hold a meeting to present the design to the City Council and public for final comment. If needed, revise design development documents until approved.
- 3.2.9 In coordination with City staff and the CM/GC, the Design Firm will present each successive design phase to the public for comments and to the City Council for comment and direction. City Council approval is required prior to commencing to the successive design phase.
- 3.2.10 Advise and coordinate implementing costing, savings, value engineering, and control procedures and documentation to meet budgetary limitations.
- 3.2.11 Ensure design progresses in accordance with the design schedule.
- 3.2.12 Consult with City staff and the CM/GC on all material specifications and selections to assure installation of low maintenance products with the highest life cycle value. Provide various construction options and implementation methods to optimize material performance and cost savings.
- 3.2.13 Advise in the selection of any additional consultants and contractors as needed.

3.3 Construction Documents Phase Responsibilities and Deliverables

- 3.3.1 Develop Construction Documents, including detailed designs, drawings, specifications and any other documentation needed for the CM/GC to obtain subcontractor bids.
- 3.3.2 Consult with City and CM/GC regarding bid packages for subcontractors and assist CM/GC as needed in preparation of bid packages.

- 3.3.3 Assist the City and CM/GC in evaluating subcontractor bids or proposals.
- 3.3.4 Obtain permitting agency plan checks and permits prior to the release of subcontractor bid packages.

3.4 Construction Phase Activities

- 3.4.1 Perform a detailed analysis of the CM/GC's proposed schedule to identify flaws in logic or potential points where claims are most likely to occur. Continue to monitor and report schedule compliance or issues to the City.

Visit construction site to monitor progress, workmanship and to conduct project design and specification compliance inspections.

- 3.4.2 Alert City to any concerns or potential problems as soon as they are recognized by the Design Firm. Convey alternatives to the City and make recommendations regarding solutions that are in the City's best interests.
- 3.4.3 Attend construction meetings and maintain project documentation as necessary.
- 3.4.5 Review and track all shop drawings submittals to assure compliance with Construction Documents. Closely coordinate status of shop drawing with CM/GC to ensure project will progress smoothly. This is a critical component of the Construction Document phase and a key responsibility of the Design Firm. This will be monitored regularly by the City.
- 3.4.6 Review, track and respond to CM/GC on all Requests For Information (RFI's). This is a key responsibility of the Design Firm and will be monitored regularly by the City. This is a critical component of the Construction Administration phase and a key responsibility of the Design Firm. This will be monitored regularly by the City.
- 3.4.7 Review payment requests and recommend payment or appropriate modification of progress payment billings from

CM/GC and review recommendations with City before approval.

- 3.4.8 Immediately notify City of any potential or actual CM/GC claims, investigate, conduct analysis and make recommendations for options for City action.
- 3.4.9 Closely monitor schedule compliance for all subcontractors, construction documents and other documentation and notify City of any potential claims and recommend action to eliminate or mitigate potential claims.

3.5 Close-out Phase Activities

- 3.5.1 Prepare and monitor punch list.
- 3.5.2 Confirm status and completion of punch list and prepare Certificate of Final Completion to be issued upon City's direction.
- 3.5.3 Continue coordination with appropriate local building officials.
- 3.5.4 Receive, review and approve for completeness and accuracy contract closeout documentation, as-builts, O&M's and recommend final acceptance when appropriate. Provide hard and digital copies of all construction/as-built documents for archiving by City.
- 3.5.5 Review and make recommendation for final payment to the CM/GC.

3.6 Responsibilities

Responsibility of Design Firm – It is understood and agreed that the services the Design Firm will be required to perform under this contract shall be rendered directly by or under close personal supervision by the Design Firm, and that the work shall be faithfully performed with care and diligence.

The Design Firm will make sure that the appropriate individuals return all calls or other contacts from the City and/or CM/GC within a reasonable time. If it is not possible for the called or contacted party to respond, the

Design Firm will make arrangements for a qualified member of the Design Firm to respond to the contact.

If issues related to design, construction, materials, cost, or other items are identified by the Design Firm or CM/GC during the construction phase, the Design Firm shall investigate the issue, review the project contracts to determine who is responsible for resolving the problem and to bring options to the City for consideration.

If there is a problem identified by the Design Firm or CM/GC during the construction phase, the Design Firm shall investigate the facts regarding the issue, review the project contracts to determine who is responsible for resolving the problem and to bring options to the owner for consideration.

The Design Firm will provide cell phone numbers of the lead designer, their supervisor, the lead construction administrator and their supervisor, the principal in charge of this project and the lead principal of the local firm, as applicable, where the design is being managed and construction work responses originate.

Responsibility of the City – The City will provide the Design Firm with a list of designated City employees who are authorized to contact the Design Firm. The City will also provide a point of contact for all service and billing issues.

If issues arise during the construction phase, the City is responsible for selecting an appropriate resolution from among options presented by the Design Firm or other option identified by the City.

The City will hold meetings on site, no less than monthly, during the construction phase to meet with the project representatives of the Design Firm and the CM/GC. **A principal of the Design Firm and a principal of the CM/GC will be required to attend the meetings.** The purpose will be to discuss progress that was accomplished in the previous month and what is expected in the next month. Discussions will occur regarding product delivery schedules, potential substitutions, progress and status of RFI's and shop drawing submittals, schedule compliance or changes, status of compilation of as-builts and reviews. The intent is to identify any current

or upcoming issues that that may affect the project quality, schedule or final documentation.

