

**COMMISSIONERS JOURNAL NO. 81 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD FEBRUARY 6, 2025**

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

**Present:**  
**Barb Lewis, President - Absent**  
**Jeff Benton, Vice President**  
**Gary Merrell, Commissioner**

**1  
RESOLUTION NO. 25-90**

**IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD FEBRUARY 3, 2025:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on February 3, 2025; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion                      Mrs. Lewis Absent                      Mr. Merrell Aye                      Mr. Benton Aye

**2  
PUBLIC COMMENT**

**3  
RESOLUTION NO. 25-91**

**IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0205 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0205:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve Then and Now Certificates, payment of warrants in batch numbers CMAPR0205, memo transfers in batch numbers MTAPR0205 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
(P2500591) Finance Dir, Delaware City	Municipal Court	10029203-5360	\$33,306.00

<b>PR Number</b>	<b>Vendor Name</b>	<b>Line Description</b>	<b>Account</b>	<b>Amount</b>
R2501863	MOBILE HEALTH RESOURCES	PATIENT EXPER SURVEYS	10011303 - 5301	\$ 13,578.00
R2501863	MOBILE HEALTH RESOURCES	ANNUAL FEE 2025	10011303 - 5301	\$ 1,280.00
R2501903	TREASURER, STATE OF OHIO	PERMIT TO INSTALL - NORTHSTAR WRF UPGRADES PROJECT	66611900 - 5410	\$ 15,100.00
R2501913	RITE-WAY COMPLIANCE GROUP LLC	FOG BMP SOFTWARE RENEWAL	66211900 - 5321	\$ 5,929.69
R2501948	EVERBRIDGE INC	MASS NOTIFICATION SOFTWARE	10011102 - 5320	\$ 4,750.00
R2501948	EVERBRIDGE INC	MASS NOTIFICATION SOFTWARE	21411306 - 5320	\$ 19,175.00
R2501949	MID OHIO DEVELOPMENT EXCHANGE	MODE 2025 ANNUAL DUES	21011113 - 5308	\$ 36,698.80

Vote on Motion                      Mr. Benton Aye                      Mrs. Lewis Absent                      Mr. Merrell Aye

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**RESOLUTION NO. 25-92**

**IN THE MATTER OF GRANTING ANNEXATION PETITION FROM AGENT FOR THE  
PETITIONER, MICHAEL R. SHADE, ATTORNEY-AT-LAW, REQUESTING ANNEXATION OF  
4.468 ACRES OF LAND IN DELAWARE TOWNSHIP TO THE CITY OF DELAWARE:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve the following resolution:

WHEREAS, on January 7, 2025, the Clerk to the Board of the Delaware County Commissioners received an annexation petition filed by Michael R. Shade, Attorney-at-Law, agent for the petitioners, requesting annexation of 4.468 acres, more or less, from Delaware Township to the City of Delaware; and

WHEREAS, pursuant to section 709.023 of the Revised Code, if the Municipality or Township does not file an objection within 25 days after filing of the annexation petition, the Board at its next regular session shall enter upon its journal a resolution granting the proposed annexation; and

WHEREAS, 25 days have passed and the Clerk of the Board has not received an objection from the City of Delaware or the Township of Delaware;  
NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners grants the petition requesting annexation of 4.468 acres, more or less, from Delaware Township to the City of Delaware.

Vote on Motion                      Mr. Merrell   Aye                      Mr. Benton   Aye                      Mrs. Lewis   Absent

5

**RESOLUTION NO. 25-93**

**IN THE MATTER OF APPROVING A PROFESSIONAL SERVICES AGREEMENT BY AND  
BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND DLZ  
ARCHITECTURE, INC. FOR PROFESSIONAL DESIGN SERVICES FOR THE RENOVATION OF  
THE 9-1-1 CENTER / CARNEGIE BUILDING, PHASE 1 THROUGH SCHEMATIC DESIGN:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve the following:

WHEREAS, the Director of Facilities recommends approval of the Professional Services Agreement by and between the Delaware County Board of Commissioners and DLZ Architecture, Inc. for Professional Design Services for the renovation of the 9-1-1 Center / Carnegie Building, Phase 1 through schematic design;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following Professional Services Agreement by and between the Delaware County Board of Commissioners and DLZ Architecture, Inc. for Professional Design Services for the renovation of the 9-1-1 Center / Carnegie Building, Phase 1 through schematic design:

**PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (the "Agreement") is made and entered into on February 6, 2025, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 ("County"), and DLZ Architecture, Inc., 6121 Huntley Road, Columbus, Ohio 43229 ("Consultant"), hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

**ARTICLE 1 INITIAL INFORMATION**

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

**1.1.1 The Owner's program for the Project:**

Previously developed programming documents, completed by DLZ, will be used as a starting point for further development in this project. These documents were part of a larger programming study titled "Delaware County Space Study", dated June 9, 2023.

**1.1.2 The Project's physical characteristics:**

The project site is located at 101 N. Sandusky Street in Delaware, Ohio. It is a multi split-level neoclassical building which opened to the public in 1906. It is of masonry construction with a total of approximately 22,800 square feet. The property is bordered by Court Street to the south, Sandusky Street to the East, St. Patrick Street to the West, and several County facilities and private businesses to the North.

