



**Prospect  
Heights**

**CITY COUNCIL REGULAR MEETING**

**AGENDA**

**February 23, 2015**

**6:30 p.m.**

**City Hall**

**Prospect Heights, IL 60070**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE** – Alderman Williamson
- IV. INVOCATION** – Pastor Rod Krueger of Our Redeemer Lutheran Church
- V. CLOSED SESSION** – Motion to go into executive session pursuant to 5 ILCS 120/2 (c) (5) to discuss: the purchase or lease of real property for the use of the public body.
- VI. RESIDENT COMMENTS (Agenda Matters)**
- VII. STAFF AND ELECTED OFFICIALS REPORTS**
  - Interim City Administrator Balling
  - CEA July 3, 2015 special event summary by Charlie Priester
  - Department Directors
  - Treasurer's Report
  - City Treasurer
  - Clerk Report
  - Alderman
  - Mayor
- VIII. ADOPTION OF CONSENT AGENDA** - All items listed on the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless an Alderman or citizen so requests, in which event the item will be removed from the general order of business and considered under the Approval of Exceptions.
  - A. Approval of the City Council Workshop Minutes for February 9, 2015.
  - B. Approving the purchase of two Public Works facility vehicle lifts in the amount of \$20,215.00, with waiver of bidding.
  - C. Approving the purchase of a complete electronic entry system for the Public Works facility, at a cost of \$22,522.33, with waiver of bidding.
  - D. Resolution R-15 - ##. Supporting the Northwest Municipal Conference 2015 Legislative Program.
- IX. APPROVAL OF CONTRACTS**
  - E. GHA design services for 11 E. Camp McDonald Road parking facility.
  - F. Approval of contract with IFS for construction management services (Tourism District)
  - G. Authorizing contract for OTSD televising services.

**X. APPROVAL OF EXPENDITURES**

**H. Approval of Warrants**

|                                |              |
|--------------------------------|--------------|
| General Fund                   | \$130,820.80 |
| MFT Fund                       | \$11,377.30  |
| Palatine/Milwaukee TIF         | \$17,400.02  |
| Tourism District               |              |
| Development Fund               | \$121.29     |
| DEA Fund                       |              |
| Solid Waste Fund               |              |
| SS Area #1                     |              |
| SS Area #2                     |              |
| SS Area #3                     |              |
| SS Area #4                     |              |
| SS Area #5                     |              |
| SS Area #8 – Levee Wall #37    |              |
| SS Area-Constr #6 (Water Main) |              |
| SS Area- Debt #6               | \$450.00     |
| Road Construction              |              |
| Road Construction Debt         |              |
| Water Fund                     | \$2,818.02   |
| Parking Fund                   | \$1,653.10   |
| Road/Building Bond Escrow      |              |
| TOTAL Expenditures             | \$164,640.53 |
| 2/6/2015 Payroll               | \$120,239.89 |
| Police Pension Payment         | \$24,970.01  |
| TOTAL WARRANT                  | \$309,850.43 |

**XIII. OLD BUSINESS**

**XIII. NEW BUSINESS**

**XIV. ADJOURNMENT**

POSTED: by Assistant to City Administrator Anthony Kalina 5:00 PM, February 19, 2015

**This meeting will be televised on the following Prospect Heights Cable Channels:  
Comcast and WOW Channel 17 and AT&T U-verse Channel 99**

B



**Prospect  
Heights  
City Council Meeting  
Agenda Item No:**

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**Meeting Date:** February 23, 2015

**Item:** P.W. Facility Vehicle Lifts

**Motion:** I move to accept the quote from RACK'M UP Equipment Distributors to install one 2-post lift and one 4-post lift in the amount of \$ 20,215.00

**Staff Contact:** Steven L. Cutaia, Public Works Director *SLC*

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**Purpose:**  
The purpose of this memo is to request approval to have RACK'M UP Equipment Distributors to install one 2-post lift and one 4-post lift at our PW Facility.

**Background:**  
The PW Facility currently has one dated 2 post lift, which is only able to lift smaller vehicles.

**Financial Impact:**  
The proposal is for \$ 20,215.00 which is budgeted in the 2014-15 PW addition budget.

**Recommendation:**  
Staff researched many competitors and prices. Staff felt this manufacture, supplier and price was our best option. Based upon the specialization and importance of this system, staff recommends the City proceed with the quote from RACK'M UP Equipment Distributors to install one 2-post lift and one 4-post lift in the amount of \$ 20,215.00.

**Votes Required to Pass:**  
Majority vote

**Enclosures:**  
Copy of Proposal

**a**

**Rack'm Up Equipment Distributors**

825 N. Bonnie Lane, Elk Grove Village, Illinois 60007

Phone 800-477-0688 / Fax 847-734-8447

Village of Prospect Heights  
8 N. Elmhurst Rd.  
Prospect Heights, IL 60070  
Attn: Steven Cutala (x207)

January 23, 2015  
847-398-6070  
FAX 847-590-1854  
[scutala@prospect-heights.org](mailto:scutala@prospect-heights.org)

Dear Steven:

The following is the quotation you requested:

|                                                                                                                                             |              |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>One Challenger Model 4015 EFX</b> Four post 15,000 lb capacity lift with air lines for<br>Jack Beams PN. 40230E                          | \$ 7,856.00  |
| <b>One Challenger Model CL10V3-2</b> Twin Post 10 K lift with versametric arms<br>With 10319 stack and truck (frame) adapter kit; 13'8" Hgt | \$ 5,217.00  |
| Installation (not including electric from panel)                                                                                            | \$ 1,600.00  |
| Rolling Jack Beams 7,500lb capacity for 4 post lift with adapters and installation<br>RJ 7.5 2 each at \$ 2,971.00<br>Freight is included.  | \$ 5,942.00  |
| Subtotal                                                                                                                                    | \$ 20,615.00 |
| Trade in of existing Challenger twin post floor plate lift                                                                                  | \$ - 400.00  |
| Total                                                                                                                                       | \$ 20,215.00 |

If you have any questions or concerns, please call me at 815-693-1209.

David Beebe

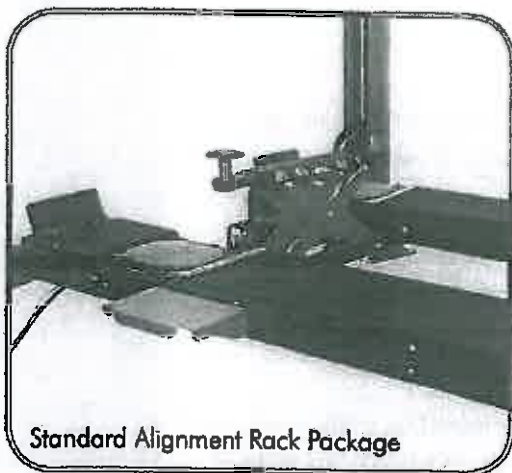
# CL Challenger Lifts



**Model#: AR4015EAO**  
Alignment Rack Package  
15,000 lb. lifting capacity

## 4015series

**4-Post Flat Deck General Service  
& Alignment Rack Package Lifts**



Standard Alignment Rack Package

Challenger Lifts' 15,000 lb. four post automotive lifts are the complete package for expanding your service offering and revenue potential. The 4015series comes in several productivity configurations including open and closed front general service flat decks and alignment rack packages that support today's latest camera imaging alignment systems. With the 4015series, you'll be able to service small passenger cars and medium duty trucks, vans and fleet vehicles.

Alignment Rack models include a package of two 7,500 lb. rolling jacks, internal air line system for the dual rolling jacks, flush mount stainless steel turning radius gauges, rear slip plates, multi-position work-steps and automatic wheel stops.

# CL Challenger Lifts



**Versymmetric<sup>®</sup>**  
**Plus**

**Model#: CL10V3-2-DPC**  
Versymmetric<sup>®</sup> Plus 2-Post Lift  
Dual Pendant Power Controls  
Offset 3-stage front + 3-stage rear arms  
Asymmetric application  
10,000 lb. capacity  
(shown with optional accessories)



## CL10series

Service more vehicles and make more money with the CL10series two post auto lifts. Its exclusive Versymmetric<sup>®</sup> Technology provides the versatility to safely lift vehicles symmetrically or asymmetrically within the same service bay.

With standard directSPOT<sup>™</sup> arm design and three Versymmetric<sup>®</sup> productivity configurations - Max Plus Productivity, Maximum Productivity and Complete Productivity, adjustable height and width options, and custom color options, CL10series two post automotive lifts are the best choice for professional service facilities.

Other standard features include double telescoping screw pads, Heavy-Duty pulley and cable equalization system, elongated carriage, rubber door guards, adjustable arm restraint shafts, single point mechanical lock release and padded overhead shut off system.



# MOHAWK LIFTS

## QUOTE

Page 1 of 2

### Mohawk Resources Ltd

"Americas best lift investment"

PROPOSAL # TG-COPH TR19

DATE: JUNE 26, 2014

EXPIRATION DATE 60 DAYS

From: Tim Gralewski  
Mohawk Lifts  
65 Vrooman Ave.  
Amsterdam, NY 12010  
Phone 1-800-833-2006@ext.20 Fax (518) 842-1289  
[rpedrick@mohawklifts.com](mailto:rpedrick@mohawklifts.com)

TO: Mr. Paul Miller  
City of Prospect Heights  
401 Piper Lane  
Prospect Heights, IL 60070  
847-553-5556  
[pmiller@prospect-heights.org](mailto:pmiller@prospect-heights.org)

For purchase using the:

**NJPA**  
National Joint Powers Alliance  
Contract #010511-MRL  
2/23/11-2/24/15  
NJPA Member ID # 17913

| SALESPERSON   | PO # | SHIPPING METHOD | SHIPPING TERMS  | DELIVERY DATE     | PAYMENT TERMS | DUE DATE |
|---------------|------|-----------------|-----------------|-------------------|---------------|----------|
| Tim Gralewski |      | Best way        | FOB Destination | 35 to 40 Days ARO | Net 30        |          |

| Qty                       | Model/Part #         | Medium Duty Four Post Lifts (description)                                                                              | Unit Cost    | Total Cost       |
|---------------------------|----------------------|------------------------------------------------------------------------------------------------------------------------|--------------|------------------|
| 1                         | TR-19<br>019-000-013 | 19,000lb. Capacity Medium Duty Drive On Four Post Vehicle Service Lift (20ft Tracks Only)<br><u>OPTIONAL EQUIPMENT</u> | \$ 12,416.74 | \$ 12,416.74     |
| 1                         | RJ-15<br>019-000-010 | 15,000lb. Capacity Elec/Hyd. Rolling Bridge Jack                                                                       | \$ 4,637.83  | \$ 4,637.83      |
| Subtotal                  |                      |                                                                                                                        |              |                  |
| Freight                   |                      |                                                                                                                        |              | Included in cost |
| (optional) Installation   |                      |                                                                                                                        |              | \$ 2,500.00      |
| Sales Tax (if applicable) |                      |                                                                                                                        |              |                  |
| Total                     |                      |                                                                                                                        |              | 19,553.00        |

Quotation prepared by: Tim Gralewski

This is a quotation for the equipment named, subject to the conditions noted on the following page(s)

THANK YOU FOR YOUR BUSINESS



# MOHAWK LIFTS

## QUOTE

Page 1 of 2

### Mohawk Resources Ltd

"Americas best lift investment"

From: Tim Gralewski  
Mohawk Lifts  
65 Vrooman Ave.  
Amsterdam, NY 12010  
Phone 1-800-833-2006@ext.20 Fax (518) 842-1289  
[timg@mohawklifts.com](mailto:timg@mohawklifts.com)

PROPOSAL #TG-COPH LMF

DATE: JUNE 26, 2014

EXPIRATION DATE 60 DAYS

For purchase using the:



National Joint Powers Alliance

Contract #010511-MRL

2/23/11-2/24/15

NJPA MEMBER ID # 17913

TO: Mr. Paul Miller  
City of Prospect Heights  
401 Piper Lane  
Prospect Heights, IL 60070  
847-553-5556  
[pmiller@prospect-heights.org](mailto:pmiller@prospect-heights.org)

**25 Year Structural**  
**10 Year Mechanical**  
**5 Year Parts\***  
**Lifetime Cylinder Seal Replacement**  
**Warranty**

| SALESPERSON   | PO # | SHIPPING METHOD | SHIPPING TERMS  | DELIVERY DATE     | PAYMENT TERMS | DUE DATE |
|---------------|------|-----------------|-----------------|-------------------|---------------|----------|
| Tim Gralewski |      | Best way        | FOB Destination | 35 to 40 Days ARO | Net 30        |          |

| Qty | Item #                | TWO POST LIFTS (description)                                | Unit Cost                         | Total Cost       |
|-----|-----------------------|-------------------------------------------------------------|-----------------------------------|------------------|
| 1   | LMF-12<br>012-010-001 | 12,000lb. Capacity Heavy Duty Two Post Vehicle Service Lift | \$ 11,088.64                      | \$ 11,088.64     |
|     |                       | <u>OPTIONAL EQUIPMENT</u>                                   |                                   |                  |
| 1   | 601-440-007           | Safety Weight Gauge                                         | \$ 105.41                         | \$ 105.41        |
|     |                       |                                                             | Freight                           | Included in cost |
|     |                       |                                                             | Installation<br>(Model Dependent) | \$ 1,100.00      |
|     |                       |                                                             | Sales Tax (if applicable)         | —                |
|     |                       |                                                             | Total                             | 12,293.41        |