Responsibility of the CM/GC- The specific obligations of the CM/GC will be established through a future RFP and a subsequent contract with a qualified CM/GC. Generally speaking, the CM/GC will:

- (i) Provide preconstruction services to the City including closely advising the Design Firm on conditions of the existing facilities, constructability issues, material selection, construction techniques;
- (ii) Optimize a schedule for construction;
- (iii) Develop and submit for the City's approval a Guaranteed Maximum Price ("GMP") proposal; and, if City accepts a GMP proposal, construct the improvements.
- (iv) The CM/GC will work closely with the Design Firm during design development and the CM/GC's preconstruction services will include constructability reviews of the design as it progresses.
- (v) The CM/GC may also be required to procure certain items with long lead times in advance of construction and perform early construction work.

3.7 Changes of Scope and Additional Work

The Proposer may be requested to perform special projects for the City. Because of variations in the demand for additional services from time to time, such work shall be agreed upon in advance, contracted for, provided and billed separately to the City on a pre-arranged basis.

SECTION 4 – PROPOSAL AND PROPOSER

REQUIREMENTS 4.1 SUBMITTAL OF PROPOSALS

In order to be considered for this project, proposals must be received no later than July 19, 2022 at 4:00 p.m. **The proposal is to be submitted without proposed fees.**

The City is allowing proposals to be submitted electronically or by printed copy. Electronic submittal is preferred. Electronic proposals are to be submitted Rusty Barrett at rbarrett@ci.cannon-beach.or.us If paper copies are submitted, the Proposer must provide five total bound copies of their proposal; one copy should be marked “ORIGINAL”. **The outside of the sealed envelope containing the proposal should state “*Design Services for the Construction of a new City Hall/Police Station for Cannon Beach* and shall be addressed to:**

City of Cannon Beach
Rusty Barrett, Contract Coordinator
168 Gower Street
PO Box 368
Cannon Beach, OR 97110

4.2 PROPOSER REQUIREMENTS

Mandatory Requirements (Pass/Fail). These requirements will not be scored. Failure to meet any of these qualifications will render your proposal non-responsive.

- 1) Introductory Letter. This letter (no more than 2 pages) shall specifically stipulate that the Design Firm accepts all terms and conditions contained in the RFP and supporting documents. The letter shall name the person(s) authorized to represent the Design Firm in any negotiations and the name of the person(s) authorized to sign any contract that may result.
- 2) Proof of Licensure. Design Firm shall submit proof that they and any sub-consultants have current, active license to practice architecture in the State of Oregon. Design Firm and any sub-consultants shall obtain a City business license if selected.
- 3) The following minimum criteria will apply:
 - A. Proposer shall include sufficient evidence as to the Proposer’s ability to perform the work. This information shall disclose and include all

- pertinent facts as may be appropriate and shall include a description of past performance on projects of similar type, scope and size.
- B. Proposers shall have a minimum of providing design and construction services for three similar construction projects on tight sites delivered through a CM/GC method.
 - C. Proposers shall have experience in conducting public workshops to collect input from the public and interested parties, for seeking direction from the City, and develop quality public presentations.
 - D. Proposers shall demonstrate the ability to provide the services required within the Scope of Work, within the timeline indicated to the City and shall demonstrate a proven history of providing such services.
 - E. Proposers shall not have a record of providing substandard services. The City will verify this requirement by communication with the licensing authority, the Proposer's clients and references, and as many other references as may be deemed appropriate.

4.3 PROPOSER REPRESENTATIONS

The Proposer further agrees to the following:

- A. To examine all specifications and conditions thoroughly.
- B. To provide for appropriate insurance, deposits, and performance bonds if required.
- C. To comply fully with the scope of services for the agreed contract.
- D. That any and all registration and certification requirements required for any subconsultants are met as set forth in the Oregon Revised Statutes.

4.4 PROPOSER REPRESENTATIVE

The selected Proposer shall assign a competent representative acceptable to the City who will represent the Proposer in providing contracted services to the City. If the representative is removed by the Proposer, the new representative must be acceptable to the City.

4.5 PROPOSAL FORMAT AND REQUIREMENTS – MANDATORY

Each Proposer shall provide the following:

4.5.1 Format Proposal shall be submitted with the following formatting limitations:

- A. Proposals must be submitted on letter-sized (8.5" X 11") paper. Margins must be at least 1/2" on all sides. Font size can be no smaller than 12 point.
- B. **Proposals must not exceed fourteen (14) single-sided pages or seven (7) double-sided pages.** Proposers must include an introductory letter (described below) with the proposal. The letter must not exceed two pages and the letter is not **included** within the 14/7 page limitations.
- C. The proposal should be focused on the specifics of how you see your firm managing this project and why you are the best firm to deliver this project for the city. It should clearly and succinctly demonstrate why the proposer believes they are the most qualified Design Firm for the project. Additional information may be submitted. However, the information that is contained within the 14/7 page limitation will serve as the basis of the City's review and evaluation.
- D. Provide detailed information on the specifications and features of the proposed services as listed below. Provide any suggestions for services you would recommend that were not requested in the scope and why you recommend those services. Please provide answers in this format and as straightforwardly as possible.
- E. Proposers must submit Proof of Licensure, which will not count against the total page limitation. Proposers may submit resumes, which may not exceed two (2) single-sided pages, or one (1) double-sided page. Such resumes will not count against total page limitation.