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

Unknown at the time of execution.

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

1. Design phase milestone dates, if any:
  - July 18, 2025 SD (Phase I) Completion

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2. Construction commencement date:  
TBD

3. Substantial Completion date or dates:  
TBD

**1.1.5 The Owner intends the following procurement and delivery method for the Project:**  
Design-Bid Build

**1.1.6 The Owner's anticipated Sustainable Objective for the Project:**  
None

**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:**

Jon Melvin  
Director of Facilities  
1610 State Route 521  
P.O. Box 8006  
Delaware, OH 43015

**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:**

None.

**1.1.9 The Owner shall retain the following consultants and contractors:**

**.1 Geotechnical Engineer:**

None.

**.2 Civil Engineer:**

None.

**.3 Other, if any:**

None.

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

Karen Juricic  
Project Manager / Architect  
6121 Huntley Rd.  
Columbus, OH 43229

**1.1.11** The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

**1.1.11.1 Consultants retained under Basic Services:**

**.1 Structural Engineer:**

DLZ

**.2 Mechanical Engineer:**

DLZ (HVAC/Plumbing)

**.3 Electrical Engineer:**

AEC

**.4 Other, if any:**

Construction Consulting & Estimating (Phase I Budget Estimating)  
Federal Engineering (9-1-1 Planning)

**1.1.11.2 Consultants retained under Supplemental Services:**

None.

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

Attached DLZ Technical Proposal dated 12/10/2024

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

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

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

**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 shall comply with the Owner's rules, regulations, and policies. The Architect shall provide professional services necessary for the design and documentation of the Project. The Architect agrees that the Basic Services compensation, as stated in Article 11, represents adequate and sufficient consideration for its provision of professional services, identified as Basic Services in this Agreement necessary to design the Project and prepare the documents that are necessary to fully indicate the requirements for construction, whether or not those services are individually expressed in this Agreement, the only exceptions to this being (1) the costs of those services that are provided by third parties and are expressly designated herein as being the "Owner's responsibility" or are "Owner-provided" and (2) the cost of those engineering or consulting services that become necessary as a result of a change in Project scope affecting the Architect and that are the subject of a written agreement between the Owner and the Architect, subject to the terms of this Agreement.

**2.2 Architect's Standard of Care.** The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects licensed to practice in the State of Ohio experienced in the design of similar facilities and practicing in the same or similar locality under the same or similar circumstances (the "Standard of Care"). 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's failure to comply with the Standard of Care shall be a material breach of this Agreement.

**2.2.1** If the Architect breaches any of its obligations under Section 2.2, the Architect shall reimburse the Owner for its damages and expenses, including but not limited to reasonable attorneys' and consultants' fees and expenses, to the proportionate extent caused by the breach.

**2.3** The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect's representative shall be subject to the Owner's approval.

**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, with all policies written by insurers acceptable to the Owner that have an A.M. Best's Rating of A-, VII or higher and are authorized to conduct business in the State of Ohio.

**2.5.1** Commercial General Liability with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage. A per project aggregate endorsement shall be included in the General Liability and shall provide that the general aggregate limit applies separately to the Project. This endorsement shall be Insurance Services Office, Inc. (ISO) endorsement CG 25 03, or equivalent.

**2.5.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

**2.5.4** Workers' Compensation at statutory limits.

**2.5.5** Employers' Liability with policy limits as required by State law.

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**2.5.6** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate.

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

**2.5.8** The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5, upon execution of the Agreement. The certificates shall show the Owner as an additional insured on all insurance policies, except Professional Liability and Workers' Compensation. The Architect shall deliver to Owner, upon request, copies of the actual insurance policies. Architect is required to notify Owner of any adverse material change in, or cancelation of, the policy or policies evidenced, via certified mail to Owner, and that five days after the renewal date, the Architect shall furnish Owner with updated or replacement certificates of insurance that clearly evidence continuation of all coverages in the same manner, limits, and protections, as required.

**2.5.9** If Professional Liability and/or Commercial General Liability coverage is claims-made coverage, then coverage must be maintained in effect for ten (10) years after Final Completion.

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

**3.1** The Architect's Basic Services consist of those described in this Article 3, and as set forth in the Owner's Request for Qualifications, which is incorporated herein by reference to the extent not inconsistent with this Agreement, and as set forth in the Architect's Proposal, which is attached hereto as **Exhibit A** and incorporated herein by reference to the extent not inconsistent with this Agreement, and shall include usual and customary, mechanical, plumbing, electrical, and other engineering and consulting services necessary to design and document the Project. The Architect's design for the Project shall comply with the Owner's planned objectives and program for the Project and the Owner's budget for the Project, to the extent stated in the Contract Documents. The Architect shall assist the Owner in the procurement of other consultants and suppliers, as the Owner may request, and provide all required information and coordination of its services with the Owner and any of Owner's consultants and suppliers as part of Architect's Basic Services. Services not set forth in this Agreement as Basic Services are Supplemental or Additional Services.

**3.1.1** The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall be responsible for memorializing all Project meetings during the design phase of the Project.