Quotation prepared by: Tim Gralewski

This is a quotation for the equipment named, subject to the conditions noted on the following page(s)





## Standard Industrial & Auto Equip, Inc.

6211 Church Road, Hanover Park, IL 60133, USA  
Ph: (630) 289-9500 \* Fax: (630) 289-9507  
info@standardus.com \* www.standardus.com

# Quote

| Shipping Method | Billing Terms | Quote Date | Quote #        |
|-----------------|---------------|------------|----------------|
| Install         | Net 10, +0 %  | 09/11/2014 | <b>SO-7546</b> |

| Bill To                                                                                                      | Ship To                                                                                              |
|--------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| City of Prospect Heights<br>8 North Elmhurst Road<br>Prospect Heights, Illinois 60070<br>USA<br>847-398-6070 | City of Prospect Heights - Public Works<br>401 Piper Lane<br>Prospect Heights, Illinois 60070<br>USA |

| Sales Rep | Customer P.O.# |
|-----------|----------------|
|-----------|----------------|

Larry Garcia

Comments:  
Contact - Paul Miller, 847-553-5556. Buy through HGAC Buying Program.

| Units | Model ID                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Unit Price | Amount   |
|-------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|----------|
| 1.00  | Freight                   | Freight Charge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 375.00     | 375.00   |
| 1.00  | Labor - Above Ground      | Install lift on flat floor. Labor is based on Prevailing Wage Act .                                                                                                                                                                                                                                                                                                                                                                                                                                              | 2100.00    | 2,100.00 |
| 1.00  | Disclaimer                | Surface Mounted Lift Installations include the following: Delivery and unloading at the customer/owner's place of business. Installation of equipment at customer/owner's 1st choice of location. (Delay of more than 1/2 hour due to indecision on owner's part as to installation location will result in extra labor charges). Anchors and shims up to 1/4" thickness are included. Equipment use and safety training, if required, will be by factory trained technicians.                                   | 0.00       | 0.00     |
| 1.00  | Disclaimer (cont'd)       | It is the owner/customer's responsibility to insure that the lift will fit in the selected area and that there is enough overhead space for operation, without interference from lights, rafters, etc. Concrete must be a minimum of 4-1/2" (or OEM recommended thickness) and have a hardness of 3500 psi (min) with no cracks or expansion joints in the area of the anchors. It is the customer/owner's responsibility to prepare the installation area so that the installation can proceed without a delay. | 0.00       | 0.00     |
| 1.00  | Electric/Shims Disclaimer | Electric & air feed and final hook-up by others at owner's expense. Shimmiing over 1/4" will be an extra charge. If adhesive/epoxy anchors are needed due to unforeseen floor conditions, there will be an extra charge of \$35.00 per anchor used.                                                                                                                                                                                                                                                              | 0.00       | 0.00     |
| 1.00  | Fluid Disclaimer          | Customer is responsible for supplying fluid for lift. Regular ATF - Automatic Transmission Fluid is acceptable. Each lift requires approximately 5 gallons, but larger lifts will require more.                                                                                                                                                                                                                                                                                                                  | 0.00       | 0.00     |

|      |                   |                                                                                                                                                                                                                                                                           |         |          |
|------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|
| 1.00 | R-SPO12-TA-EH1    | Rotary Surface Mounted, Frame Contact Lift With Front and Rear 3 Stage Arms with Truck Adapter and (4) FJ6171-1 Extensions 3 1/2" Tall and (4) FJ6171-2 Extensions 5" Tall. Includes 3" additional rise standard and provides 1 ft extended height. 12,000 lbs. Capacity. | 6032.00 | 6,032.00 |
| 1.00 | Misc Material (T) | TRADE IN - Challenger 2 Post Floor Equalized Lift.                                                                                                                                                                                                                        | -100.00 | -100.00  |

|                  |                       |
|------------------|-----------------------|
| SubTotal:        | USD 6,407.00          |
| Total Sales Tax: | <del>USD 459.73</del> |
| Grand Total:     | USD 6,866.73          |

#### TERMS & CONDITIONS:

We exclude any work, equipment or expense for the successful completion of the installation or repair not specifically quoted herein. Customer agrees to pay all collection costs including lien fees, attorney and litigation costs if he fails to pay within specified terms and agrees to pay 1&1/2 % interest per month for unpaid balance. SIAE is not responsible for customer/owner's lost time, income, or business. Bonding, permits & licensing expenses will be added to the cost of the job. When circumstances arise to warrant contract cancellation, Standard Industrial & Automotive Equipment, Inc. (SIAE) will refund customer/owner's deposit less any expense incurred, such as: re-stocking fees, delivery and freight costs, engineering costs, permit fees, time and material expenses, etc. Customer/owner approves of a UCC filing with the state. Customer/Owner acknowledges and agrees that extra installation time resulting from encounters with the abnormal conditions such as encounters with utility lines of any kind, plumbing, floor heat, running water, buried concrete, logs frost, contaminated spoil, extra hard concrete, cave-ins for any inground installation or labor will incur extra costs on a time and material basis.

For above ground / inground installation or labor, customer/owner acknowledges and agrees that the following will incur extra costs based on time and material: <1> extra shimmming over 1/4 inch <2> epoxy anchoring due to soft concrete, cracks in concrete, or too close proximity to other anchor holes <3> customer/owner's decision to change location of installation once installation has begun <4> existing concrete thickness and/or hardness does not meet installation requirement <5> additional construction time required due to severely sloped floors <6> air lines if required for the operation of the lift located more than 10 feet from lift connection point <7> installation crew is required to prepare and/or clean up area prior to installation <8> Installation crew is required to wait more than 30 minutes to access installation area <9> Any delay caused by owner on other trades.

Repair of damage to floor heat will be at the customer/owner's expense. It is the customer/owner's responsibility to keep his employee and property clear of the installation area and access to it when work is in progress for safety concern.

Electrical work: Unless specifically quoted herein, all electrical work is excluded. Electrical hook-up, conduit runs, circuit breakers, cut off switches, mag starters, etc. are all excluded.

Thank you for your business! Please call with any questions or concerns.

Approved by: Sign: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Position: \_\_\_\_\_



## Standard Industrial & Auto Equip, Inc.

6211 Church Road, Hanover Park, IL 60133, USA  
Ph: (630) 269-9500 \* Fax: (630) 269-9507  
info@standardus.com \* www.standardus.com

# Quote

Shipping Method: Install      Billing Terms: Net 10, +0 %      Quote Date: 09/11/2014      ID# **SO-7549**

Ship To: City of Prospect Heights - Public Works

City of Prospect Heights  
8 North Elmhurst Road  
Prospect Heights, Illinois 60070  
USA  
847-398-6070

401 Piper Lane  
Prospect Heights, Illinois 60070  
USA

Sales Rep: Larry Garcia      Customer PO#

Larry Garcia

### Comments

Contact - Paul Miller. 847-553-5556. Buy through HGAC Buying Program.

| Units | Model ID             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Unit Price | Amount   |
|-------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|----------|
| 1.00  | R-SM14L              | Rotary CLOSED FRONT or CLOSED Rear Surface Mounted, Runway-Type, Drive-On Lift. With 20" Wide Fixed Runways. Runways and Ramps Have An Oil Resistant, Non-Skid Coating. Includes Dual Function Sentinel Lock System (Patented), Filter Lubricator Regulator (Part # S130080). Electric-Hydraulic Operation. Includes Adjustable Latch Bars. Pre-drilled For Internal Airline Kit. 73-3/4" Rise, 14000 lbs capacity, 182-1/2" max wheelbase range.                                                                | 5073.00    | 5,073.00 |
| 1.00  | Freight              | Freight Charge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 660.00     | 660.00   |
| 1.00  | Labor - Above Ground | Install lift on flat floor. Labor is based on Prevailing Wage Act .                                                                                                                                                                                                                                                                                                                                                                                                                                              | 3000.00    | 3,000.00 |
| 1.00  | Disclaimer           | Surface Mounted Lift Installations include the following: Delivery and unloading at the customer/owner's place of business, Installation of equipment at customer/owner's 1st choice of location. (Delay of more than 1/2 hour due to indecision on owner's part as to installation location will result in extra labor charges). Anchors and shims up to 1/4" thickness are included. Equipment use and safety training, if required, will be by factory trained technicians.                                   | 0.00       | 0.00     |
| 1.00  | Disclaimer (cont'd)  | It is the owner/customer's responsibility to insure that the lift will fit in the selected area and that there is enough overhead space for operation, without interference from lights, rafters, etc. Concrete must be a minimum of 4-1/2" (or OEM recommended thickness) and have a hardness of 3500 psi (min) with no cracks or expansion joints in the area of the anchors. It is the customer/owner's responsibility to prepare the installation area so that the installation can proceed without a delay. | 0.00       | 0.00     |
|       |                      | Electric & air feed and final hook-up by others at owner's expense.                                                                                                                                                                                                                                                                                                                                                                                                                                              |            |          |

|      |                           |                                                                                                                                                                                                                            |         |          |
|------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|
| 1.00 | Electric/Shims Disclaimer | Shimming over 1/4" will be an extra charge. If adhesive/epoxy anchors are needed due to unforeseen floor conditions, there will be an extra charge of \$35.00 per anchor used.                                             | 0.00    | 0.00     |
| 1.00 | Fluid Disclaimer          | Customer is responsible for supplying fluid for lift. Regular ATF - Automatic Transmission Fluid is acceptable. Each lift requires approximately 5 gallons, but larger lifts will require more.                            | 0.00    | 0.00     |
| 1.00 | R-P-S100077KIT            | Rotary Package Includes Two (2) RJ7000 Rolling Bridges And Airline Kit (uninstalled) for SM/SMO14.                                                                                                                         | 5125.00 | 5,125.00 |
| 1.00 | R-P-FC5393KITBK           | Rotary SHIM KIT FOR AR90/120/121/122                                                                                                                                                                                       | 177.00  | 177.00   |
| 1.00 | R-P-FC5414BK              | Rotary Full Size 1/4" Shim Kits For Installations With Sloped Flooring Requiring Full Size Base Shims. Allows Shimming From 2" To 4" Height On Rear End of Lift. For SM/SMO123, AR/ARO123, QL Models, SM18 and SM30 Lifts. | 257.00  | 257.00   |

|                  |               |
|------------------|---------------|
| SubTotal:        | USD 14,292.00 |
| Total Sales Tax: | USD 823.98    |
| Grand Total:     | USD 15,115.98 |

#### TERMS & CONDITIONS:

We exclude any work, equipment or expense for the successful completion of the installation or repair not specifically quoted herein. Customer agrees to pay all collection costs including lien fees, attorney and litigation costs if he fails to pay within specified terms and agrees to pay 18 1/2 % interest per month for unpaid balance. SIAE is not responsible for customer/owner's lost time, income, or business. Bonding, permits & licensing expenses will be added to the cost of the job. When circumstances arise to warrant contract cancellation, Standard Industrial & Automotive Equipment, Inc. (SIAE) will refund customer/owner's deposit less any expense incurred, such as: re-stocking fees, delivery and freight costs, engineering costs, permit fees, time and material expenses, etc. Customer/owner approves of a UCC filing with the state. Customer/Owner acknowledges and agrees that extra installation time resulting from encounters with the abnormal conditions such as encounters with utility lines of any kind, plumbing, floor heat, running water, buried concrete, logs frost, contaminated spoil, extra hard concrete, cave-ins for any inground installation or labor will incur extra costs on a time and material basis.

For above ground / inground installation or labor, customer/owner acknowledges and agrees that the following will incur extra costs based on time and material: <1> extra shimming over 1/4 inch <2> epoxy anchoring due to soft concrete, cracks in concrete, or too close proximity to other anchor holes <3> customer/owner's decision to change location of installation once installation has begun <4> existing concrete thickness and/or hardness does not meet installation requirement <5> additional construction time required due to severely sloped floors <6> air lines if required for the operation of the lift located more than 10 feet from lift connection point <7> installation crew is required to prepare and/or clean up area prior to installation <8> Installation crew is required to wait more than 30 minutes to access installation area <9> Any delay caused by owner on other trades.

Repair of damage to floor heat will be at the customer/owner's expense. It is the customer/owner's responsibility to keep his employee and property clear of the installation area and access to it when work is in progress for safety concern.

Electrical work: Unless specifically quoted herein, all electrical work is excluded. Electrical hook-up, conduit runs, circuit breakers, cut off switches, mag starters, etc. are all excluded.

Thank you for your business! Please call with any questions or concerns.

Approved by: Sign: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Position: \_\_\_\_\_

C



Prospect  
Heights

City Council Meeting  
Agenda Item No:

---

**Meeting Date:** February 23, 2015

**Item:** P.W. Facility electronic entry system

**Motion:** I move to accept the quote from Pentegra Systems to install a complete electronic entry system in the amount of \$22,522.33

**Staff Contact:** Steven L. Cutaia, Public Works Director 

---

**Purpose:**

The purpose of this memo is to request approval to have Pentegra Systems to install a complete electronic entry system at our PW Facility.

**Background:**

The PW Facility does not have this electronic entry system. Pentegra is the company that is currently contracted with the City to oversee our electronic entry system at the Police Facility and City Hall. During the construction of the PW Facility addition it is logical to upgrade the facility to interact with our current existing system at the other facilities.