4.5.2 Introductory Letter

Include the name of the proposing firm or individual and its principal business address and phone number. The letter should address the Proposer's willingness and commitment to provide the services as outlined in the Scope of Work. The letter should be addressed to Bruce St. Denis, City Manager and should be signed by an officer of the firm authorized to bind the firm to the proposal and a subsequent contract, as applicable. Please provide all contact

telephone, fax numbers, e-mail addresses, and addresses of your office(s).

4.5.3 Proposer Profile and References

The Proposal must include the following information:

- A. An overview of the firm's structure and organization, a description of the firm including when it was founded, staffing level and expertise, Identify who will be the City's contact during design, bidding and construction and the scope of services available. Provide the proposed organizational structure under which the Proposer will provide the requested services to the City, including the designation of the Principal in Charge and other key personnel.
- B. Describe firm's recent experience in providing architectural services in the design and construction of at least the three (3) most recent projects that are similar in size and scope to that contemplated for this project and that were delivered preferably using a CM/GC method. The description should include any other services provided by Proposer not specifically listed in the solicitation. Include any procured services or personnel located within Clatsop County. Include the same information for key sub-consultants, such as engineering firms, as well. When citing specific examples, always clarify the following:
 - (1) The name, location, client entity, and year of completion of the project.
 - (2) Project scope, size in square feet, bid costs of project, and final cost of the built project. Projects in progress may be described with the current anticipated scope, size and estimated cost.
 - (3) Define roles each member of the project team had, if any, on the project.
 - (4) Contracting type and firm's role in delivery of the project (e.g. Construction Manager/General Contractor (CM/GC), Design-Build, Design-Bid-Build, Private Bid).
 - (5) Project References should include the names, position or role, and current contact information for client representatives or other persons who became familiar with your firm's work and performance on the project.

- C. A description of all projects which the Proposer is currently working on which may pose a potential conflict with the completion of this project.
- D. Key Personnel. Provide a company-wide organizational chart that highlights the key personnel that will be assigned to the work should your firm be selected for contract award. Identify Principal, Project Manager, and other key staff, and extent of their involvement should your firm be selected. Identify staff from key sub-consultants mentioned above. Describe individual roles, responsibilities, credentials, and related experience that will allow the City to evaluate the qualifications of the individuals proposed for the project. Include each individual's percentage of overall time that can be dedicated to the project. Upon execution of the contract, Design Firm shall notify the City of any changes to key personnel assigned to the project.

4.5.4 Proposer's Services

Please provide detailed information on the specifications and features of the proposed services as listed below. Provide any suggestions for services you would recommend that were not requested in the scope and why you recommend those services. Please provide answers in this format and as straightforwardly as possible.

- A. Indication that the Proposer has a clear understanding of the requested services by describing your scope of services for pre-design activities through construction close-out.
- B. Outline and description of project tasks, how they will be accomplished within the specified timeframe, any challenges the Proposer foresees and how those challenges will be addressed. Please provide a description of assumptions regarding City staff responsibilities as they pertain to this project.
- C. Estimated project timeline showing all major milestones and other relevant information.

- D. Furnish a disclosure statement of involvement in any civil or criminal litigation or investigation regarding your business practices during the past five years.

4.5.5 Proposed Fees

Proposed fees are not to be included with the initial proposal. Fees will be requested from the top ranked firm at the end of the interview process.

Proposed fees are not to be included with the proposal. After the initial scoring, the Design Firm the City determines to be most qualified will have three business days to submit their proposed fees. Failure to do so may result in the proposal being deemed non-responsive and the City will request proposed fees from the next highest scoring proposer

4.5.6 Certifications (Attachment A)

Please complete the attached certification form for non-collusion and conflict of interest,

Attachment A, with the required signature and other information.

4.5.7 Sample Professional Services Agreement (Attachment B)

Review sample agreement. The City expects Proposers to raise concerns or questions regarding the agreement no later than the deadline to submit requests for changes or to file a solicitation protest. The City is under no obligation to negotiate changes to the attached agreement, particularly if a Design Firm did not seek a change or raise the issue prior to the deadline to request changes.

4.5.8 Addenda

All Addenda of this RFP shall be submitted as part of the Proposal. Receipt of each Addendum shall be acknowledged by the Proposer by signing in the appropriate designated location. Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued by the City. Returning signed addenda, if any, does not count against the 14/7 - page limitation.

SECTION 5 – PROPOSAL SELECTION AND EVALUATION

5.1 GENERAL INFORMATION

The City intends to award all of the tasks to the selected Design Firm. Each proposal will be judged on its completeness and quality of its content as well as the results of the interviews. The City reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing or presenting the proposal. All proposals will become part of the public file without obligation to the City. Upon the completion of the evaluation process, the City intends to negotiate a contract with the Proposer whose proposal is deemed to be most advantageous to the City.

5.2 SELECTION REVIEW COMMITTEE

The Selection Review Committee may be comprised of up to five members. The role of the Selection Review Committee is to evaluate the proposals submitted, conduct interviews and make a recommendation of award to the City Council. The City may also seek independent expert advice with no apparent or perceived conflicts of interest to help review proposals. However, any such person that is contacted by the City for their expert advice shall not, from first being contacted until the RFP process is completed, or otherwise brought to an end, have communications with any Proposers regarding their proposals or the process.