**3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. Notwithstanding the foregoing sentence, the Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

**3.1.3** As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. If at any time the Architect believes the time for the completion of any component of the Project or any milestone will be exceeded by any party under contract with the Owner in connection with the Project, then the Architect shall notify the Owner promptly in writing of the situation and work with the Owner to develop alternatives for maintaining the schedule for the applicable component of the Project.

**3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval. The Architect shall timely notify the Owner in writing of any objections it has to any such substitution.

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

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authorities and entities providing utility services. The Architect shall advise the Owner, in writing, of the results of these contacts and any impacts on the Project requirements.

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

**3.1.7** In providing services under this Agreement, the Architect shall, in accordance with the Standard of Care, comply with all applicable federal, state, and local laws, regulations, and orders in effect at the time of submission of the Contract Documents to the governing building authority. In the design of the Project, the Architect shall respond to requirements imposed by governmental authorities having jurisdiction over the Project. The Plans and Specifications (and the improvements, if built in accordance with them) shall conform to all currently applicable statutes, regulations, ordinances, and orders, except to the extent that the Architect has advised the Owner in writing that there is an ambiguity or an interpretation by a code official contrary to that by the Architect or that a variance shall be necessary. The Architect shall not be responsible for compliance of any contractor with currently applicable statutes, regulations, ordinances, and orders but shall report any known deviation therefrom to the Owner in writing.

**3.1.8** The Owner has contracted with the Architect in reliance upon the Architect's skill and judgment in addressing any requirements of the Americans with Disabilities Act (ADA) applicable to the Project. The Architect shall comply with, and shall design the Project to comply with, the ADA requirements applicable to the Project.

**3.1.9** The Architect warrants and represents that it presently has and will, at all times during the term of this Agreement, maintain (i) all skills, experience, knowledge, staffing, and resources necessary to perform the services set forth herein; and (ii) all required licenses, accreditations, certifications, and registrations necessary to perform the services set forth herein.

**3.1.10** To the extent necessary to provide its Basic Services and to the extent existing conditions are reasonably visible and accessible, the Architect shall investigate existing conditions or facilities.

### **3.2 Schematic Design Phase Services**

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

**3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Architect shall advise the Owner of design alternatives known to Architect that could result in savings to the Owner, including savings in the construction cost and the cost of operating the Project when completed.

**3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

**3.2.5.1** The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services not included as Basic Services as an Additional Service, subject to the Owner's prior written authorization in accordance with this Agreement.

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

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

**3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, including copies of any applicable design narrative and/or project manual. The Architect shall meet with the Owner to review the Schematic Design Documents. Upon receipt of the Owner's comments, if any, the Architect shall take action as required by this Agreement and request the Owner's approval of the Schematic Design Documents.

**3.3 Design Development Phase Services (if authorized)**

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

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

**3.3.3** The Architect shall submit the Design Development Documents to the Owner, including copies of any applicable design narrative and/or project manual, as requested by the Owner, and shall advise the Owner of any adjustments to the estimate of the Cost of the Work. The Architect shall meet with the Owner to review the Design Development Documents. Upon receipt of the Owner's comments, if any, the Architect shall take action as required by this Agreement and request the Owner's approval of the Design Development Documents.

**3.4 Construction Documents Phase Services (if authorized)**

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

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

**3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner, and coordinate with Owner's legal counsel, in the development and preparation of a project manual that includes the Contract Documents.

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

**3.4.5** The Architect shall submit the Construction Documents to the Owner, including copies of any applicable design narrative and/or project manual, as requested by the Owner, and shall advise the Owner of any adjustments to the estimate of the Cost of the Work. The Architect shall meet with the Owner to review the Construction Documents. Upon receipt of the Owner's comments, if any, the Architect shall take action as required by this Agreement and request the Owner's approval of the Construction Documents.

**3.5 Procurement Phase Services (if authorized)**

**3.5.1 General**

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

**3.5.2 Competitive Bidding (if authorized)**

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

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

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- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization in accordance with this Agreement, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

**3.5.3 Negotiated Proposals (if authorized)**

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

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

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

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

**3.6 Construction Phase Services (if authorized)**

**3.6.1 General**

**3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified by the Owner.

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

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

**3.6.2 Evaluations of the Work (if authorized)**

**3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect shall promptly memorialize its site visits in written reports to the Owner. The Owner may specify the format of the Architect's written reports. Nothing in this section shall relieve the Architect of its duty to use reasonable care to review the Work for deficiencies or non-conformance with the design intent, in accordance with the Architect's Standard of Care.

**3.6.2.2** The Architect shall reject Work that it knows, or within the Standard of Care should have known, does not conform to the Contract Documents and shall promptly notify the Owner of the rejection of defective or non-conforming Work. 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



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faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Architect shall keep a record of all such interpretations that includes information such as the date of each request for interpretation, the person making the request, the date of the Architect's response, and a summary of the response. The Architect shall keep all correspondence and documentation related to such requests organized in a systematic manner and shall make such correspondence and documentation available to the Owner upon the Owner's request.

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

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

**3.6.2.6** The Architect shall give prompt written notice to the Owner if the Architect becomes aware of any fault, defect, error, omission, or inconsistency in the Project or in the Contract Documents.