**Financial Impact:**

The proposal is for \$22,522.33 which is budgeted in the 2014-15 PW addition budget.

**Recommendation:**

Based upon the specialization and importance of this system, staff recommends the City proceed with the quote from Pentegra Systems to install a complete electronic entry system in the amount of \$22,522.33.

**Votes Required to Pass:**

Majority vote

**Enclosures:**

Copy of Proposal

# City of Prospect Heights Purchase Order/Requisition

PO #

## Billing Address:

City of Prospect Heights  
Accounts Payable  
8 N Elmhurst Rd  
Prospect Heights, IL 60070

## Shipping To Address:

8 N. Elmhurst Rd  
14 E. Camp McDonald Rd  
401 Piper Lane(PW & Water Facility)

☐ Prepaid  
Order

City Hall  
Police Dept.  
Public Works

All Invoices Must Be Sent To Above Address  
and include P.O.#., Dept, Employee & Order Date  
All material shipped must include a packing List with P.O. #

Tax Exempt # 9975-7745-06

Vendor Name: PENTEGRA SYSTEMS

Address : 650 W Grand-Suite 315

City, State, Zip: Elmhurst Illinois 60125

Attention:

Phone: 217-415-588

Department:

Ordered By:

Date Ordered:

Delivery Date:

PW

Steve Cutaita

1/22/2014

ASAP

Quotes

Vendor

see file

Price

Total Cost

Unit Cost

QTY

1

Description

New electronic door security system at PW facility

22,522.33

TOTAL AMOUNT

\$22,522.33

Budget Account Number

Amount

PW Addition Fund

22,522.33

Date

n/a

Signatures:

Department Head

City Administrator

Received By



• Audio

• Video

• Data

• Security

• Telecom

# Quotation

650 W. Grand Ave. Suite 315  
Elmhurst, IL 60126Tel: 630.941.6000 Fax: 630.941.6060  
www.pentegrasystems.com

Ship To:

Prospect Heights Public Works  
14 E. Camp McDonald Road  
Prospect Heights IL

Bill To:

Quote # Q12894  
Prospect Heights Public Works  
14 E. Camp McDonald Road  
Prospect Heights IL

Att: Steven Cutaia

Phone:

Fax:

Att: Ms. Anne Marrin

Work Proposed:

This quotation is for the materials, cabling, key pad/card readers, REX devices, door contacts, electric locks, installation, project management, engineering, and warranty to install access control at doors 126A, 126C, 122A, 107A, and 125B at the Public Works/Police Facility. Key card and key fob sequence numbers are TBD.

| Quote Date | Ship VIA       | Terms                                                                  | Sales Engineer | Resale Number |
|------------|----------------|------------------------------------------------------------------------|----------------|---------------|
| 1/20/2015  |                | NET 30                                                                 | JL             |               |
| Qty        | Mfr.           | Description                                                            |                |               |
| 5          | AWID           | Keypad Proximity Reader                                                |                |               |
| 2          | Altronix       | Power Supply/Charger                                                   |                |               |
| 5          | Bosch Security | PIR REQUEST TO EXIT SENSOR WITH SOUNDER GRAY                           |                |               |
| 1          | S2 Security    | S2 Network Node with 6 readers (12 inputs/12 outputs) - Includes (3) 2 |                |               |
| 2          | Windy City     | Access Control MEGAPAK (PVC) 22-06 Shielded Card Reader                |                |               |
| 1          | Pentegra       | Misc. hardware, connectors, etc.                                       |                |               |
| 3          | ELK            | 12V 8AH Battery                                                        |                |               |
| 5          | Sentrol        | Steel Door Recessed Contact Gray                                       |                |               |
| 100        | AWID           | GRAPHIC QUALITY BADGE MINIMUM ORDER QTY 50                             |                |               |
| 50         | AWID           | Proximity Key Tag (Key Fob)                                            |                |               |
| 1          | Pentegra       | System Installation, Project Management, & Engineering                 |                |               |
| 1          | Pentegra       | Lift Rental                                                            |                |               |
| 1          | Suburban       | Subcontractor (Electric Locks)                                         |                |               |

1. This includes system training and one year system warranty.
2. This proposal includes 50 key fobs and 100 complementary key cards.
3. All AC power and conduit raceways are to be provide and installed by others.
4. Pentegra System will work with Ozzie Vaisvila to complete this project.
5. Network switch ports and communication are provided by others.

The design contents and concepts contained in this Quotation are the work product of Pentegra Systems LLC and shall not be duplicated or disclosed in any manner, in whole or in part for the purpose of obtaining competing quotations based on this design or any part of this design. The design contents contained in this proposal are protected by law and remain the property of Pentegra Systems LLC until accepted or the design rights are purchased for use as a bid or quotation specification. Any use of the design contents or equipment list contained herein shall constitute acceptance of customary fees plus obligation to pay any and all Pentegra Systems LLC expenses incurred in collection of these fees. All invoices are Net 30 days unless documented otherwise in this quotation. Past dues accounts will be charged a monthly 1.5% service fee plus administrative and collection expenses, lien fees, and legal fees and costs incurred. Accounts where invoice payments are not received at Pentegra Systems LLC within 45 days of invoice shall forfeit all applicable warranties.

To accept this quote and place an order, sign and date below, then fax this sheet to us.

Date: \_\_\_\_\_

This quotation was prepared by James Lichter  
and will be valid for 60 days.

|             |             |
|-------------|-------------|
| Subtotal    | \$15,660.13 |
| Sales Tax   | \$0.00      |
| Tech Labor  | \$5,387.20  |
| Eng. Labor  | \$1,008.00  |
| Trip Charge |             |
| Shipping    | \$467.00    |
| Total       | \$22,522.33 |

Thank You  
For Your Business.

Copyright 2015  
Pentegra Systems LLC

RESOLUTION R-15-  
SUPPORTING  
THE NORTHWEST MUNICIPAL CONFERENCE  
2015 LEGISLATIVE PROGRAM

WHEREAS, the City of Prospect Heights is a member of the Northwest Municipal Conference; and

WHEREAS, the Northwest Municipal Conference works with its members to develop its annual Legislative Program that serves as a comprehensive platform on legislative issues in order to protect and benefit the interests of its member municipalities, residents and businesses in our communities and the region; and

WHEREAS, the Northwest Municipal Conference's 2015 Legislative Program focuses on issues vital to the City of Prospect Heights, which include: ensuring a pro-growth environment that reduces the burden on local taxpayers; ensuring local governments have sufficient revenues to provide quality public services; and, ensuring the sustainability of critical infrastructure through strategic investment; and

WHEREAS, the Northwest Municipal Conference will actively pursue these legislative priorities to the benefit of the City of Prospect Heights and all members of the Northwest Municipal Conference.

NOW, THEREFORE, BE IT RESOLVED, that the City of Prospect Heights hereby pledges our support for the Northwest Municipal Conference's 2015 Legislative Program; and

BE IT FURTHER RESOLVED, that the City of Prospect Heights will actively work to pursue the objectives of the 2015 Legislative Program both locally and in our federal and state capitols; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Northwest Municipal Conference, to all state and federal legislators representing the City of Prospect Heights, to the Office of the Governor, and to department heads in the City of Prospect Heights.

Passed this 23<sup>rd</sup> day of February, 2015

AYES:

NAYS:

ABSENT:

APPROVED this 23<sup>rd</sup> Day of February, 2015



Q

24

\_\_\_\_\_  
Nicholas J. Helmer, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk.

2015



**NWMC**  
***Legislative***  
***Program***

## 2015 NWMC Legislative Committee

**Matthew Bogusz, Co-Chair**  
*Mayor, City of Des Plaines*

**Robert Kiely**  
*Manager, City of Lake Forest*

**Sandra Frum, Co-Chair**  
*President, Village of Northbrook*

**Gerald Turry**  
*Mayor, Village of Lincolnwood*

**Joe Farwell**  
*Trustee, Village of Arlington Heights*

**Dan DiMaria**  
*President, Village of Morton Grove*

**Maria Lasday**  
*Manager, Village of Bannockburn*

**Arlene Juracek**  
*Mayor, Village of Mount Prospect*

**Karen Darch**  
*President, Village of Barrington*

**Dave Strahl**  
*Assistant Village Manager, Village of Mount Prospect*

**Jeffrey Braiman**  
*President, Village of Buffalo Grove*

**Ed Ritter**  
*President, Village of Carpentersville*

**Jeff Rowitz**  
*Deputy Village Manager, Village of Northbrook*

**Harriet Rosenthal**  
*Mayor, Village of Deerfield*

**Jane Goldenberg**  
*Trustee, Village of Northfield*

**Elizabeth Tisdahl**  
*Mayor, City of Evanston*

**Jill Brickman**  
*Supervisor, Northfield Township*

**Lawrence Levin**  
*President, Village of Glencoe*

**Al Larson**  
*President, Village of Schaumburg*

**Todd Hileman**  
*Manager, Village of Glenview*

**Kathleen Tempesta**  
*Director of Community Service, Village of Schaumburg*

**Nancy Rotering**  
*Mayor, City of Highland Park*

**George Van Dusen**  
*Mayor, Village of Skokie*

**Bill McLeod**  
*Mayor, Village of Hoffman Estates*

**Dean Argiris**  
*President, Village of Wheeling*

**Jim Norris**  
*Manager, Village of Hoffman Estates*

**Jon Sfondilis**  
*Manager, Village of Wheeling*

**Kathleen O'Hara**  
*President, Village of Lake Bluff*

Dear Friend of the Northwest Municipal Conference:

I am pleased to introduce the 2015 Northwest Municipal Conference Legislative Program.

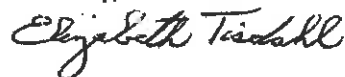
As we start a new year and new legislative session, we face many familiar challenges. The state and local governments must balance budgets while facing escalating pension obligations. We must contain the cost of government while providing quality public services and investing in our infrastructure. If we collectively fail to meet these challenges, we threaten the state's still fragile economic recovery and uncertain economic future. 2015 can be a watershed year, a year of change.

The Northwest Municipal Conference is proud to present a roadmap of solutions to ensure the economic vitality of our state and our communities. We believe that enactment of the policy recommendations contained in this Legislative Program will not only reduce the burden on local taxpayers but serve as a foundation for restoring Illinois' position as a global economic engine.

For well over five decades, the Northwest Municipal Conference has harnessed the talents of our individual members to develop comprehensive, data driven solutions to complex problems. As President of the Northwest Municipal Conference, I am proud to continue our organization's tradition of working cooperatively with our federal and state legislative delegations on issues of mutual concern.

As always, we remain a strong and willing partner to achieve solutions that will return Illinois to prosperity and ensure our communities will continue to be great places to live and work.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Tisdahl".

Elizabeth Tisdahl

President, Northwest Municipal Conference and  
Mayor, City of Evanston

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## **Ensure a Pro-Growth Environment that Reduces the Burden on Local Taxpayers**

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2015 brings a fresh opportunity for our state leaders to set a new direction that leads to prosperity throughout Illinois. Creating a business friendly environment that accelerates economic growth is key to pursuing this new direction; however, our state will find it nearly impossible to grow our economy if local costs are prohibitive to the point where they repel, not attract, job creators and skilled workers. All levels of government – federal, state and local – need to be active partners in growing our economy.

**The price of government is on a dangerous trajectory that threatens to stagnate economic growth.** Onerous regulations and Illinois' stifling labor environment are causing government expenses to grow faster than the economy. This prevents local government leaders from adopting innovations in order to run more efficient and cost-effective operations. Residents and job creators feel the impact of this environment through higher tax burdens, which raise the cost of doing business. Simply put, **we cannot provide local taxpayers relief and create a pro-growth state without lowering the fiscal and regulatory burden on local governments.**

There are far too many examples to list here of how previous General Assemblies have undercut economic growth by imposing mandates on local governments and our taxpayers. However, the following four examples illustrate the problems confronting local governments. The 2015 NWMC Legislative Program outlines actions state lawmakers can take to alleviate these problems and make our communities strong partners in growing the Illinois economy.

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## **Ensure a Pro-Growth Environment that Reduces the Burden on Local Taxpayers**

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- ❖ Over the past two decades, Illinois lawmakers have granted public safety employees myriad pension sweeteners while diminishing local government leaders' authority to oversee operations in a cost-effective manner. Although the General Assembly took the necessary step of enacting pension reform for new hires (Tier 2) in 2010, local taxpayers are on the hook for the continuously escalating costs of Tier 1 pensions. While the benefits of Tier II reforms are still a decade away from having a significant impact on municipal budgets, municipal public safety pension contributions continue to skyrocket. Over the past decade municipal contributions have more than doubled, and in some cases quadrupled, while the funding ratios have continued to suffer.
- ❖ Public safety employees benefit from an interest arbitration process that has made it difficult to negotiate contracts that reflect the community's needs or ability to pay. Rather than taking action to balance this equation in favor of taxpayers, the General Assembly added manning levels to the arbitration process for firefighters in 2014. This pulls one more decision from the hands of elected and appointed officials and potentially adds costs to the existing taxpayer burden for fire protection service.
- ❖ The Prevailing Wage Act has served to increase the cost of public works related projects without producing any tangible benefit to taxpayers. Unlike a free market economy, where businesses would bid in competition for local government projects, the Prevailing Wage Act replaces unfettered competition by imposing an artificial floor on labor costs.