Scoring will be completed covering all areas as described below in the Evaluation Criteria. All scores for each Proposer shall be added together to arrive at an evaluation score for each Proposer. Proposals will then be ranked in descending order by the total Proposal score.

Interviews will be conducted with all or a select few of the Proposers after the written Proposals are evaluated. The interview scores will be considered in conjunction with the written proposals in making a decision regarding a recommendation to City Council. City will enter into contract negotiations with the highest ranked Proposer. If the City in its sole discretion determines that a contract with the highest ranked Proposer cannot be reached, the City will commence negotiations with the second highest ranked Proposer, and so on.

5.3 INTERVIEWS

Proposers selected for final evaluation may be required to make an oral presentation of their proposal to the Selection Review Committee. Such presentation shall provide an opportunity for Proposers to clarify their proposal to

ensure thorough mutual understanding. The Selection Review Committee may interview the Proposers and ask additional questions related to the proposal and the scope of work. A principal and the individual designated as the Project Manager must attend the interview. The City expects the individual that the firm has delegated to be the project manager to lead the presentation to ensure the person with day-to-day responsibility for the project has a thorough understanding of the project. The City will schedule the time and locations of the interviews. Interviews will take place at a location to be determined in the City. Firms invited to the interview will be responsible for making and paying for their own travel arrangements.

5.4 SCORING AND EVALUATION CRITERIA

The criteria listed below will be used to evaluate the Proposers to determine the finalists and apparent successful Design Firm. **Total possible evaluation points prior to interviews will be 300. If interviews are conducted, an additional 200 points are available to determine the final scores.**

5.4.1 Comprehensiveness of Proposed Services (40 points) 13%

Completeness of proposed services compared to requested services.

5.4.2 Evaluation of Proposer's Services (70 points) 23%

Evaluation of proposer's process to complete project including how tasks will be performed within the agreed-upon timeframe.

5.4.3 Experience of firm to provide proposed services (70 points) 23%

Overall capabilities and experience of the Proposer to provide the requested services described in this RFP.

5.4.4 Qualifications of Proposed Staff (120 points) 41%

The credentials and experience of the key staff selected to perform the requested services.

5.4.5 Interviews, if held (additional 200 points)

The purpose of the interviews is to evaluate presentations of proposals and Proposer's ability to work with City staff. Interview scores will be added to the scores from 5.4.1 through 5.4.4.

5.4.7 Reference Check (no points)

The City reserves the right to contact references as part of the decision-making process and prior to making a final selection.

5.5 RANKING OF PROPOSALS

- A. Proposals may be ranked by the Selection Review Committee based on evaluation of responses and interviews (if any), with the first-ranked Proposer being that Proposer which is deemed to be the most qualified, and the second ranked Proposer being the next most qualified, and so on, all in the sole judgment of the Selection Review Committee.
- B. Proposer's scores will be totaled and ranked. Any Proposer's response to this RFP shall be considered de facto permission to the City to disclose the results, when completed, to selected viewers at the sole discretion of the City.

SECTION 6 – CONTRACT REQUIREMENTS

6.1 CONTRACT AWARD

The award of a contract is accomplished by executing a written agreement that incorporates the entire RFP, Proposer's response, clarifications, addenda, and additions. All such materials constitute the contract documents. The Proposer agrees to accept the contract terms provided by the City unless substantive changes are made without the approval of the Proposer. Otherwise, exceptions to the contract must be submitted by the Proposer no later than the solicitation protest period. Proposers may protest pursuant to CBMC 2.08.160.

6.2 REQUIREMENTS

The firm must be covered by Workers' Compensation Insurance, which will extend to and include work in Oregon. In addition, the firm must also submit documents addressing general liability insurance, automobile and collision insurance, professional liability insurance, and indication that there is no conflict of interest on the part of the Contractor's submission of a proposal for the services being solicited under this RFP.

6.3 CONTRACT ADMINISTRATOR

The City Manager, Bruce St. Denis, shall be the Contract Administrator for this project.

ATTACHMENT A – CERTIFICATIONS

Non-Collusion

The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the City. The fees and prices submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

Conflict Of Interest

The undersigned Proposer and each person signing on behalf of the Proposer certifies, and in the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein. The undersigned hereby submits this Proposal to furnish all work, services systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Proposal, Professional Services Agreement, and associated inclusions and references, specifications, Proposal Form, Proposer response, mutually agreed clarifications, appropriately priced change orders, exceptions which are acceptable to the City, and all other Proposer submittals.

Reciprocal Preference Law - Residency

Resident Proposer () Non-Resident Proposer ()

Signature Block

The Proposer hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

Proposer Name Proposer

Telephone Number

Proposer Mailing Address, City, State, Zip

Proposer Facsimile Number

Proposer E-mail Address

Signature

Date

ATTACHMENT B – SAMPLE PROFESSIONAL SERVICES AGREEMENT

AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

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

«City of Cannon Beach » «an Oregon municipal corporation »

« »

« »

« »

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

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

« »

« »

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.

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

ELECTRONIC COPYING of any portion of this AIA[®] Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

§ 1.1.2 The Project's physical characteristics:

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

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

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

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

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«Owner intends to deliver the Project through the Construction Manager/General Contractor ("CM/GC") delivery method and intends to retain a Construction Manager pursuant to a modified AIA Document A133-2019 (Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price) (the "A133"). This Agreement refers to the CM/GC as the "Construction Manager." Architect's performance of and compensation for its services for the construction phase is contingent upon Owner's approval of a Guaranteed Maximum Price ("GMP") Amendment pursuant to the terms of the modified A133. If Owner does not approve a GMP Amendment, Architect shall modify its scope of services, including adding additional services it reasonably deems required, for the Parties to evaluate whether to continue to work together on the Project.»