**3.6.3 Certificates for Payment to Contractor (if authorized)**

**3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect shall assist the Owner with the evaluation of the Contractor's request for use of contingency funds. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect shall not certify any payment application to the extent the Contractor has not submitted appropriate waivers of claim, waivers of lien, or other documents required by the Contract Documents, except as provided herein.

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

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

**3.6.3.4** Consistent with its Standard of Care, the Architect will advise the Owner in writing, which writing may consist of notations in the job progress meetings, at the time of the delivery of each certification for payment of any known defects or problems with respect to the Work, which can be reasonably observed in the course of the Architect's observations, given the stage of completion of the Work. The Architect will not certify any payment application to the extent the Contractor has not submitted any waivers of claim under the Ohio Mechanic's Lien laws or other documents required by the Contract Documents for labor and/or materials listed on the attachment to the Contractor's previous applications for Payment or other documents required by the Contract Documents. Notwithstanding the foregoing, the Architect will have discretion to adjust the amount certified when missing documentation is deemed by the Architect, in consultation with the Owner, to be relatively inconsequential or beyond the control of the Contractor such that holding all payment for those items would be detrimental to the Project or unfair to the Contractor.

**3.6.4 Submittals (if authorized)**

**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

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

**3.6.4.2** In accordance with the Architect-approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect shall provide reasonable assistance to clarify certain dimensions if those indicated in the Contract Documents conflict with existing field conditions or because the dimensions in the Contract Documents contain erroneous, inconsistent, or incomplete information. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

**3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within three (3) business days, unless otherwise agreed upon by the Owner in writing. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

**3.6.5 Changes in the Work (if authorized)**

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

**3.6.5.2** The Architect shall maintain records relative to changes in the Work, including but not limited to, RFIs, Bulletins, Change Orders, Construction Change Directives, submittals, and Architect's Supplemental Instructions and upon completion, represent all changes in the Record Documents. The Architect will maintain a record of all change orders for the Project that shows the status of each change order, identifies known issues that could potentially be the basis for a change order, and includes the name of the contractor, the subject of the change order, the dates of approval, the estimated cost of the change order (if not approved), the number of days additional time requested by the contractor for the Work, and the number of days approved by the Architect and Owner to accomplish the Work. The Architect will furnish an updated copy of the change order record to the Owner upon request.

**3.6.5.3** The Architect shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied. The Architect will maintain a record of all change orders for the Project that shows the status of each change order, identifies potential change orders and includes the subject of the change order, the dates of approval, the estimated cost of the change order (if not approved), the number of days additional time requested by the Contractor for the Work

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and the number of days approved by the Architect and Owner to accomplish the Work. The Architect will furnish an updated copy of the change order record to the Owner upon request.

**3.6.5.4** If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect, shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services modification to the Architect's services. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

**3.6.6 Project Completion (if authorized)**

**3.6.6.1 The Architect shall:**

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

To the extent the Contractor has not completed its Work or there are defects or non-conforming Work following the date for Substantial Completion, the Architect in its role as design professional will work with the Owner to pursue the Contractor to complete its Work and correct any defective or non-conforming Work; however, the Architect is not a guarantor that the Contractor will complete its Work. The Architect will receive and review for compliance with the Contract Documents written guarantees and related documents required by the Contract Documents to be assembled by the Contractor and will issue when so warranted a Final Certificate of Payment.

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

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

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

**3.6.6.5** Upon request of the Owner, and one (1) month 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. The Architect shall document deficiencies and notify the Contractor in writing with a copy to Owner, that corrective work is required, prior to the 1 year anniversary of Substantial Completion unless agreed upon otherwise.

**3.6.6.6 Record Drawings.** Before final payment is due the Architect and as part of its Basic Services, the Architect will prepare a set of Record Drawings for the Project, based upon the marked drawings received from the Contractor and including any annotations from the Architect to reflect changes to the Project issued through responses to RFIs or Change Orders. The Record Drawings, to the best of the Architect's knowledge based upon the as-built drawings delivered to the Architect by the Contractor and the Architect's knowledge of change orders and observations during the progress of the Project, will document the construction of the Project and contain such annotations by the Architect as may be necessary for someone unfamiliar with the Project to understand the changes made to the original plans. As part of the payment approval process for the Contractor during the course of the Project, the Architect will implement a system that requires the Contractor to update the working sets of drawings to reflect Work in progress. Because the Record Drawings are based on unverified information provided by other parties, which will be assumed reliable, the Architect cannot and does not warrant their accuracy. The Record Drawings will be provided in an electronic format that is acceptable to the Owner.

**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.

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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.

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	« Architect »
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	« Architect »
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Not Provided
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	« Architect »
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	« SD Budget Estimate »
§ 4.1.1.13 On-site project representation	« Phase 2 »
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	« Architect »
§ 4.1.1.21 Telecommunications/data design	« Owner »
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	« Phase 2 - TBD »
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	« 911 Call Center Planning / Assessments »
§ 4.1.1.30 Other Supplemental Services	Not Provided

#### **4.1.2 Description of Supplemental Services**

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

Refer to DLZ Technical Proposal, dated 12/10/2024

**4.1.2.2** Not Used.

**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. Notwithstanding the foregoing, nothing in this Agreement shall relieve the Architect of its professional duties related to the Project. If the Architect fails to timely

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provide notice under this Section 4.2 and its subsections, and the Owner is materially prejudiced by the Architect's failure to timely provide notice, the Architect shall be deemed to have waived the right for compensation for performing the Additional Services.