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## **Ensure a Pro-Growth Environment that Reduces the Burden on Local Taxpayers**

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- ❖ The existing Workers' Compensation system allows for large awards to employees whose injuries are minimally related to their employment or caused by non-employment related, pre-existing conditions. **Illinois' workers compensation system has the seventh highest premiums in the nation *after* passing the reforms approved in 2011.**

As a result, the price of government has risen to uncompetitive and unacceptable levels, and we are all paying the economic price. 2015 can be a year of change.

### **What Can State Legislators Do?**

#### ***Balance the Interest Arbitration process***

State lawmakers should require arbitrators to make economic factors, such as the budgetary constraints facing local governments, a primary consideration when determining total compensation packages. Additionally, further clarification is required on the minimum manning legislation to ensure it does not impose additional burdens on taxpayers.

#### ***Reduce Impact of Prevailing Wage Act on Local Taxpayers***

State lawmakers should prevent the imposition of a Responsible Bidder requirement in the Prevailing Wage Act (PWA), enact a minimum \$1,000,000 threshold on projects before they are subject to the PWA and expand the list of activities that are exempt from the PWA.



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## **Ensure a Pro-Growth Environment that Reduces the Burden on Local Taxpayers**

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### ***Support Workers' Compensation Reform***

State lawmakers should enact meaningful reforms, as proposed by pro-business advocates, to eliminate abuses of this law.

### ***Consolidate Inefficient Pension System and Adopt Meaningful Public Safety Pension Reform***

For many years, the NWMC has urged state lawmakers to reform public safety pensions to lower the burden on taxpayers; however, the constitutionality of state (and therefore local) pension benefit reforms is in doubt.

State lawmakers should take immediate and constitutional action to consolidate the over 660 individual public safety pension funds into the Illinois Municipal Retirement Fund (IMRF), the model pension fund in Illinois. This would increase investment returns (reducing taxpayer burden), realize economies of scale not currently available (which also reduces taxpayer burden) and provide a more stable environment for the pensions of all public safety employees.

The information on the following page illustrates the potential taxpayer savings of this proposal.

---

**Ensure a Pro-Growth Environment that Reduces  
the Burden on Local Taxpayers**

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**Illustrative Investment Benefits of  
Police and Fire Pension Fund  
Consolidation**

Over the last 20 years, IMRF outperformed one northwest suburb's police and fire pension funds by over 3 percent per year, demonstrating the benefits of consolidation:



**What would have been the result if police and fire pension funds  
were consolidated in IMRF?**

**\$117 Million  
in Taxpayer Savings**  
For every \$50 million in assets invested in IMRF

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## **Ensure Local Governments Have Sufficient Revenues to Provide Quality Public Services**

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Local governments have a major role in growing the economy. Attracting and supporting job creators and labor requires: quality public services delivered at a reasonable cost; reliable public safety services to protect our communities; quality schools to educate our future generations; modern transportation systems to move people and products without unnecessary delays; safe, clean drinking water; and comprehensive stormwater management. Without these key amenities, Illinois will be unable to attract and retain businesses and workers.

It is difficult to be a full partner in providing these necessary services when local governments in Illinois are still struggling to recover from the recession where our communities faced the double challenge of budgeting with shrinking revenues and escalating costs. **The local portion of the income tax declined by nearly \$300 million during the recession and is just now starting to approach pre-recession levels.** It is important to note that local governments did not share any of the revenue gained from 2011 income tax increase.

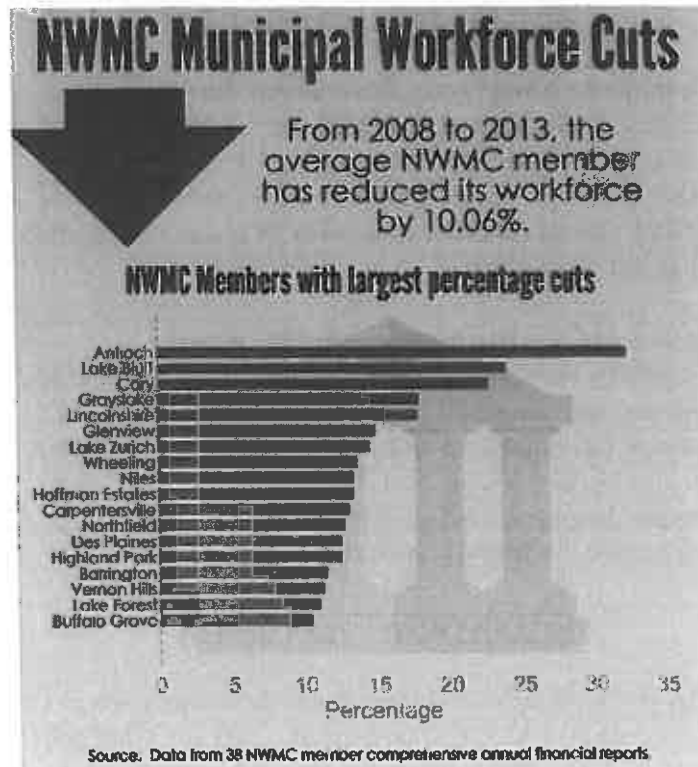
Our communities have made tough decisions. In Illinois, over 20,000 local government jobs have been cut. Most of these jobs are unlikely to return. **The Villages of Barrington and Mount Prospect, for example, reduced their total staff by 12.1 percent and 9.5 percent respectively during the recession.** Communities have acted responsibly in managing their finances.

We fully comprehend the extraordinary fiscal challenge Illinois lawmakers face this year. The expiration of most of the 2011 increase in the state personal and corporate income tax has created a massive budget deficit. As state lawmakers grapple with this crisis, the practice of "robbing Peter to pay Paul" would endanger the

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**Ensure Local Governments Have Sufficient Revenues to Provide Quality Public Services**

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financial sustainability of our communities. **Balancing the state budget on the backs of local property tax payers will further threaten Illinois' competitiveness.**

The emerging, yet precarious, economic recovery is jeopardized if local governments teeter on the brink of instability. Our local governments provide the essential infrastructure and public safety services that help make our communities and state attractive for raising a family and running a business. **Local leaders, together with our state and federal partners, must ensure local governments have sufficient revenues to provide quality public services.**

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## **Ensure Local Governments Have Sufficient Revenues to Provide Quality Public Services**

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### **What Can State Legislators Do?**

#### ***Continue to protect Local Government Revenues***

As state lawmakers work to balance the State's budget, we remind them that state collected local revenues, especially the Local Government Distribution Fund (LGDF), should continue to grow with the economy and must not be reduced.

#### ***Reform the wireless surcharge for 911 services***

As homes transition away from land-based telephone service, the amount of revenue for municipal 911 systems has decreased and placed an additional burden on already strained general revenues. State lawmakers should pursue a unified 911 surcharge system that adequately funds these services throughout Illinois.

### **What Can Federal Legislators Do?**

#### ***Pass the Marketplace and Internet Tax Fairness Act***

The Internet retail sales tax loophole costs the State and local governments hundreds of millions in lost tax revenue and places traditional retailers at a competitive disadvantage. Passing this act would level the playing field and provide critical revenue.

#### ***Remove/Reform the Affordable Care Act's excise tax on high-cost health plans***

The excise tax will force municipalities to cut benefits for employees or pass along the federal tax to local taxpayers. Federal lawmakers should exempt governments from this tax.

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## Ensure the Sustainability of Critical Infrastructure through Strategic Investment

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Illinois' economic future depends on our ability to get our people to work and our goods to market. The reality is that Illinois is increasingly facing a crisis. While our state and local governments have done amazing work to keep Illinois moving, our state is crumbling and **we are failing to provide 21<sup>st</sup> century infrastructure to our residents and businesses.** In order to maintain and improve our economy we must focus on improving our infrastructure.

In 2009, the state passed *Illinois Jobs Now* and the federal government passed the *American Recovery and Reinvestment Act*. Despite these programs; the backlog of state roadways needing repair has continued to grow and communities still struggle to maintain critical water infrastructure. *Illinois Jobs Now* is complete and recent capital spending adopted in 2014 fails to satisfy our current or long-term infrastructure funding needs.

The backlog of roadways and bridges that require repair and improvement is rapidly growing and is expected to accelerate in future years. Meanwhile, **traditional revenue sources are declining.** Motor fuel tax revenues have decreased nearly \$100 million, from \$584.6 million in 2007 to \$490 million in 2013. At the same time, the transit system in Northeastern Illinois faces an even greater challenge. The Regional Transportation Authority (RTA) estimates that capital funding would need to nearly double on an annual basis simply just to maintain the current system status. The region's identified \$20 billion capital backlog represents over one quarter of the entire nation's transit backlog.

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## **Ensure the Sustainability of Critical Infrastructure through Strategic Investment**

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Unseen and typically forgotten by the average person, our water networks provide safe and clean drinking water to our residents and businesses. The Village of Arlington Heights, where the average water main is over sixty years old, is typical of much of the region. NWMC communities average over forty water main breaks per 100 miles of water main in an average year, disrupting lives and affecting productivity.

While the need for investment has never been higher, funding for infrastructure continues to dwindle. These dramatic figures have real implications. Roadways are congested, bridges are closed or load-rated, trains are delayed, buses break down and transit serves fewer of the region's population. Each of us faces increased individual transportation costs, as poorly maintained roadways cause more and more wear and tear on vehicles. Residents are forced to endure water outages as main breaks become more frequent.

**We cannot grow our economy if critical infrastructure is crumbling around and underneath our communities. We must address this crisis now.**

### **What Can State Legislators Do?**

#### ***Provide sustainable transportation funding for roads, bridge and transit***

Illinois must end the boom and bust cycles of inconsistent funding and develop a source of revenue that can keep pace with system needs. Illinois must allocate funding and select projects in a cost-effective way to maximize economic benefits.

---

## **Ensure the Sustainability of Critical Infrastructure through Strategic Investment**

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### ***Increase state funding for water infrastructure projects***

Aging water infrastructure presents a financial, environmental and public health risk for communities. Through programs such as the Clean Water Initiative, Public Water Supply Loan Program, and the Green Infrastructure for Clean Water Act, Illinois has begun to make steps to improve its drinking water infrastructure. However, we need to go even further to address what amounts to nearly \$19 Billion in critical drinking water investments in Illinois during the next two decades.

### **What Can Federal Legislators Do?**

#### ***Provide sustainable transportation funding***

Illinois is the crossroads of the nation and at the center of our nation's transportation system. Our federal legislators must confront the funding shortfalls and help to address the backlog of deferred maintenance on roads, bridges and transit. With the extension of MAP-21 expiring this year, Congress and the President must identify sustainable transportation revenues now.

#### ***Protect the Tax Exempt Status of Municipal Bonds***

The ability to generate low-cost bonds to address the capital needs of communities is a critical tool in our funding toolkit. Eliminating the tax exempt status of municipal bonds would result in decreased investment in infrastructure and increased borrowing costs for taxpayers. We urge Congress to maintain this exemption.



---

## **Illinois Constitutional Officers**

---

**Bruce Rauner**  
*Governor*

**Evelyn Sanguinetti**  
*Lieutenant Governor*

**Lisa Madigan**  
*Attorney General*

**Jesse White**  
*Secretary of State*

**Michael Frerichs**  
*Treasurer*

**Leslie Geissler Munger**  
*Comptroller*

---

## **Congressional Delegation**

---

**Senator Richard Durbin**

**Senator Mark Kirk**

**Representative Mike Quigley**  
*5th Congressional District*

**Representative Peter Roskam**  
*6th Congressional District*

**Representative Tammy Duckworth**  
*8th Congressional District*

**Representative Jan Schakowsky**  
*9th Congressional District*

**Representative Robert Dold**  
*10th Congressional District*

**Representative Randy Hultgren**  
*14th Congressional District*

---

## **State Senators**

---

**John Cullerton**  
*Senate President*

**Christine Radogno**  
*Senate Minority Leader*

**Heather Steans**  
*7th Senate District*

**Ira Silverstein**  
*8th Senate District*

**Daniel Biss**  
*9th Senate District*

**John Mulroe**  
*10th Senate District*

**Michael Noland**  
*22nd Senate District*

**Thomas Cullerton**  
*23rd Senate District*

**Jim Oberweis**  
*25th Senate District*

---

## **State Senators**

---

**Dan Duffy**  
*26th Senate District*

**Matt Murphy**  
*27th Senate District*

**Dan Kotowski**  
*28th Senate District*

**Julie Morrison**  
*29th Senate District*

**Terry Link**  
*30th Senate District*

**Melinda Bush**  
*31st Senate District*

**Pamela Althoff**  
*32nd Senate District*

**Karen McConnaughay**  
*33rd Senate District*

**Don Harmon**  
*39th Senate District*

---

## **State Representatives**

---

**Michael Madigan**  
*Speaker of the House*

**Jim Durkin**  
*House Minority Leader*

**Kelly Cassidy**  
*14th House District*

**John D'Amico**  
*15th House District*

**Lou Lang**  
*16th House District*

**Laura Fine**  
*17th House District*

**Robyn Gabel**  
*18th House District*

**Michael McAuliffe**  
*20th House District*

**Anna Moeller**  
*43rd House District*

**Fred Crespo**  
*44th House District*

**Christine Winger**  
*45th House District*

**Michael Fortner**  
*49th House District*

**Ed Sullivan, Jr.**  
*51st House District*

---

## State Representatives

---

**David McSweeney**  
*52nd House District*

**David Harris**  
*53rd House District*

**Thomas Morrison**  
*54th House District*

**Martin J. Moylan**  
*55th House District*

**Michelle Mussman**  
*56th House District*

**Elaine Nekritz**  
*57th House District*

**Scott Drury**  
*58th House District*

**Carol Sente**  
*59th House District*

**Sheri Jesiel**  
*61st House District*

**Sam Yingling**  
*62nd House District*

**Barbara Wheeler**  
*64th House District*

**Michael Tryon**  
*66th House District*

**Kathleen Willis**  
*77th House District*

---

## **NWMC Contact Information**

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**The Northwest Municipal Conference is committed to working with our State and Federal elected officials to advance legislation that supports local government. Please feel free to contact us to further discuss the initiatives contained in our 2015 Legislative Program or any other issues that are of importance to local governments.**

**Elizabeth B. Tisdahl**  
NWMC President  
Mayor, City of Evanston

**Matthew Bogusz**  
Co-Chair, NWMC Legislative Committee  
Mayor, City of Des Plaines

**Sandra E. Frum**  
Co-Chair, NWMC Legislative Committee  
President, Village of Northbrook

**Mark L. Fowler**  
NWMC Executive Director

**Larry Bury**  
NWMC Deputy Director

**Chris Staron**  
NWMC Policy Analyst

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## About the NWMC

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Founded in 1958, The Northwest Municipal Conference serves to strengthen communities and foster intergovernmental cooperation throughout the north and northwest suburbs of Chicago. Our membership of forty-four municipalities and one township represents over 1.3 million Illinois residents and covers over 300 square miles in Cook, DuPage, Kane, Lake and McHenry counties.