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

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

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

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

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

.1 Geotechnical Engineer:

.2 Environmental Testing:

TBD

« »
« »
« »
« »

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

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

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

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural Engineer:
- .2 Mechanical and Electrical Engineer:
- .3 Civil Engineer:
- 4 Building Envelope & Acoustical Engineer:
- 5 Landscape Architecture:

§ 1.1.11.2 Consultants retained under Supplemental Services:

« »

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

« »

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

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

§ 1.3.1 [INTENTIONALLY OMITTED].

§ 1.4 The Request for Proposals ("RFP") for the Project is attached as Exhibit B and its terms are incorporated as if fully stated in this Agreement, whether individual terms are specifically included or omitted in the text of the Agreement. In the event of a conflict between the terms of this Agreement and the RFP, the terms of this Agreement shall be controlling.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this

Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect further represents that it has the skill, knowledge, experience and ability to fully perform the Services and its obligations under this Agreement.

§ 2.2 The Architect shall perform its services in conjunction and in coordination with the services of a Construction Manager and 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. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect shall secure the Owner's written consent prior to replacing the Architect's representative or another member of the team Architect proposes to work on the Project.

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement but not to exceed three (3) years from effective date of this Agreement.

§ 2.5.1 Commercial General Liability for the protection of Architect, Owner and their officers, employees and agents with policy limits of not less than «Two Million dollars » (\$ «2,000,000.00 ») for each occurrence and «Four Million dollars » (\$ «4,000,000.00 ») in the aggregate for general liability. Coverage shall include personal injury, bodily injury (including death), and broad form property damage, including loss of use of property.

§ 2.5.2 Automobile Liability for the protection of Architect, Owner and their officers, employees and agents covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than «Two Million dollars » (\$ «2,000,000.00 ») per accident and Four Million dollars (\$4,000,000.00) in the aggregate for personal injury, bodily injury, death of any person, and broad form property damage, including loss of use of property, arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

§ 2.5.4 Workers' Compensation in compliance with ORS 656.017, which requires subject employers to provide Oregon worker's compensation coverage for all subject workers.

§ 2.5.5 Employers' Liability with policy limits not less than «One Million dollars» (\$ «1,000,000 ») each accident, «One Million dollars » (\$ «1,000,000 ») each employee, and «One Million dollars » (\$ «1,000,000 ») policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than «Two Million dollars » (\$ «2,000,000.00 ») per claim and «Four Million dollars » (\$ «4,000,000.00 ») in the aggregate.

§ 2.5.7 Additional Insured Obligations. Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner and its officers, employees and agents as additional insureds for claims covered by the policies. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

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

§ 2.5.9 There shall be no cancellation, material change, reduction of limits, or intent not to renew any of insurance policies without 30-day prior written notice from the Architect or its insurer(s) to Owner.

§ 2.5.10 If any of the required liability insurance is arranged on "claims made" basis, "tail" coverage will be required at the completion of this Agreement for a duration of 24 months, or the maximum time period available to the Architect in the marketplace if less than 24 months. Architect will be responsible for furnishing certification of tail coverage as described or continuous claims made liability coverage for 24 months following Agreement expiration. Continuous claims made coverage will be acceptable in lieu of tail coverage, provided its retroactive date is on or before the effective date of this Agreement. Evidence of suitable coverage will be a condition of official acceptance and payment under the Agreement.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and in Exhibit A and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3, Exhibit A or in another exhibit incorporated into this Agreement are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services and the services of its consultants and subcontractors, research applicable design criteria, attend Project meetings, communicate with members of the Project team and representatives of the Construction Manager, 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 and those services provided by the Construction Manager and its consultants or subcontractors. The Architect shall be entitled to rely on the services and information furnished by the Owner and the Owner's consultants unless the Architect has actual knowledge of, or through the course of its review identifies, any inaccuracies or incomplete aspects of the Owner-furnished services and information. 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. When Owner engages a Construction Manager, the parties anticipate this schedule will ultimately be included in the Project schedule to be prepared by the Construction Manager. The schedule initially shall include design milestone dates and anticipated dates for the commencement of construction and for Substantial Completion of the Work. The schedule shall include allowances for periods of time required for the Owner's and Construction Manager'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. With the Owner's approval and in consultation with the Construction Manager, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 [INTENTIONALLY OMITTED]

§ 3.1.5 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and contact entities providing utility services to the Project. The Architect shall prepare designs and documents in accordance with applicable requirements adopted by such governmental authorities and by such entities providing utility services and shall respond to applicable requirements that may be imposed by those authorities and entities.

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

§ 3.1.7 The Architect shall be responsible for the acts and omissions of its consultants and subcontractors, and the independent contractors, agents, and employees of each, and other persons or entities providing services for, or on behalf of, the Architect.