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

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

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

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

**4.2.5** If the services covered by this Agreement have not been completed within twelve (12) months after the date of Substantial Completion of the Project, through no fault of the Architect, then the Architect may request additional compensation for the actual cost of performance to the extent the Architect demonstrates that the cost exceeds the cost the Architect would have incurred in the absence of the delay.

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**ARTICLE 5 OWNER'S RESPONSIBILITIES**

- 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.
- 5.2** The Owner shall establish, and may periodically update, the Owner's budget for the Project in its sole discretion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. Upon notice of a significant increase or decrease in the Owner's budget for the Cost of the Work, the Owner and the Architect shall promptly meet to consider any corresponding change in the Project's scope and quality.
- 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.
- 5.4** The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.
- 5.5** The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.
- 5.6** The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.
- 5.7** [Not used]
- 5.8** The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner may furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.
- 5.9** The Owner shall furnish reasonably requested 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. Notwithstanding the foregoing, the parties understand that the Owner has no duty to search for the same, and further agree that Owner is not a professional skilled in finding such faults or defects.
- 5.12** Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.
- 5.13** Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.
- 5.14** The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect reasonable access to the Work wherever it is in preparation or progress, unless there is a risk of delay to the Project or to the safety of persons.

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5.15 [Not used]

**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. The Cost of the Work is based on current market rates for labor and materials and does not include any Owner contingencies for potential future price increases or market conditions.

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

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

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

6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work.

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

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

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

**ARTICLE 7 COPYRIGHTS AND LICENSES**

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

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

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**7.3** Upon execution of this Agreement, the Architect grants to the Owner full ownership of the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due under this Agreement. The Architect shall obtain the necessary rights from the Architect's consultants consistent with this Agreement and the Owner's ownership of the Instruments of Service. The rights granted under this section permit the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service for use in performing services or construction for the Project for the Owner. These full ownership rights shall survive any termination of this Agreement. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the rights granted in this Section 7.3 shall terminate.

**7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

**7.5** The provisions of this Article 7 shall survive the termination of this Agreement.

**7.6** The Owner authorizes the Architect to furnish contractors and subcontractors, directly engaged in the Project, portions of the Construction Documents in digital data format for their convenience and use solely for their construction of the Project. The Architect cannot warrant the compatibility of digital data files with the hardware or software utilized by the contractors and subcontractors. The Architect does not warrant the accuracy of changes made by contractors and subcontractors to the digital files provided by the Architect.

**7.7** Upon completion of the services, the Architect shall furnish to the Owner digital data files of the latest Construction Documents prepared by the Architect. The Architect shall correct any errors or discrepancies found in the digital data files and reported within 60 days of their receipt by the Owner.

## **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. 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 and paid by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the modified AIA Document A201-2017, General Conditions of the Contract for Construction prepared for the Project, if applicable. 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.

**8.1.4 Indemnification** Notwithstanding any other provision in this Agreement to the contrary, the Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against liabilities arising from claims by third parties for death or injury, including costs of defense, reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. Such indemnification shall be in accordance with Ohio Revised Code Section 153.81 and shall only be for the liabilities incurred from the proportionate share of the tortious conduct, as determined pursuant to section 2307.23 of the Revised Code, of the professional design firm or any consultant, subcontractor, or other entity used by the professional design firm, in performing services under this Agreement. Nothing in this provision prohibits the Owner from commencing a civil action for damages against the Architect for the breach of this Agreement or for the breach of the Standard of Care.

### **8.2 Mediation**

**8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement may be



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submitted to mediation if agreed upon in writing by both parties. 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. Unless otherwise agreed in writing, the Owner shall maintain the Owner's rights to the Architect's Instruments of Service and the Architect shall continue to provide services and shall maintain progress during any mediation, arbitration or litigation proceedings, and the Owner shall continue to make payments to the Architect in accordance with this Agreement, however the Owner shall be under no obligation to make payments on or against any claim or amounts in dispute during the pendency of any mediation, arbitration or litigation proceeding to resolve those claims or amount in dispute. Notwithstanding Owner's right to suspend payment for amounts in dispute, Owner shall continue to make proportionate payments for all services not in dispute. If Owner fails to make payment in accordance with this Agreement, Architect may suspend its services until such payment is made.

**8.2.2** If the Owner and Architect mutually agree to attempt to resolve claims, disputes and other matters in question between them by mediation, then the parties shall mutually agree to a mediator, and the mediation shall be administered by a mediator that is mutually agreeable to the parties; however if the parties are unable to agree upon a forum or mediator, the parties will use the American Arbitration Association's Construction Industry Mediation 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. 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. The parties agree that a request for mediation will not be submitted to the American Arbitration Association until the parties are unable to agree on a different forum for mediation of the claim, dispute, or other matter in question between them.