Our organization provides numerous services to our membership with a primary focus on three areas: legislative advocacy; transportation and environmental planning; and, operation of the Suburban Purchasing Cooperative (SPC).

The NWMC is registered as a 501(c)(3) not-for-profit organization and is primarily supported through membership dues, planning grants and enterprise revenues.

### **Northwest Municipal Conference**

1600 East Golf Road, Suite 0700

Des Plaines, IL 60016

Phone: (847) 296-9200

Fax: (847) 296-9207

[www.nwmc-cog.org](http://www.nwmc-cog.org)

Printed in-house at NWMC





|                          |                            |
|--------------------------|----------------------------|
| <b>Antioch</b>           | <b>Lake Forest</b>         |
| <b>Arlington Heights</b> | <b>Lake Zurich</b>         |
| <b>Bannockburn</b>       | <b>Libertyville</b>        |
| <b>Barrington</b>        | <b>Lincolnshire</b>        |
| <b>Bartlett</b>          | <b>Lincolnwood</b>         |
| <b>Buffalo Grove</b>     | <b>Morton Grove</b>        |
| <b>Carpentersville</b>   | <b>Mount Prospect</b>      |
| <b>Cary</b>              | <b>Niles</b>               |
| <b>Crystal Lake</b>      | <b>Northbrook</b>          |
| <b>Deer Park</b>         | <b>Northfield</b>          |
| <b>Deerfield</b>         | <b>Northfield Township</b> |
| <b>Des Plaines</b>       | <b>Palatine</b>            |
| <b>Elk Grove Village</b> | <b>Park Ridge</b>          |
| <b>Evanston</b>          | <b>Prospect Heights</b>    |
| <b>Fox Lake</b>          | <b>Rolling Meadows</b>     |
| <b>Glencoe</b>           | <b>Schaumburg</b>          |
| <b>Glenview</b>          | <b>Skokie</b>              |
| <b>Grayslake</b>         | <b>Streamwood</b>          |
| <b>Hanover Park</b>      | <b>Vernon Hills</b>        |
| <b>Highland Park</b>     | <b>Wheeling</b>            |
| <b>Hoffman Estates</b>   | <b>Wilmette</b>            |
| <b>Kenilworth</b>        | <b>Winnetka</b>            |
| <b>Lake Bluff</b>        |                            |

January 29, 2015

625 Forest Edge Drive, Vernon Hills, IL 60061

TEL 847.478.9700 ■ FAX 847.478.9701

[www.gha-engineers.com](http://www.gha-engineers.com)

Mr. William Balling  
Interim City Administrator  
City of Prospect Heights  
8 N. Elmhurst Road  
Prospect Heights, IL 60070

Re: Proposal for Consulting Engineering Services  
11 E. Camp McDonald Road  
Parking Lot Improvements  
GHA Proposal No. 2015.M007

**E**

Dear Mr. Balling:

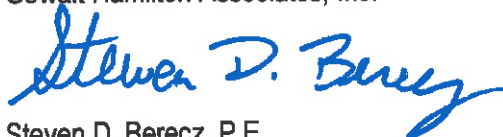
Thank you for considering Gewalt Hamilton Associates, Inc. (GHA) to provide Consulting Engineering Services to the City of Prospect Heights with respect to the above captioned project. Our project scope has been based on our prior conversations and also our prior preliminary plans prepared for this location.

This proposal is divided into the following sections:

- I. PROJECT UNDERSTANDING
- II. SCOPE OF SERVICES
- III. ADDITIONAL SERVICES & SERVICES NOT INCLUDED
- IV. PROPOSED SCHEDULE OF SERVICES
- V. ENGINEERING STAFF
- VI. COMPENSATION OF SERVICES
- VII. GENERAL CONDITIONS

Please review this proposal, and if you should have any questions or require additional information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,  
Gewalt Hamilton Associates, Inc.



Steven D. Berecz, P.E.  
Corporate Secretary  
[sberecz@gha-engineers.com](mailto:sberecz@gha-engineers.com)

Proposal for Civil Engineering Services  
11 E. Camp McDonald Road  
Parking Lot Improvements  
GHA Proposal No. 2015.M007



625 Forest Edge Drive, Vernon Hills, IL 60061

TEL 847.478.9700 FAX 847.478.9701

[www.gha-engineers.com](http://www.gha-engineers.com)

City of Prospect Heights (Client), 8 N. Elmhurst Road, Prospect Heights, IL 60070, and Gewalt Hamilton Associates, Inc. (GHA), 625 Forest Edge Drive, Vernon Hills, IL 60061, agree and contract as follows:

## **I. Project Understanding**

The City wishes to engage an engineering firm to prepare construction drawings and specifications suitable for a public bid for a new parking lot at 11 E. Camp McDonald Road. Our scope of services is based on the property being about 120' x 176' (one parcel), with a total area under 0.5 acres. As such, a Metropolitan Water Reclamation District (MWRD) permit will not be required for either storm water management or sewer connection. The parking lot access is assumed to be to the City owned street, Maple Lane. The conceptual plan shows around 45 spaces.

The storm sewer connection is assumed to be made to the Camp McDonald Road system, as such, as Cook County Department of Transportation and Highways (CCDOTH) permit will be required. Approvals from the City are also anticipated. No other permits are anticipated for our scope of work. We have assumed that the demolition of the existing structure, abandonment of well, disconnection of residential services and backfill and removal of foundation as needed, will be done by others.

## **II. Project Scope of Services**

Our scope of work will include the following:

### **A. Topographic Survey**

1. GHA will obtain benchmark information (NAVD88) from USGS. Our cost presumes a suitable benchmark will be located within 1,000' of the site.
2. Locate all building corners and determine finish floor elevations at all exterior doors.
3. Contours will be provided at 1'-0" intervals; error shall not exceed one-half the contour interval.
4. Spot elevations will be provided a maximum 50-foot grid covering the entire property. Paved areas will have a grid of approximately 25'. High points and low points will be shown, as well as elevations at each building opening and corners. Overflow routes will also be shown. Paved elevations will be accurate to 0.01' and grass elevations will be shot to 0.10'.
5. The survey will show the location of the visible, physical improvements on the site (e.g. buildings, utilities, fences, walks and drives)
6. The location of all underground utilities, both observed and from record information, will be provided, including location and size of water mains, fire hydrants and valves. The survey will show depth, size, and direction of flow for all sanitary, storm drains, and culverts serving the property. The location of all manholes, catch basins and all pipe inverts that are accessible will be depicted. The cost for marking of private utilities is not included in this proposal, but GHA will include this information if the Client arranges to have private utilities marked in the field.
7. Individual free standing trees 6" diameter or greater will be shown as deciduous or coniferous. Species/condition report is not included. Groupings of trees will be shown in mass.

8. The limits of the survey will overlap a minimum distance of 25' onto properties adjacent to the common property boundary.
  9. The survey limits will include roadway topography for about 200' of Maple Lane and 300' of Camp McDonald Road.
- B. Drainage Analysis & CCDOTH Permit Work
1. We will prepare storm sewer calculations and storm water management calculations as required by CCDOTH. We will prepare permit applications and make submittals as necessary.
  2. We will design storm water management facilities as required by CCDOTH permit review. CCDOTH will likely require some attenuation of storm water flows into their storm sewer system on Camp McDonald Road. The Site Plan will incorporate CCDOTH requirements.
  3. We will respond to CCDOTH review comments and will seek engineering approval from them. (The final issuance of the construction permit from CCDOTH will be the responsibility of the general contractor for the project.)
- C. Photometric Plan and Site Lighting Plan
1. We will prepare a photometric plan in accordance with City ordinances.
  2. We will select a few fixture and pole options for the City consideration. The specifications for the selected fixture and pole will be included in the bid documents.
  3. We will prepare a site electrical plan, including work associated with the lighting controller and initial coordination work with Commonwealth Edison for a service drop.
- D. Parking Lot Design Plans & Contract Specifications
1. Existing Conditions and Demolition Plan. (not including existing structure demolition or well)
  2. Final geometric, pavement, and striping plan for the site.
  3. We will also design the storm drainage system for the site, and provide spot elevations, emergency overflows, and connection points.
  4. Utility and Drainage Plan. This sheet will show the storm system improvements. It will also show the proposed spot grades for sidewalk, curb, pavement, and landscape areas.
  5. Soil Erosion Control and Sediment Control Plan and associated plan details. We will still show standard sediment and erosion control details and practices in plans as a base contract service. An NPDES Phase II permit will not be required, as the parcel size is less than 1.0 acre.
  6. Standard Detail Sheets.
  7. CCDOTH permit will be required for the proposed storm sewer connection.
  8. We will specify perimeter fencing and basic landscape items (a few trees and standard bushes).
  9. Civil Specifications will be provided on the Site Improvement Plans.
  10. Plans will be done in AutoCAD format on 24" x 36" sheet size.
  11. Prepare front end specification and bid specifications suitable for a public bid, using current City bid format.
  12. Prepare an engineer's opinion of probable cost for the selected improvements.
  13. Prepare any addendum necessary during the bid period.
  14. Assisting the City in soliciting bids for the project and make a recommendation for Council consideration of the lowest responsible bidder for the project.

#### E. Meetings

We anticipate one (1) design review meeting with the City, one hearing at ZBA and one hearing at City Council.

### III. Additional Services & Services not Included

1. Meetings with public officials, City staff, agencies, homeowners, or consultants beyond those noted in the scope of services; attendance at public hearings.
2. Performing additional surveying, mapping, or investigation/physical location of underground utilities beyond that expressly identified in the scope of services.
3. Wetland investigation, mitigation plans or flood hazard studies.
4. Soil borings.
5. Plat of Survey.
6. Gas, electric, telephone or other public utility services design.
7. Retaining wall design, structural tank design, or other design requiring the services of a structural engineer.
8. Permitting with various review agencies.
9. Review fees, permit fees or utility locate fees.
10. Construction phase services, including observation, staking or construction management.

### IV. Proposed Schedule of Services

GHA is prepared to begin work immediately upon receipt of notice to proceed. We anticipate completion of the existing condition surveys within three (3) weeks following receipt of authorization to proceed, weather permitting. Preparation of the construction plans, specifications and bid documents are anticipated to take an additional three weeks. GHA will make every reasonable effort expedite the project schedule.

### V. Engineering Staff

GHA will provide the City with an experienced team of project management and technical personnel to perform the required professional services. Mr. Steven D. Berecz, P.E. will function as the Project Manager; he will be assisted by Ms. Mei Zhu P.E., CFM, LEED AP. Additional professional and technical staff will provide support as needed.

### VI. Compensation for Services

GHA proposes lump sum fees as shown below.

| Service                                          | Cost            |
|--------------------------------------------------|-----------------|
| A. Topographic Survey                            | \$3,000         |
| B. Drainage Analysis & CCDOTH Permit Work        | \$5,400         |
| C. Photometric & Site Lighting Plan              | \$3,500         |
| D. Design Plans & Specifications for Parking Lot | \$3,200         |
| E. Meetings                                      | \$800           |
| <b>Lump Sum Total</b>                            | <b>\$15,900</b> |
| Estimated Reimbursable Expenses                  | \$200           |
| <b>Lump Sum + Reimbursables</b>                  | <b>\$16,100</b> |

The aforementioned fees are on the following GHA 2015 Prospect Heights Public Improvements rate schedule. Expansion for overhead, payroll burden and professional fees are included in these hourly rates.

#### GHA 2015 Prospect Heights Rates

|                               |          |
|-------------------------------|----------|
| Principal Engineer            | \$156/hr |
| Senior Engineer               | \$132/hr |
| Professional Engineer         | \$114/hr |
| Registered Land Surveyor      | \$110/hr |
| Staff Engineer                | \$104/hr |
| Senior Engineering Technician | \$104/hr |
| Engineering Technician II     | \$90/hr  |
| Engineering Technician I      | \$66/hr  |
| Secretary                     | \$54/hr  |

Invoices for our work will be submitted on a monthly basis and will detail specifically the services performed on the project.