§ 3.1.8 Evaluation of the Construction Manager's Guaranteed Maximum Price ("GMP") Proposal

§ 3.1.8.1 Prior to Owner's acceptance of the GMP proposal, the Architect shall consider the Construction Manager's requests for any substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

§ 3.1.8.2 In consultation with the Architect, the Owner in its contract with the Construction Manager will establish a milestone date for the Construction Manager to prepare a GMP proposal for the Owner's consideration. The Architect shall assist the Owner in reviewing the Construction Manager's GMP proposal. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. However, if the Architect believes any inconsistencies or inaccuracies exist in the information presented by the Construction Manager, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.1.8.3 If the Owner accepts a GMP proposal from the Construction Manager, Owner and Construction Manager will enter into a GMP Amendment. Upon authorization by the Owner, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the GMP Amendment.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall provide the services identified in this Section 3.2 and in Exhibit A during the schematic design phase. In addition to those preliminary services identified in Exhibit A, the Architect will review the program and other information furnished by the Owner and Construction Manager, shall review laws, codes, and regulations applicable to the Architect's services and shall prepare designs and documents accordingly.

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

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner Construction Manager and shall discuss with the Owner Construction Manager alternative approaches to design and construction of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner and in accordance with Exhibit A, the Architect shall prepare and present to the Owner and the Construction Manager, a preliminary design illustrating the scale and relationship of the Project components. The Architect will discuss the preliminary design with Owner and Construction Manager, modify the preliminary design based on comments from the Owner and ultimately receive the Owner's approval of the preliminary design.

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

§ 3.2.5.1 The Architect shall, in consultation with the Construction Manager, consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on performance, durability and aesthetic requirements, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.5.2 The Architect shall, in consultation with the Construction Manager, consider the value of alternative materials, building systems and equipment, together with other considerations based on performance, durability and

aesthetic requirements, 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 consult with the Construction Manager and 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 present the draft Schematic Design Documents to the Owner and the Construction Manager for their review. The Architect acknowledges that Owner will seek input from members of the public as part of Owner's review of the draft Schematic Design Documents and that such public input may necessitate changes to the draft documents. The Architect will modify the draft Schematic Design Documents, as necessary, based upon the Owner's review and ultimately receive the Owner's approval of the Schematic Design Documents.

§ 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 with input from the Construction Manager. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents the Architect determines are appropriate, including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

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

§ 3.3.3 The Architect shall submit the draft Design Development Documents to the Owner and the Construction Manager for their review. The Architect will modify the draft Design Development Documents based on the review of the Owner and the Construction Manager and advise the Owner of any adjustments to the estimate of the Cost of the Work. Prior to beginning to prepare Construction Documents, the Architect shall receive the Owner's approval of the Design Development Documents.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 If the Owner approves the Design Development Documents, and authorizes any necessary adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents with input from the Construction Manager. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager is expected to provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the requirements of governmental authorities having jurisdiction over the Project and the requirements of affected utilities, such that the Construction Documents comply with applicable laws, ordinances and regulations, and are sufficient to secure permits necessary to complete construction .

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Construction Manager and the Owner as necessary in the development and preparation of procurement information for subcontractors to the Construction Manager. The Architect shall assist the Construction Manager in compiling a project manual that includes the Conditions of the Contract for Construction and Specifications.

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

§ 3.4.5 The Architect shall submit the Construction Documents to the Construction Manager and the Owner, and the Construction Manager shall advise the Owner and Architect of any adjustments to the estimate of the Cost of the

Work. The Architect and Construction Manager shall take any action required under Section 6.5, and request the Owner's approval of the Construction Documents consistent with any adjustments to the estimate of the Cost of the Work.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

If Owner and Construction Manager execute a GMP amendment, the Architect shall assist the Construction Manager and Owner in establishing a list of prospective construction subcontractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Construction Manager and Owner in (1) obtaining either competitive bids or negotiated proposals from such subcontractors; (2) assist in confirming responsiveness of such bids or proposals; (3) assist in determining the successful bid or proposal, if any. For the sake of clarity, the award of subcontracts to the Construction Manager will be governed by the contract between the Owner and the Construction Manager.

§ 3.5.2 Competitive Bidding

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

§ 3.5.2.2 If requested by the Owner, the Architect shall assist the Owner and the Construction Manager in bidding subcontracts by:

- .1 facilitating the distribution of Bidding Documents to prospective subcontractors;
- .2 participating in a pre-bid conference for prospective subcontractors;
- .3 preparing responses to questions from prospective subcontractors and providing clarifications and interpretations of the Bidding Documents in the form of addenda; and,
- .4 assisting in the opening of subcontractor bids.

§ 3.5.2.3 Upon the Owner's written authorization, the Architect shall, in consultation with the Construction Manager, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective subcontractors.

§ 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 and the Construction Manager in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to proposers;
- .2 participating in selection interviews with proposers;
- .3 preparing responses to questions from proposers and providing clarifications and interpretations of the Proposal Documents to the proposers in the form of addenda; and,
- .4 participating in negotiations with proposers.

§ 3.5.3.3 Upon the Owner's written authorization, the Architect shall, in consultation with the Construction Manager, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all proposers.

§ 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 Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as the same may be revised.

§ 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 Construction Manager'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 and those of the Architect's consultants and subconsultants, but shall not have control over or charge of,

and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences if and when the Owner and the Construction Manager execute a GMP amendment and, except as provided in Section 3.6.6.5, terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

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

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. However, nothing in this section, this Agreement or in A201-2017 makes a decision of the Architect concerning matters of performance under the Contract Documents or their requirements binding on Owner in the absence of Owner's written approval of that decision in writing.