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

**8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction within Delaware County, Ohio.

**8.3 [NOT USED]**

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

**ARTICLE 9 TERMINATION OR SUSPENSION**

**9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give twenty-one (21) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**9.2** If the Owner suspends the Project, and the suspension is for a period greater than 120 days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**9.3** If the Owner suspends the Project for more than 120 cumulative days for reasons other than the fault of the Architect and within the Owner's control, the Architect may terminate this Agreement by giving not less than seven days' written notice.

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

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

**9.6** In the event of termination not the fault of the Architect, the Architect shall be compensated for services actually performed prior to termination per paragraph 11.6, together with Reimbursable Expenses then due.

**9.7 [Not used]**

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

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

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

**10.1** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall only be brought in and heard before a court of competent jurisdiction in Delaware County, Ohio, and each party hereby expressly consents to the jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of this Agreement to federal court.

**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, as modified by the Owner.

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

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

**10.5** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. The Architect shall identify Owner as an express third party beneficiary in each agreement with Architect's consultants and subcontractors and shall incorporate by reference all of Architect's duties and obligations with respect to Owner in such agreements such that each consultant and subcontractor shall owe to Architect all obligations that Architect owes to Owner, as adjusted for the particular services provided to 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, unless the toxic materials or substances were brought to the Project by the Architect pursuant to the terms of the Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project Site, the Architect 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 Architect will not publish other information regarding the Project without the Owner's prior written consent and the Owner agrees not to unreasonably withhold such consent. The Architect agrees to keep confidential and not to disclose to any third party (without the advance written consent of the Owner) any confidential, proprietary or privileged information or documentation of the Owner. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

**10.8** If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential to the extent permitted by law and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) to the extent required by law. If Architect wishes to protect such information from a public records request, Architect shall be responsible for initiating or pursuing any legal remedy at its own expense and shall indemnify Owner against any damages Owner may incur related to or arising out of such public records request. This Section 10.8 shall survive the termination of this Agreement.

**10.9 Partial Invalidity.** If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement will remain in full force and effect and such term will be deemed stricken; provided this Agreement will be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

**10.10 Betterment.** If a required item or component of the Project is omitted from the Architect's Construction Documents, the Architect shall not be responsible for paying the cost required to construct such item or component to the extent that such costs would have been incurred had Architect included such item or

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component in the Architect’s original Construction Documents (i.e., betterment), but Architect shall be responsible for paying any additional costs arising from the omission.

**10.11** The services provided under this Agreement include those commenced and previously authorized by the Owner within the scope of this Project. Fees paid prior to the execution of the Agreement shall be credited against the fees set forth in this Agreement.

**ARTICLE 11 COMPENSATION**

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

<b>.1 Stipulated Sum</b>	
Programming Verification-	\$114,700.00
Schematic Design	- \$ 83,500.00
<b>.2 Other</b>	
Reimbursable allowance	- \$ 1,500.00
<b>Total</b>	<b>- \$199,700.00</b>

**11.2** Not Used.

**11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

No Additional Services shall be performed without a prior written, signed agreement between the Owner and Architect. The Architect shall be compensated for Additional Services on the basis of hourly billing rates set forth in **Exhibit A**, unless a lump sum amount is mutually agreed upon between the Owner and Architect.

**11.4** Not Used.

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

Schematic Design Phase	« Fifty-Eight »	percent (	« 58 »	%)
Design Development Phase	« TBD »	percent (	« »	%)
Construction Documents Phase	« TBD »	percent (	« »	%)
Procurement Phase	« TBD »	percent (	« »	%)
Construction Phase	« TBD »	percent (	« »	%)
« Programming Phase »	Fourty-Two	percent (	42	%)
<b>Total Basic Compensation</b>	<b>One Hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

**11.6** Not Used.

**11.6.1** Not Used.

**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.

Refer to DLZ Technical Proposal, dated 12/10/2024

**11.8 Compensation for Reimbursable Expenses**

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

- .1** Transportation and authorized out-of-town travel and subsistence;
- .2** Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3** Permitting and other fees required by authorities having jurisdiction over the Project;
- .4** Printing, reproductions, plots, and standard form documents;
- .5** Postage, handling, and delivery;
- .6** Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7** Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8** If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;

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- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

**11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants up to the agreed upon maximum allowance. If the reimbursable expenses exceed the Allowance noted, DLZ reserves the right to request additional allowance to cover the additional expenses.

**11.9 Architect's Insurance.** Not Used.

**11.10 Payments to the Architect**

**11.10.1 Initial Payments**

**11.10.1.1** Not Used.

**11.10.1.2** Not Used.

**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 Ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

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

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

**12.1 Architect's Duties in General.** The Architect acknowledges that the Owner is entering this Agreement in reliance on the Architect's abilities to perform the Basic Services and any Additional Services requested under this Agreement on a timely basis. To the extent that any service hereunder shall be performed by consultants retained by the Architect, the term "Architect" as used in this Agreement shall be deemed to include any such consultant.

**12.2** The Architect acknowledges it will use its skill and judgment in accordance with its Standard of Care to coordinate the design of the Project in order to (i) minimize disruption of the Owner's operations, and (ii) to coordinate the Project as to phasing, timing, staging, design, and execution. However, it is understood that the Architect will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the responsibility of the Contractor.