#### **VII. General Conditions**

The delineated services provided by Gewalt Hamilton Associates, Inc., (GHA) under this Agreement will be performed as reasonably required in accordance with the generally accepted standards for civil engineering and surveying services as reflected in the contract for this project at the time when and the place where the services are performed.

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 Client or GHA. GHA's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against GHA because of this Agreement or the performance or nonperformance of services hereunder. In no event shall GHA be liable for any loss of profit or any consequential damages.

The Client and GHA agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation in Chicago, Illinois unless the parties mutually agree otherwise.

This Agreement, including all subparts and *Attachment A*, which is attached hereto and incorporated herein as the General Provisions of this Agreement, constitute the entire integrated agreement between the parties which may not be modified without all parties consenting thereto in writing.

By signing below you indicate your acceptance of this agreement in its entirety.

Gewalt Hamilton Associates, Inc.

City of Prospect Heights

  
\_\_\_\_\_  
Steven D. Berecz, P.E.  
Corporate Secretary/Senior Engineer

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

Encl.: Attachment A

**ATTACHMENT A TO GEWALT HAMILTON ASSOCIATES, INC.  
PROFESSIONAL SERVICES AGREEMENT**

**1. Standard of Care.** The services provided by Gewalt Hamilton Associates, Inc., (GHA) under this Agreement will be reasonably performed consistent with the generally accepted standard of care for the Scope of Basic Services called for herein at the time when and the place where the services are provided.

**2. Duration of Proposal.** The terms of this Agreement are subject to renegotiation if not accepted within 60 calendar days of the date indicated on this Agreement. Requests for extension beyond 60 calendar days shall be made in writing prior to the expiration date. The fees and terms of this Agreement shall remain in full force and effect for one year from the date of acceptance of this Agreement, and shall be subject to revision at that time, or any time thereafter if GHA gives written notice to the other party at least 60 calendar days prior to the requested date of revision. In the event that the parties fail to agree on the new rates or other revisions, either party may terminate this Agreement as provided for herein.

**3. Client Information.** Client shall provide GHA with all project criteria and full information for its Scope of Basic Services. GHA may rely, without liability, on the accuracy and completeness of the information Client provides, including that of its other consultants, contractors and subcontractors, without independently verifying that information.

**4. Payment.** Payments are due within 30 calendar days after a statement is rendered. Statements not paid within 60 calendar days of the end of the calendar month when the statement is rendered will bear interest at the rate of one percent (1.0%) per month until paid. The provision for the payment of interest shall not be construed as authorization to pay late. Failure of the Client to make payments when due shall, in GHA's sole discretion, be cause for suspension of services without breach or termination of this agreement. Upon notification by GHA of suspension of services, Client shall pay in full all outstanding invoices within 7 calendar days. Client's failure to make such payment to GHA shall constitute a material breach of the Agreement and shall be cause for termination by GHA. GHA shall be entitled to reimbursement of all costs actually incurred by GHA in collecting overdue accounts under this Agreement, including, without limitations, attorney's fees and costs. GHA shall have no liability for any claims or damages arising from either suspension or termination of this Agreement due to Client's breach. The Client's obligation to pay for GHA's services is in no way dependent upon the Client's ability to obtain financing, rezoning, payment from a third party, approval of governmental or regulatory agencies or the Client's completion of the project.

**5. Instruments of Service.** The Client acknowledges GHA's plans and specifications, including field data, notes, calculations, and all documents or electronic data, are instruments of service. GHA shall retain ownership rights over all original documents and instruments of service. All instruments of service provided by GHA shall be reviewed by Client within 10 calendar days of receipt. Any deficiencies, errors, or omissions the Client discovers during this period will be reported to GHA and will be corrected as part of GHA's Basic Services. Failure to provide such notice shall constitute a waiver. The Client shall not reuse or make, or permit to be made any modifications to the instruments of service without the prior written authorization of GHA. The Client waives all claims against GHA arising from any reuse or modification of the instruments of service not authorized by GHA. The Client agrees, to the fullest extent permitted by law, to defend and indemnify and hold GHA harmless from any liability, damage, or cost, including attorneys' fees, arising from the unauthorized reuse or modification of the instruments of service by any person or entity. The parties agree that if elements of the Scope of Basic Services identified in this Agreement are reduced and/or eliminated by Client, then Client waives, releases and holds GHA harmless from all claims and damages arising from those reduced and/or eliminated services. If GHA's Scope of Basic Services does not include construction administration phase services, Client assumes responsibility for interpretation of the instruments of service and construction observation, and waives all claims against GHA for any act, omission or event connected thereto. Unless included in GHA's Scope of Basic Services, GHA shall not be liable for coordination with of the services of Client's other design professionals.

**6. Electronic Files.** The Client acknowledges that differences may exist between the electronic files delivered and the printed instruments of service. In the event of a conflict between the signed / sealed printed instruments of service prepared by GHA and the electronic files, the signed / sealed instruments of service shall control. GHA's electronic files shall be prepared in the current software GHA uses and will follow GHA's standard formatting unless the Scope of Basic Services requires otherwise. Client accepts that GHA makes no warranty that its software will be compatible with other systems or software.

**7. Applicable Codes.** The Client acknowledges that applicable laws, codes and regulations may be subject to various, and possibly contradictory, interpretations. Client accepts that GHA does not warrant or guarantee that the Client's project will comply with interpretations of applicable laws, codes, and regulations as they may be interpreted to the project. Client agrees that GHA shall not be responsible for added project costs, delay damages, or schedule changes arising from unreasonable or unexpected interpretations of the laws, codes, or regulations applied to the project, nor for changes required by the permitting authorities due to changes in the law that became effective after completion of GHA's instruments of service. Client shall compensate GHA for additional fees required to revise the instruments of service to comply with such interpretations. Client shall also compensate GHA for additional fees required to revise the instruments of service if Client changes the project scope after GHA's completes its instruments of service.

**8. Utilities and Soils.** When the instruments of service include information pertaining to the location of underground utility facilities or soils, such information represents only the opinion of the engineer as to the possible locations. This information may be obtained from visible surface evidence, utility company records or soil borings performed by others, and is not represented to be the exact location or nature of these utilities or soils in the field. Client agrees that GHA may reasonably rely on the accuracy and completeness of information furnished by third parties respecting utilities, underground conditions and soils without performing any independent verification. Contractor is solely responsible for utility locations, their markings in the field and their placement on the plans based on information they provided. Client agrees GHA is not liable for damages resulting from utility conflicts, mistaken utility locates, unfavorable soils, and concealed or unforeseen conditions, including but not limited to added construction costs and/or project delays. If the Client wishes to obtain the services of a contractor to provide test holes and exact utility locations, GHA may incorporate that information into the design and reasonably rely upon it. If not included in the Scope of Basic Services, such work will be compensated as additional services.



**9. Opinion of Probable Construction Costs.** GHA's Scope of Basic Services may include the preparation of an opinion of probable construction costs. Client acknowledges that GHA has no control over the costs of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions. Opinions of probable costs, shall be made on the basis of experience and qualifications applied to the project scope contemplated by this Agreement as well as information provided by Client (the accuracy and completeness of which GHA may rely upon), and represent GHA's reasonable judgment. Client accepts that GHA does not guarantee or warrant that proposals, bids, or the actual construction costs will not vary from opinions of probable cost prepared for the Client. GHA shall not be liable for cost differentials between the bid and/or actual costs and GHA's opinion of probable construction costs. Client agrees it shall employ an independent cost estimator if, based on its sole determination, it wants more certainty respecting construction costs.

**10. Contractor's Work.** Client agrees that GHA does not have control or charge of and is not responsible for construction means, methods, techniques, sequences or procedures, or for site or worker safety measures and programs including enforcement of Federal, State and local safety requirements, in connection with construction work performed by the Client or the Client's construction contractors. GHA is not responsible for the supervision and coordination of Client's construction contractors, subcontractors, materialmen, fabricators, erectors, operators, suppliers, or any of their employees, agents and representatives of such workers, or responsible for any machinery, construction equipment, or tools used and employed by contractors and subcontractors. GHA has no authority or right to stop the work. GHA may not direct or instruct the construction work in any regard. In no event shall GHA be liable for the acts or omissions of Client's construction contractors, subcontractors, materialmen, fabricators, erectors, operators or suppliers, or any persons or entities performing any of the work, or for failure of any of them to carry out their work as called for by the Construction Documents. The Client agrees that the Contractor is solely responsible for jobsite and worker safety, and warrants that this intent shall be included in the Client's agreement with all prime contractors. The Client agrees that GHA and GHA's personnel and consultants (if any) shall be defended/indemnified by the Contractor for all claims asserted against GHA which arise out of the Contractor's or its subcontractors' negligence, errors or omissions in the performance of their work, and shall also be named as an additional insured on the Contractor's and subcontractors' general liability insurance policy. Client warrants that this intent shall be included in the Client's agreement with all prime contractors. If the responsible prime contractor's agreement fails to comply with the Client's intent, then the Client agrees to assume the duty to defend and indemnify GHA for claims arising out of the Contractor's or subcontractors' negligence, errors or omissions in the performance of their work.

**11. Contractor Submittals.** Shop drawing and submittal reviews by GHA shall apply only to the items in the submissions that concern GHA's scope of Basic Services and only for the purpose of assessing if, upon successful incorporation in the project, they are generally consistent with the GHA's Instruments of Service. Client agrees that the Contractor is solely responsible for the submissions and for compliance with the Instruments of Service. Owner agrees that GHA's review and action in relation to the submissions does not constitute the provision of means, methods, techniques, sequencing or procedures of construction or extend to jobsite or worker safety. GHA's consideration of a component does not constitute acceptance of an assembled item.

**12. Hazardous Materials.** Client agrees that GHA has no responsibility or liability for any hazardous or toxic materials, contaminants or pollutants.

**13. Record Drawings.** If required by the Scope of Basic Services, record drawings will be prepared which may include unverified information compiled and furnished by others, the accuracy and completeness of which GHA may reasonably rely upon. Client accepts that GHA shall not verify the information provided to it and agrees GHA will not be responsible for any errors or omissions in the record drawings due to incorrect or incomplete information furnished by others to GHA.

**14. Disputes.** Client agrees to limit GHA's total aggregate liability to the Client for GHA's alleged acts, errors or omissions to \$50,000 or the amount of GHA's paid fees for its services on the project, whichever is greater. GHA makes no guarantees or warranties, either expressed or implied, including any warranty of habitability or fitness for a particular purpose. The parties agree to waive all claims against the other for any and all consequential damages, including attorneys' fees. The parties agree to waive against each other all rights and claims otherwise covered by property insurance, by builder's risk insurance or by all risk insurance, including but not limited to subrogation rights regardless of whether the claims arise during or post-construction and regardless of final payment to GHA.

All disputes arising out of or relating to this Agreement shall first be negotiated between the parties. If unresolved, the dispute shall be submitted to mediation as a condition precedent to litigation. Mediation shall take place in Chicago, Illinois unless the Client and GHA mutually agree otherwise. The fees and costs of the mediator shall be apportioned equally between the parties. If mediation is unsuccessful, litigation shall be the form of dispute resolution and shall be filed in the jurisdiction where the project was pending. The controlling law shall be the law of the jurisdiction where the project was located. Client agrees that all causes of action under this Agreement shall be deemed to have accrued and all statutory limitations periods shall commence no later than the date of GHA's services being substantially completed. Client agrees that any claim against GHA arising out of this Agreement shall be asserted only against the entity and not against GHA's owners, officers, directors, shareholders, or employees, none of whom shall bear any liability and may not be subject to any claim.

**15. Miscellaneous.** Either Client or GHA may terminate this Agreement without penalty at any time with or without cause by giving the other party ten (10) calendar days prior written notice. The Client shall, within thirty (30) calendar days of termination pay GHA for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions of this Agreement. Client shall not assign this Agreement without GHA's prior written consent. There are no third-party beneficiaries to this Agreement.



**F**

**TO: Mayor Helmer and City Council**  
**FROM: Bill Balling**  
**SUBJECT: Tourism Beautification Project**  
**DATE: February 18, 2015**

Mayor and Council,

I am recommending that a Construction Manager be retained to procure subcontractor work and manage the construction for the Tourism District Beautification Project. Both trade coordination and IDOT coordination and traffic management suggests that this approach be followed. Staff has interviewed three prospective Project Managers and is recommending that Integrated Facilities solutions, INC, (IFS), from Skokie, Illinois be retained for this project for a total fee of \$34,560. Staff has vetted this firm and believes them to be qualified to perform this work. I will be returning to Council in March with the considerations for contract awards for the trade contractors for this project. My expectation is that this project will be substantially completed by the late spring.

A copy of the Project Manager contract is attached for your review and consideration.