§ 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.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager 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 Construction Manager 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 Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule and absent good cause, no more than fourteen (14) days after the Architect's receipt of the submittal.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, as necessary to determine their conformance to the Contract Documents. The Architect's review will not be conducted to confirm dimensions or quantities in those submittals except to the extent the Construction Manager has requested the assistance of the Architect: (1) to determine certain dimensions because those indicated in the Contract Documents conflict with existing field conditions; or (2) because the dimensions in the Contract Documents contain erroneous, inconsistent or incomplete information or dimensions for which clarifications are needed and can be supplied by the Architect. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The review is similarly not for the purpose of determining the accuracy and completeness of the installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect shall acknowledge the receipt of each request for information within seven (7) days after receiving it. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or, unless good cause exists, otherwise within fourteen (14) days after Architect receives the request. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 Subject to the Owner's approval, 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. With input from the Owner, 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 and provide them to Owner prior to final payment.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct observations to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;

- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's observations 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 Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, 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 Construction Manager: (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 Construction Manager under the Contract Documents.

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

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

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

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	
§ 4.1.1.31 Acoustical Engineering	

§ 4.1.2 Description of Supplemental Services

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

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

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

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

§ 4.2 Architect's Additional Services

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

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

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

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

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth within Exhibit A. When the limits in Exhibit A are reached, the Architect shall notify the Owner before providing Construction Phase Services exceeding the limits in Exhibit A.

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

§ 5.1.1 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the A133. The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule with Architect's input. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

§ 5.2 The Owner shall establish the Owner's budget for the Project and update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner may change the designated representative upon written notice to the Architect and Owner may modify the scope of the designated representative's authority in the same manner. The Owner shall perform its obligations in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

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

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

§ 5.7 [INTENTIONALLY OMITTED]

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

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

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

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. However, nothing in this section or the Agreement imposes a duty on Owner to discover such defects.

§ 5.12 The Owner shall include the Architect in all communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. Communications by and with the Architect's consultants shall be through the Architect.

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

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Construction Manager, represent their judgment as a professional familiar with the construction industry and the current marketplace for construction services. It is recognized, however, that neither the Construction Manager, Architect nor the Owner has control over the cost of labor, materials, or equipment; the Construction Manager'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 Construction Manager shall consider contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Construction Manager's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques.

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

§ 6.5 If at any time the estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect in consultation with the Construction Manager shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work and advise the Owner of any compromises to the quality of the resulting construction resulting from the recommended adjustments.

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

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

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

ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys models, sketches, drawings, specifications, electronic building models, Digital Data, as defined below, and other similar materials.

§ 7.3 The Instruments of Service developed by the Architect and its consultants pursuant to this Agreement are deemed works made for hire. Upon execution of this Agreement, the Architect conveys and assigns to the Owner, on its behalf and on behalf of its consultants, all common law, statutory and other reserved rights, title, and interest, including without limitation, copyrights, in the Instruments of Service and the design of the Project as a whole. 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 any party's reserved rights. The Architect shall take such steps as are necessary to procure from its consultants either the direct transfer of, or the rights to transfer and assign, in satisfaction of this provision, to the Owner. Notwithstanding this provision, the Architect and its consultants shall maintain all rights, title and interest, including without limitation, copyrights, to their respective standard details, standard specifications, standard features, any items that were designed or originated prior to the subject Project, and the design (details, specifications, processes or otherwise) in each constituent component of the Project. The intent of the transfer to the Owner under this Article applies only to the Instruments of Service themselves, and the overall building as a whole (as opposed to any of its parts). Upon execution of this Agreement, the Owner grants to the Architect and its consultants a nonexclusive license to use the Instruments of Service for the purposes of their work on the Project. The conveyance and assignment to the Owner of the Instruments of Service under this Article 7 shall only occur if the Architect is paid in full for the Instruments of Service at each stage of design. For example, the rights to the Design Development Instruments of Service transfer upon payment in full for the Design Development services, the rights to the Schematic Design Instruments of Service transfer upon payment for the Schematic Design phase services, and the rights to the Construction Drawings transfer upon payment for the Construction Drawings design phase. Upon payment for the Construction Drawings phase services, all rights in the Instruments of Service are fully conveyed and assigned under this Article. In no event shall a good faith dispute as to amounts owed interfere with the transfer of rights under this Article..

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, 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 Notwithstanding anything to the contrary herein, for all Instruments of Service that become the property of the Owner, the Architect reserves a non-exclusive right to use all of the work products it creates hereunder and to keep and use copies of all its work products for the purposes of: (a) the Architect's information and reference in connection with the Architect's work under this contract, (b) to comply with any laws and to protect the Architect's interests; and (c) reasonable marketing activity by the Architect, so that the Architect can show the project as an example of the Architect's work. Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Architect shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

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

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

§ 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 in writing, shall be administered by the Arbitration Services of Portland, Inc. in accordance with its rules in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally, but otherwise bear their own costs and fees. The mediation shall be held in Cannon Beach, Oregon, unless it is not practical for a mediator, in which case it will be held in Portland, Oregon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

(Check the appropriate box.)