**12.3** The Architect's duties and obligations, as set forth herein, and any liabilities arising hereunder shall at no time be diminished or released by reason of any approval by the Owner of the Drawings and Specifications or any other documents prepared by the Architect.

**12.4** The Architect, consistent with its Standard of Care and professional skills, agrees, based upon the manufacturers' specifications or observations, that materials and equipment specified shall be adequate for the purposes for which they are specified and that specified construction materials are commercially available.

**12.5** Consistent with its Standard of Care, the Architect shall endeavor to anticipate problems related to zoning, building permits, building envelope including roofs and walls, availability of utilities, equipment and material shortages, proper balancing of the heating, ventilating, and air conditioning systems, security systems, and supplier delays.

**12.6** The Architect shall endeavor to maintain good working relations with the Owner, Contractor, and subcontractors, shall further endeavor to solve problems and resolve disputes, if reasonably possible, promptly as they occur on the Project, and shall promptly advise the Owner of any action recommended with respect to the problems or disputes.

**12.7 Privileged Communications.** All communications between the Owner's legal counsel and the Architect, while the Architect is acting as the agent for the Owner under the terms of this Agreement and which relate in any way to the administration of the construction of the Project or to the work of the Contractor, any Subcontractor, materialman, or any other person rendering services in connection with the Project, shall be subject to the attorney-client privilege that can be waived only by the Owner. Any such communications and

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copies thereof that are written including without limitation, correspondence, notes, memoranda, notes of meetings and conversations that are reduced to writing and the like, upon notice from the Owner's legal counsel, shall be placed by the Architect in a separate file folder marked "Privileged and Confidential" and shall not be disclosed to any person other than the Architect's own legal counsel without the express written permission of the Owner. This provision is intended to protect the confidentiality of the Owner's communications with its counsel when the Architect comes into possession of such information in its capacity as agent of the Owner in the performance of its duties under this Agreement in the event of a dispute between the Owner and a third party. This paragraph is not intended to impede communications between the Architect and the Architect's counsel or between the Architect and any contractor seeking a decision from the Architect on a claim or dispute related to the Project.

**12.8 Non-Discrimination.** Architect agrees:

- .1 That in the hiring of employees for the performance of Work under this Agreement or in any subcontract, neither the Architect, subcontractor, nor any person acting on behalf of either of them, shall by reason of race, creed, sex, handicap, or color, discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
- .2 That neither the Architect, subcontractor, nor any person acting on behalf of either of them, shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Agreement on account of race, creed, sex, handicap, or color.
- .3 That there shall be deducted from the amount payable to the Architect by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement.
- .4 That this Agreement may be canceled or terminated by the Owner and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

**12.9 Notices.** A Notice is any written notice to the Owner or the Architect. Written Notice to the Architect shall be deemed to have been duly served if delivered in person to an officer or any other official of the Architect or if delivered to or sent by registered or certified mail, return receipt requested, to the last known business address of the Architect. Written Notice to the Owner shall be deemed to have been duly served if delivered in person or sent by registered or certified mail, return receipt requested to the Owner's representative identified in the Agreement. When sent by certified mail to either party, any written notice shall be considered properly delivered to the other party three (3) days after the date sent.

**12.10 Modification.** No modification or waiver of any of the terms of this Agreement or of any other Contract Documents will be effective against a party unless set forth in writing and signed by or on behalf of a party. Under no circumstances will forbearance, including the failure or repeated failure to insist upon compliance with the terms of the Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this Agreement.

**12.12 Ethics.** The Architect is aware of the ethics responsibilities in applicable sections of the Ohio Revised Code and is in compliance with the applicable sections of the Ohio Revised Code.

**12.13 Findings for Recovery.** The Architect is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, this Agreement is void, and the Architect will immediately repay to the Owner any funds paid under this Agreement.

**12.14 Counterparts.** This Agreement may be executed in any number of counterparts each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more than one counterpart hereof. This Agreement may be executed and delivered by facsimile or via electronic mail. Facsimile or electronic signatures shall be effective as originals.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 Exhibits:

Vote on Motion

Mrs. Lewis Absent

Mr. Merrell Aye

Mr. Benton Aye

**OTHER BUSINESS**

**RESOLUTION NO. 25-94**

**IN THE MATTER OF CONFIRMING THE SPECIAL ASSESSMENTS FOR THE CONSTRUCTION OF THE REALIGNED HOME ROAD (COUNTY ROAD 124) LOCATED JUST WEST OF U.S.**

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**ROUTE 23 IN ORANGE TOWNSHIP, DELAWARE COUNTY, OHIO:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve the following:

WHEREAS, on November 24, 2014, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 14-1374, proceeding with the construction of the realigned Home Road (County Road 124) located just west of U.S. Route 23 in Orange Township, Delaware County, Ohio (the “Improvement”) and apportioning the cost of the Improvement in accordance with section 5555.41(D) of the Revised Code; and

WHEREAS, on July 18, 2016, the Board adopted Resolution No. 16-693, levying special assessments for the construction of the Improvement, based on the County Engineer’s certified total construction cost of \$1,809,774.69; and