# AIA® Document C132™ – 2009

## Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the day of \_\_\_\_\_ in the year Two Thousand Fifteen e  
(Paragraph deleted)

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

City of Prospect Heights  
8 N Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070  
F: 847-392-4244

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

Integrated Facilities Solutions, Inc.  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-5100  
F: 847-673-5100

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

Milwaukee Avenue Corridor Landscape – Phase I  
Four (4) areas along North Milwaukee Avenue, Prospect Heights  
Landscaping in four (4) areas along North Milwaukee Avenue, areas will also be provided  
with irrigation, electrical services, and "character piers."  
The Architect:  
(Name, legal status, address and other information)

For all Preconstruction Phase Services, the following shall serve as Architect:  
Teska Associates  
627 Grove Street  
Evanston, IL 60201  
T: 847-869-2015  
F: 847-869-2059

For purposes of this Agreement, the term "Architect" for all Preconstruction Phase Services shall mean Teska Associates.

Owner will serve as Architect for all Construction Phase Administration services. For purposes of this Agreement, the term "Architect" for all Construction Phase Administration Services shall mean Owner.

### ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition.

AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

The Owner and Construction Manager agree as follows.



Init.

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User Notes:

(828732245)

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### ARTICLE 1 INITIAL INFORMATION

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

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

§ 1.1.1 The Owner's program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

Landscape drawings dated 1/12/15 as prepared by Teska Associates.

Irrigation drawings dated 10/8/14 as prepared by Halloran & Yauch, Inc.

Electrical drawings dated 10/8/14 as prepared by Gewalt Hamilton Associates, Inc.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

As outlined in the drawings referenced in Article 1.1.1.

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

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

\$360,000

§ 1.1.4 The Owner's anticipated design and construction schedule:

Init.

.1 Design phase milestone dates, if any:

Procure bids in early March 2015

.2 Commencement of construction:  
April 15, 2015

.3 Substantial Completion date or milestone dates:

Substantial Completion: June 12, 2015

.4 Other:

NA

§ 1.1.5 The Owner intends the following procurement method for the Project:  
(Identify method such as competitive bid, negotiated Contract or multiple Prime Contracts.)

Multiple prime contractors. Competitively bid in accordance with public bidding statutes.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:  
(List number and type of bid/procurement packages.)

NA

§ 1.1.7 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

NA

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:  
(List name, address and other information.)

William R. Balling8 North Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070 x 202  
F: 847-398-4244  
Mobile: 847-863-7101  
Email: wballing8@prospect-heights.org

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

NA

§ 1.1.10 Unless provided by the Construction Manager, the Owner will retain the following consultants and contractors:  
(List name, legal status, address and other information.)

.1 Land Surveyor:

Init.

NA

2 Geotechnical Engineer:

(Paragraphs deleted)

NA.3 Civil Engineer: NA

.4 Other:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)

Landscape Architect: Teska Associates

Irrigation Designer: Halloran & Yauch, Inc.

Electrical Engineer: Gewalt Hamilton Associates, Inc.

§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.4:  
(List name, address and other information.)

Timothy Vander Molen  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-0010  
F: 847-673-5100  
Mobile: 847-980-8980  
Email: [tvandermolen@ifspm.com](mailto:tvandermolen@ifspm.com)

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:  
(List any specific requirements and personnel to be included in the staffing plan, if known.)

John Zachara  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-0010  
F: 847-673-5100  
Mobile: 847-714-7481  
Email: [jzachara@ifspm.com](mailto:jzachara@ifspm.com)

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

.1 Cost Estimator:  
(List name, legal status, address and other information.)

NA

.2 Other consultants:  
NA

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§ 1.1.14 The Construction Manager's consultants retained under Additional Services:

NA

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

NA

(Paragraph deleted)

## ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Construction Manager understands and acknowledges that it has been engaged by the Owner to provide professional construction management services because of Construction Manager's represented character, expertise and qualifications, including its represented experience in providing construction management services on projects of similar kind and scope to this Project which were successfully completed. The Construction Manager accepts the relationship of trust and confidence established with the Owner by the terms of this Agreement, and covenants with the Owner to use Construction Manager's reasonable efforts, skill, judgment, experience and ability to perform its services under this Agreement in an expeditious, economical and professional manner and otherwise consistent with good construction management practices as would be exercised by a reputable construction manager with extensive experience in projects of similar scope and kind as this Project in the Chicago statistical metropolitan area, and to cooperate with the Owner and the Architect in furthering the interests of the Owner. The foregoing statement of the manner in which the Construction Manager shall perform its services for this Project is not intended as a "warranty" of performance, but rather is an articulation of the professional standard of care (the "Professional Standard") in accordance with which the proper performance by the Construction Manager of its services under this Agreement shall be determined, unless a stricter standard of performance is specifically stated in this Agreement with respect to the provision of a particular service.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of a design team as contracted by Owner. The Construction Manager shall not be responsible for actions taken by the designers.

§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project, subject to Owner's concurrence.

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

(Paragraphs deleted)

§ 2.6 The Construction Manager shall provide sufficient organization, personnel and management to properly carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager accepts sole responsibility for the acts and omissions of its employees, agents, consultants and other persons which it assigns, employs or engages to work on this Project and for the acts and omissions of their respective employees and agents. The Construction Manager shall at all times enforce strict discipline and good order among its employees, and shall cooperate with, and coordinate its services with those of the Architect and the Architect's consultants. The Construction Manager shall employ, contract with and assign to work on, or to perform services under, this Agreement only persons who are fit and skilled in the task assigned to them. The Owner and the Construction Manager shall each endeavor to promote harmony and cooperation among the Owner, the Architect and the Construction Manager and other persons employed or engaged by any of them in connection with the Project. In the event that the Construction Manager believes that the action or inaction of any other person involved in the Project is having an adverse impact on the successful completion of the Project, it will promptly notify the Owner.

§ 2.7 The Construction Manager shall maintain the following insurance for the duration of this Agreement.

§ 2.7.1 Construction Manager shall maintain commercial general liability (CGL) and, if necessary, commercial

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umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location. Owner shall be included as an additional insured under the CGL.

§ 2.7.2 Construction Manager shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including hired and non-owned autos.

§ 2.7.3 Construction Manager shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

§ 2.7.4 Construction Manager shall maintain professional liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000, and \$2,000,000 in the aggregate, for negligent acts, errors or omissions in the performance of the services.

§ 2.7.5 General Insurance provisions:

.1 Evidence of Insurance

The Construction Manager shall not commence its services until it has provided the Owner with a certificate of insurance evidencing that the Construction Manager maintains insurance in accordance with this Agreement. If the Construction Manager fails to furnish and maintain insurance as required, upon written notice to the Construction Manager and failure of the Construction Manager to furnish evidence within seven (7) days of the giving of such notice that Construction Manager has obtained and is maintaining such insurance, the Owner may either: a) terminate this Contract; or b) purchase such insurance on behalf of the Construction Manager, and the Construction Manager shall pay the cost thereof to the Owner upon demand.

During the period provided to the Construction Manager to obtain and provide proof of insurance coverage, the Owner may suspend the Construction Manager's services. Insurance policies set forth in this Agreement shall be maintained in force for at least twenty four months after the date of Final Completion of the Project.

Construction Manager shall provide 30 days' written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested.

Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Construction Manager's obligation to maintain such insurance.

Construction Manager shall provide certified copies of all insurance policies required above within 10 days of Owner's written request for said copies.

.2 Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

3 Cross-Liability

If Construction Manager's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

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#### .4 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the Owner.

#### .5 Subcontractors

Construction Manager shall cause each subcontractor employed by Construction Manager to purchase and maintain insurance of the type specified above. When requested by the Owner, Construction Manager shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

**§ 2.7.6 Indemnification.** To the fullest extent permitted by applicable law, Construction Manager shall indemnify and hold harmless the Owner and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Construction Manager's services, which claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use thereof and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Construction Manager, any subcontractor or Construction Manager or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph nor shall such obligation negate the right of the Construction Manager to assert any defenses available to it under the principles articulated in *Kotecki v. Cyclops*, 146 Ill. 2d 155, 166 Ill. Dec. 1 (1991). Construction Manager shall similarly protect, indemnify and hold and save harmless the Owner and its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Construction Manager's breach of any of its obligations under, or Construction Manager's failure to provide its services in accordance with any provision of this Agreement.

### ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

#### § 3.1 Definition

The Construction Manager's Basic Services consist of those described in Construction Manager's Proposal dated February 6, 2015, attached to and incorporated as part of this Agreement as **Exhibit A** ("Construction Manager's Proposal"). Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, value engineering and allocation of construction activities among the Contractors and such other services described in this Agreement.

#### § 3.2 Preconstruction Phase

**§ 3.2.1** The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

**§ 3.2.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

**§ 3.2.3** The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan only as required that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

*(Paragraphs deleted)*

**§ 3.2.4-§ 3.2.9 Intentionally omitted.**

**§ 3.2.10** The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. The Construction Manager shall verify that there is provision in the Contract Documents for: a) the holding of scheduled safety meetings ; b) Contractor

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attendance at said safety meetings; c) require adherence to the safety standards; and d) during construction shall periodically review with the Contractor the safety program and Contractor's adherence to the safety program.

§ 3.2.11 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) Work is appropriately assigned to each respective trade contractor, (3) no overlap exists in the assignment of the Work to the trade contractors; (4) the Work is assigned in a manner that provides for appropriate sequencing of the Work; (5) the likelihood of labor jurisdictional disputes is minimized, and (6) proper coordination is provided for phased construction.

§ 3.2.12 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.2.13 Intentionally omitted.

§ 3.2.14 The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 3.2.15 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages and labor conflicts. During the Pre-Construction Phase, as part of its Basic Services the Construction Manager will advise the Owner of any regional collective bargaining agreements relevant to trades that will be working on the Project and which Construction Manager knows are scheduled to expire during the period of Project construction and may be the source of labor disputes, shortages or work stoppages. The Construction Manager shall recommend to Owner strategies to ameliorate or avoid any such anticipated labor events. The Construction Manager will also advise the Owner of any current or industry anticipated shortages of materials proposed to be used in or in connection with the Project.

§ 3.2.16 The Construction Manager shall consult with Owner's legal counsel to assist the Owner in obtaining information regarding applicable legal requirements for inclusion in the Bidding and Contract Documents. The Construction Manager shall coordinate with the Architect in providing the Owner's legal counsel with a complete copy of the Bidding and Contract Documents prepared by the Architect and the Construction Manager at least seven (7) business days prior to making them available to prospective bidders, to permit sufficient time for responsible review and revision as may be recommended by the Owner's legal counsel.

§ 3.2.17 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for Owner's review and approval.

§ 3.2.18 The Construction Manager shall submit the list of prospective bidders for the Owner's review and approval. The submission of this list is intended to supplement, and not to act as a substitute for, public competitive bidding as required by law.

§ 3.2.19 The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall assist in preparing Project Manual and Bidding Documents for use in publicly bidding the Work on the Project as required by law, issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders and answer questions and issue addenda associated with the same. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the Owner with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Construction Manager shall receive bids, review the bids including with respect to the responsiveness of the bidder to the requirements of the Bidding Documents and the responsibility of the bidder to successfully complete the Work for which the bid has been submitted, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids. The Construction Manager shall consult with the Architect prior to making recommendations to the Owner to determine whether the Architect has had or has knowledge of others having had a prior unsatisfactory experience with any of the bidders, and shall review published governmental agency lists to determine whether any of the bidders or their proposed subcontractors have been disqualified from the award of public contracts due to violations of applicable laws.

§ 3.2.21 The Construction Manager shall assist the Owner in preparing Construction Contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Multiple Prime Contractors.

§ 3.2.22 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall verify that the Contract Documents include clear, unambiguous and non-conflicting requirements and assignment of responsibilities regarding obtainment of permits and payment of applicable fees and assessments. The Construction Manager shall verify that the Owner, or the applicable Contractor, as required by the Contract Documents, has obtained all required permits and paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

### § 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and will end thirty (30) days after final payment to all Contractors is due.

§ 3.3.2 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified by Owner.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Architect, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall determine the cause of such failure and promptly notify and recommend corrective action, if any, to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule and conduct at least weekly meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

§ 3.3.7 Utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.



§ 3.3.8 The Construction Manager shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Construction Manager shall endeavor, using its reasonable diligent efforts consistent with good construction management practices and the "Professional Standard" as defined in Section 2.2. of this Agreement, to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall timely recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs periodically and timely as required during the course of the Project in order to assist the Owner to maintain adequate budget and cash flow controls and to afford the Owner the opportunity to make changes in the Work, if and as necessary, to keep within the Project budget without unreasonably delaying the orderly progress of the Work. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner. The Construction Manager shall research and advise Owner of any discounts or pricing promotions available for materials and/or equipment specified by the Architect or which relate to equal substitute to that specified by the Architect and the requirements that must be met to obtain such price advantage.

§ 3.3.11 The Construction Manager shall develop, prepare and submit to Owner at such intervals as reasonably required by Owner, cash flow reports and forecasts for the Project, indicating when major payments will be required, and shall advise the Owner and Architect as to anticipated and actual variances between actual and budgeted or estimated cost as indicated in Section 3.3.10.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by Multiple Prime Contractors for progress and final payments.

§ 3.3.12.2 Based on the Construction Manager's observations of the Work performed by each Contractor and evaluations of each Contractor's Application for Payment, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

1. Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
2. Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Construction Manager determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, but not to the Contractor, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the

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Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation to the Owner, but not to the Contractor, that Contractor is entitled to payment in the amount certified subject to the Contractor's submission with its application of all documents required by its contract with Owner.