☒ [X] Arbitration pursuant to Section 8.3 of this Agreement

☐ [] Litigation in a court of competent jurisdiction

☐ [] Other: *(Specify)*

☐ []

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

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise in writing, shall be administered by the Arbitration Service of Portland, Inc in accordance with its 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 parties shall share the arbitration fee and any filing fees equally, but otherwise bear their own costs and fees, including attorney fees. The arbitration shall be held in Cannon Beach, Oregon, it is not practical for an arbitrator, in which case it will be held in Portland, Oregon. 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 The Architect shall prepare or modify all Project-related documents that the Architect has prepared or will prepare in accordance with this Agreement, including contracts between the Architect and its consultants or subcontractors, to strictly conform to Sections 8.2 and 8.3 and subject those contracts or documents to the same terms and conditions governing mediation and arbitration between the Architect and the Owner.

§ 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.

§ 8.3.4.4 The Architect will prepare or modify all Project-related documents that the Architect has prepared or will prepare in accordance with this Agreement, including contracts between the Architect and its consultants or subcontractors, to strictly conform with Section 8.3.4 and subject those contracts or documents to the same terms and conditions governing joinder of parties.

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement within thirty (30) days of the date due, Architect may give Owner written notice of its intent to terminate or suspend its services. The notice must detail the Architect's reasons for its intended termination or suspension, must state why the Architect believes the Owner is not justified in withholding payment to the Architect and must state with specificity the means

by which the Architect believes the Owner may cure the alleged failure. Thereafter, if within five (5) business days the Owner fails to either pay or justify its lack of payment in accordance with the terms of this Agreement, Architect may give a final written notice stating its intent to terminate or suspend its services five (5) business days after the date of the final notice. Before resuming services, the Owner will pay the Architect all sums due prior to suspension and any reasonable and documented expenses incurred in the interruption and resumption of the Architect's services. The Architect shall otherwise perform its services continually and expeditiously despite a good faith dispute by Owner over payments to Architect.

§ 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 Project-related expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules may 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 ten (10) days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than ten (10) 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 ten (10) days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, together with Reimbursable Expenses then due Architect. In no event will Architect be entitled to payment for lost profits or other consequential damages or costs that may accompany Owner's termination of this Agreement.

§ 9.7 [INTENTIONALLY OMITTED]

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

§ 9.9 [INTENTIONALLY OMITTED]

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the laws of the State of Oregon, without respect to conflict of laws principles

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

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. If the Architect becomes aware of the presence of hazardous materials or toxic substances on the Project site, it shall immediately report that presence to the Owner in writing.

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

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Sections 10.8.1 and 10.8.2. This Section 10.8 including 10.8.1 and 10.8.2 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, as described in Section 10.8.2 and when required by law (including the Owner's obligations under Oregon law with respect to public records requests), arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to similar restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.8.2 Any obligation of Owner to maintain the confidentiality of Architect's "confidential" or "business proprietary" information provided to Owner under the Agreement is conditioned by and subject to Owner's obligations under the Oregon Public Records Law, ORS 192.311 to 192.478, which may require disclosure of Architect's information including "confidential" or "business proprietary" information as a public record unless exempt under ORS 192.345 or ORS 192.355. Owner shall provide Architect 7 days' notice before disclosing Architect's information marked "confidential" or "business proprietary" relating to this Agreement in response to a public records request. Architect is exclusively responsible for defending Architect's position concerning the confidentiality of the requested information. Owner is not required to assist Architect in opposing disclosure of "confidential" or "business proprietary" information. If the Clatsop County District Attorney orders disclosure, Owner will comply with the order but first make reasonable efforts to notify Architect in order to give Architect the opportunity to file for a protective order in a court of competent jurisdiction. If the District Attorney denies the request and the public records requestor files suit to obtain the records, Owner will make reasonable efforts to notify Architect but Owner will have no obligation to participate in such a suit but will cooperate with Architect and allow Architect to intervene and defend such suit. If Architect does not file for a protective order, intervene and/or defend the aforementioned suit in the time periods mandated by the Oregon Public Records Law, Owner may then disclose the records/information requested at its option. Owner shall not, under any circumstances, be liable for damages, expenses, fees or costs to any person associated with disclosure covered by and consistent with this section.

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

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)
- .2 Percentage Basis
(Insert percentage value)
- .3 Other
(Describe the method of compensation)

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

§ 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:

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « » percent (« »%), or as follows:

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

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

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on the most recent estimate of the Cost of the Work approved by Owner 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 are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 [INTENTIONALLY OMITTED];
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;

- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 [INTENTIONALLY OMITTED];
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other expenses expressly identified as reimbursable in this Agreement or as stated in Exhibit A.

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

§ 11.9 Architect's Insurance. [INTENTIONALLY OMITTED]

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 [INTENTIONALLY OMITTED]

§ 11.10.1.2 [INTENTIONALLY OMITTED]

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid « » (« ») days after the invoice date may 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.)

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

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner when Architect requests payment.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 The Architect shall indemnify and hold harmless Owner, its officers, employees, agents and assigns for and against all damages, losses or claims that arise out of or result from the fault of the Architect's acts, omissions, errors or failure to perform by the Architect, its officers, employees, agents, assigns and its subcontractors or subconsultants. Nothing in this section requires the Architect to indemnify Owner for the fault of the Owner's acts, omissions, errors or failure to perform.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect. Individual handwritten modifications of this Agreement will be of no effect unless each modification is initialed by Architect and by an authorized representative of Owner.

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

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

.3 Exhibits:

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

☐ ☐

[☒] Other Exhibits incorporated into this Agreement:

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

.4 Other documents:

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

☐ ☐

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

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

«

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