WHEREAS, subsequent to the levying of the special assessments, the real property subject to the special assessments was split and subdivided, and the special assessments were not properly allocated to the successor parcels; and

WHEREAS, the Board desires to confirm the special assessments for the construction of the Improvement and confirm the apportionment in accordance with section 5555.41(D) of the Revised Code;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, as follows:

Section 1. The Board hereby confirms the special assessments for the cost and expense of the Improvement, in proportion to the special benefits to the real estate to be assessed, upon the lots and lands as follows:

<b>Parcel ID</b>	<b>Acres</b>	<b>Apportionment</b>	<b>Annual (12 years remaining)</b>
31823002001003	25.476 acres	30.36%	\$9,157.46
31823002001002	5.432 acres (net)	6.47%	\$1,951.54

The remaining balance of the cost and expense of the Improvement not assessed herein, or collected through prior assessments, shall be paid out of county funds, in accordance with section 5555.41(D) of the Revised Code. In the event the lots and lands assessed herein are further split or subdivided, the Board shall reallocate the assessments in proportion to the acreage of each successor parcel.

Section 2. The special assessment against each parcel shall be payable in annual installments, payable semiannually at the time real estate taxes in Delaware County are payable. The special assessments shall be certified to the Delaware County Auditor to be placed on the special duplicate for 2024 and collected as taxes are collected commencing in 2025, continuing through tax year 2035, collected in 2036.

Section 3. The Clerk of the Board is hereby directed to certify a copy of this Resolution to the Delaware County Auditor.

Section 4. The Clerk of the Board is hereby directed to deliver a certified copy of this Resolution by certified mail to the owner of the parcels to be assessed.

Section 5. This Resolution shall take effect immediately upon adoption.

Vote on Motion                      Mr. Merrell Aye                      Mrs. Lewis Absent                      Mr. Benton Aye

**OTHER BUSINESS  
RESOLUTION NO. 25-95**

**IN THE MATTER OF A PROCLAMATION RECOGNIZING JUDGE DAVID GORMLEY:**

It was moved by Mr. Merrell, seconded by Mr. Benton, to approve the following:

WHEREAS, the Delaware County Board of Commissioners wishes to extend its deepest appreciation to Judge David Gormley for his service to the citizens of Delaware County on the occasion of his accession to the bench of the Ohio Fifth District Court of Appeals; and

WHEREAS, Gormley has served with distinction in a local judicial role for 17 years, first as a judge of the Delaware Municipal Court and, for the past decade, as a judge of the Delaware County Court of Common Pleas; and

WHEREAS, after receiving a bachelor’s degree from the University of Michigan and a law degree from Harvard, Gormley served as a law clerk for Judge Albert Engel on the U.S. Court of Appeals for the Sixth Circuit before spending two years practicing commercial litigation at the Jenner & Block law firm in Chicago; and

WHEREAS, from 1993 until 1997, Gormley served as an assistant prosecuting attorney in Delaware County, a

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position to which he would return in 2003 after working in the Ohio Attorney General’s office during the administration of Betty Montgomery; and

WHEREAS, during his time in the Attorney General’s office, Gormley served for three years as the State Solicitor of Ohio, a position in which he oversaw major civil and criminal appeals for the State of Ohio in both state and federal courts, including the U.S. Supreme Court; and

WHEREAS, since his election to the Delaware County Court of Common Pleas in 2014, Gormley has presided with judicial efficiency, integrity and expertise over cases of importance to the residents of this county; and

WHEREAS, Gormley achieved great success with a specialty court docket focused on linking those diagnosed with mental-health challenges to treatment providers while holding them accountable for their actions and encouraging meaningful positive changes in their lives; and

WHEREAS, Gormley’s oversight of this docket achieved a 100% recidivism reduction rate in 2023, with 67% of participants who were eligible to complete the program doing so.

NOW, THEREFORE, BE IT RESOLVED that, with this proclamation, the Delaware County Board of Commissioners does hereby recognize and celebrate the career of Judge David Gormley as he prepares to further his legal legacy on the Ohio Fifth District Court of Appeals.

Vote on Motion            Mr. Merrell Aye            Mrs. Lewis Absent            Mr. Benton Aye

**6  
ADMINISTRATOR REPORTS**

**CA Davies** – Nothing to report.

**Attorney Hochstettler** – Nothing to report.

**DCA Huston** – recognizing JFS Director, Robert Anderson, on receiving the “Pace Setter Award” at a recent state conference.

**7  
COMMISSIONERS’ COMMITTEES REPORTS**

**Commissioner Merrell** – he will be attending the annual Chamber of Commerce dinner tonight

**Commissioner Benton** – he will be attending the annual Chamber of Commerce dinner tonight. He will also be attending the EMS awards ceremony this week, as well as the swearing in ceremony for Judge Montgomery and a MORPC meeting.

There being no further business, the meeting adjourned.

\_\_\_\_\_  
Jeff Benton

\_\_\_\_\_  
Barb Lewis

\_\_\_\_\_  
Gary Merrell

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Jennifer Walraven, Clerk to the Commissioners