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager 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 for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.3.13 The Construction Manager understands and acknowledges that Project site safety is a material concern of the Owner. The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs, procedures and equipment among the Contractors and the recommended means for achieving Contractor compliance, and coordination relative to same. The Construction Manager shall verify that provision for such responsibilities is included in the appropriate Contract Documents prepared by the Architect. Notwithstanding the foregoing, however, the Construction Manager's responsibilities for institution, administration and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions, procedures, means, methods, operative details and incidental aspects of the Work of the Contractors or Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager. The Construction Manager shall not exercise control over, or take charge of, these activities of the Contractors or Subcontractors.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents, endeavoring consistent with good construction management practices and the Professional Standard to guard the Owner against defects and deficiencies in the Work, and shall notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority, upon written authorization from Owner, to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures. The Construction Manager shall also have the authority, upon written authorization from Owner, to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager 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 of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents and provided that Construction Manager shall not direct any Contractor in any of these regards. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager'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 Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work. However, the foregoing is not intended to relieve and shall not relieve the Construction Manager of responsibility for the proper performance of its services and obligations in accordance with this Agreement.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

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§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 Intentionally omitted.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

§ 3.3.20 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.3.20.1 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports; .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and
- .11 Any other items the Owner may require:

NA

*(Paragraphs deleted)*

§ 3.3.21 Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in electronic form, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work. The Construction Manager shall not agree to payment for materials, systems and equipment stored off site without first consulting with the Owner and assuring proper storage, protection (including adequate insurance in favor of the Owner) and security, and assignment of all right, title and interest in and to the items to the Owner.

§ 3.3.23 With the Architect and the Owner's maintenance personnel, the Construction Manager shall observe the Contractor's or Multiple Prime Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

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§ 3.3.24 When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with the Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.25 When the Work or designated portion thereof is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractor. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Contractor or Multiple Prime Contractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in conducting final inspections.

§ 3.3.26 The Construction Manager shall secure and forward to the Owner, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) all warranties and similar submittals required by the Contract Documents; (5) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.27 The Construction Manager shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment or final Application for Payment and final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 3.3.28 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction Manager, Architect, Contractor and Multiple Prime Contractors. Consent shall not be unreasonably withheld.

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

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Construction Manager shall provide the listed Additional Services only if specifically designated in the table below as the Construction Manager's responsibility, and the Owner shall compensate the Construction Manager as provided in Section 11.2.

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

| Services                                                             | Responsibility<br>(Construction Manager,<br>Owner or<br>Not Provided) | Location of Service Description<br>(Section 4.2 below or in an exhibit<br>attached to this document and<br>identified below) |
|----------------------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| § 4.1.1 Measured drawings                                            | Not Provided                                                          |                                                                                                                              |
| § 4.1.2 Architectural interior design<br>(B252™-2007)                | Not Provided                                                          |                                                                                                                              |
| § 4.1.3 Tenant-related services                                      | Not Provided                                                          |                                                                                                                              |
| § 4.1.4 Commissioning (B211™-2007)                                   | Not Provided                                                          |                                                                                                                              |
| § 4.1.5 LEED® certification (B214™-2007)                             | Not Provided                                                          |                                                                                                                              |
| § 4.1.6 Furniture, furnishings, and equipment<br>design (B253™-2007) | Not Provided                                                          |                                                                                                                              |

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

None

§ 4.3 Additional Services may be provided after execution of this Agreement, upon prior written authorization from Owner, without invalidating this Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.3 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

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

- 1 Services necessitated by a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- 2 Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement, except for those revisions that Construction Manager knew of or reasonably should have known of prior to the date of this Agreement;
- 3 Preparation of documentation for alternate bid or proposal requests proposed by the Owner;
- 4 preparation for, and attendance at, a public presentation, meeting or hearing;
- 5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto; or
- 6 Providing consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such

(Paragraphs deleted)

Work.

§ 4.3.2 To avoid delay in the Construction Phase, the Construction Manager shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Construction Manager, and the Owner shall have no further obligation to compensate the Construction Manager for those services:

- 1 Services in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work.
- 2 To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is later.
- 3 Services required in an emergency to coordinate the activities of a Contractor or Multiple Prime Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.13.

§ 4.3.3 If the services covered by this Agreement have not been completed within twelve ( 12 ) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services.

#### §4.4 EXCEPTIONS

§4.4.1 Notwithstanding anything to the contrary contained in or implied from any provision of this Agreement, if a service which would otherwise be considered an Additional Service is required due in whole or in part to the negligence or the willful or wrongful act, or the error or omission of the Construction Manager or otherwise due to the Construction Manager's failure to properly perform its services in accordance with the terms of this Agreement, the service shall not be deemed to be, and shall not be compensable as, an Additional Service, but shall be deemed to be, and compensable as a Basic Service.

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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 the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce any lien rights, if any.

§ 5.2 The Owner shall establish and periodically update, based on consultation with Construction Manager and Architect, the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as outlined in the Owner-Architect Agreement. Upon request, the Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and Architect, and any further modifications to the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

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

§ 5.7 Unless provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Construction Manager shall advise Owner of any such tests or reports which Construction Manager knows prior to commencement of the Work will be required for the Project in order to assist Owner to properly plan, schedule and budget for same.

§ 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.

*(Paragraph deleted)*

§ 5.11 INTENTIONALLY OMITTED

§ 5.12 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

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

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, and reasonable overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner. The actual final Cost of the Work shall be calculated net of trade discounts and rebates, refunds and returns, and of the amounts received from the sale of surplus materials, equipment and supplies.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a competent and experienced Contractor and Construction Manager as a person or entity familiar with the construction industry, including without limitation construction of public recreational facilities. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager.

§ 6.3 - § 6.4 Intentionally omitted.

*(Paragraph deleted)*

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

Init.

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

The Drawings, Specifications and other documents prepared by the Architect or by Owner's legal counsel are instruments of the Architect's or Owner's legal counsel service through which the Work to be executed by the Contractors is described. The Construction Manager may retain one record set. The Construction Manager shall not own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or Owner's legal counsel, and unless otherwise indicated in the Agreement between the Owner and the Architect or in an agreement between the Owner and legal counsel, the Architect or Owner's legal counsel, as applicable, shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. The Drawings, Specifications and other documents prepared by the Architect or the Owner's legal counsel, and copies thereof furnished to the Construction Manager, are for use solely with respect to this Project. They are not to be used by the Construction Manager on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and the Architect or Owner's legal counsel, as applicable. The Construction Manager is granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and Owner's legal counsel appropriate to and for use in the performance of the Construction Manager's services under this Agreement.

All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

#### ARTICLE 8 CLAIMS AND DISPUTES

##### § 8.1 General

§ 8.1.1 The Owner and Construction Manager shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law.

*(Paragraphs deleted)*

§ 8.2.4 Unless otherwise agreed to by the Parties in writing at the time of the dispute, the method of binding dispute resolution shall be the following:

*(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

☒ [ X ] Litigation in a court of competent jurisdiction

*(Paragraphs deleted)*

#### ARTICLE 9 TERMINATION OR SUSPENSION

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

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§ 9.2 The Owner may suspend the Construction Manager's services or the Project immediately upon at least twenty four (24) hours prior written notice. Construction Manager shall take reasonable steps in consultation with the Owner to secure the Project site for the period of suspension and to protect any materials onsite. The Owner shall reimburse the Construction Manager for the reasonable, necessary and actual costs incurred by the Construction Manager in taking such action upon detailed written documentation of same reasonably acceptable to the Owner. If the Project is suspended by the Owner for more than 30 consecutive days, the Construction Manager shall be compensated for services properly performed and authorized in accordance with this Agreement prior to notice of such suspension. When the Project is resumed, unless and except to the extent such suspension was caused by or resulted from the Construction Manager's breach of its obligations under this Agreement, the Construction Manager's compensation shall be equitably adjusted to provide for the reasonable and actual expenses necessarily incurred by the Construction Manager in the interruption and resumption of the Construction Manager's services.

§ 9.3 If the Owner abandons the Project for more than 90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager 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 Construction Manager for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Construction Manager, the Construction Manager shall be compensated for services authorized and properly performed prior to termination in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses, as defined in Section 9.7, then due in accordance with this Agreement

§ 9.7 Termination Expenses are reasonable, necessary and actual out-of-pocket or other reasonable, necessary and actual expenses incurred in disengagement of Construction Manager's services and directly attributable to termination without cause, and for which the Construction Manager is not otherwise compensated. Termination Expenses shall in no event include any amounts for lost profits, lost opportunities, or incidental or consequential damages or costs.

§ 9.7.1 In the event of termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services authorized and properly performed in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement

§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services authorized and properly performed prior to termination in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of Illinois.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction, as modified by Owner, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the prior written consent of the other.

§ 10.4 If the Owner requests the Construction Manager to execute certificates, the proposed language of such certificates shall be submitted to the Construction Manager for review at least 14 days prior to the requested dates of

execution. If the Owner requests the Construction Manager to execute consents reasonably required to facilitate assignment to a lender, the Construction Manager shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Construction Manager for review at least 14 days prior to execution. The Construction Manager 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 Construction Manager.

**§ 10.6** Unless otherwise required in this Agreement, the Construction Manager 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 and to the extent that such materials or substances were introduced to the site by the Construction Manager or the result of the Construction Manager's failure to perform its obligations in accordance with this Agreement. The Owner shall be responsible for all costs associated with the removal, remediation of any kind, detoxification, clean up and disposal of such hazardous substances and determining whether the project site is in compliance with all applicable environmental laws.

**§ 10.7** The Owner reserves the sole right to release all Project information, as well as to time its release, form and content. This requirement shall survive the expiration of the Contract Documents. Notwithstanding the foregoing, the Owner shall not withhold permission unreasonably for the Construction Manager to release general promotional information concerning the Project, provided that such information shall be reviewed and approved in advance in writing by the Owner. The foregoing shall not be deemed to preclude the Construction Manager from (i) including the Owner's name in a list of former clients in specific proposals to prospective clients or (ii) listing the Owner's name or a Project in the Construction Manager's internal publications, brochures and website including photos of the Project taken by or on behalf of the Construction Manager. Under no circumstances shall the Construction Manager include among its promotional materials photographic or artist's representations of the design of the Project for which the Architect or Construction Manager was compensated by the Owner, without the Owner's express written permission in each specific instance, which permission may be denied in the Owner's sole discretion, or may be made subject to payment to the Owner or to such other terms as the Owner shall require.

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

**§ 10.9** Construction Manager shall perform its services for this Project in accordance with all applicable local, state and federal laws, rules and regulations. Construction Manager's Compliance and Certification Attachment is attached to and incorporate herein by reference as **Exhibit B**.

## **ARTICLE 11 COMPENSATION**

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

**§ 11.1.1** For Preconstruction Phase Services in Section 3.2:

*(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)*

Bidding and Project Setup: \$15,840.00

**§ 11.1.2** For Construction Phase Services in Section 3.3:

*(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)*

Construction Management and Closeout: \$18,700.00

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Per the hourly rates set forth in Integrated Facilities Solution, Inc. 2015 Hourly Rates, attached to and incorporated as part of this Agreement as **Exhibit C**.

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

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

Per the hourly rates set forth in the attached, Integrated Facilities Solution, Inc. 2015 Hourly Rates

§ 11.4 Compensation for Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus zero percent ( 0 %), or as otherwise stated below:

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.

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

Per the hourly rates set forth in the attached, Integrated Facilities Solution, Inc. 2015 Hourly Rates

#### § 11.6 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project provided that Construction Manager shall first notify Owner of the nature and the amount of such fees and the deadline for payment of the same in sufficient advance of such deadline and must afford Owner the opportunity to obtain a complete or partial waiver of same or to pay same directly;;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;
- .7 Professional photography, and presentation materials requested by the Owner;
- .8 Construction Manager's consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Construction Manager's consultants;
- .9 Site office expenses; and
- .10 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the actual and necessary expenses incurred by the Construction Manager and the Construction Manager's consultants plus 10 percent ( 10 %) of the expenses incurred.

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Reimbursable Expenses shall not exceed \$1,000.00 without prior written approval of Owner. Architect shall provide all supporting documentation of said Reimbursable Expenses.

**§ 11.7 Payments to the Construction Manager**

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

**§ 11.7.2**

*(Paragraphs deleted)*

Payments are due and payable and shall bear interest, if applicable, in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.

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

*(Paragraph deleted)*

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

**ARTICLE 12.1**

**§12.1.1** Payment and performance bond is not required for the Construction Manager. Contractors will be required to provide bonds in their contracts as directed by Owner. Construction Manager will review Contractor bonds for general conformance with Owner's specifications.

**§12.1.2** Except as provided in Section 12.1.18, Construction Manager shall prepare all Change Orders for Owner's review, approval and execution. Construction Manager will provide the Owner with an accounting of these Change Orders updated as required.

**§12.1.3** Construction Manager will include contract language in Contractor Contracts to require compliance with the Illinois Prevailing Wage Act and other legal requirements as determined by Owner's Attorney.

**§12.1.4** Construction Manager will comply with the most current Illinois Prevailing Wage Act.

**§12.1.5** Intentionally deleted.

**§12.1.6** In addition to and not in limitation of the Basic Service described in the printed form of this Agreement Construction Manager's Basic Services shall include services of the Construction Manager, whether occurring before or after Project completion and payment to all Contractors, which are made necessary by Construction Manager's negligence or failure to properly perform its duties and obligations in accordance with the provisions of this Agreement. The Construction Manager shall not be entitled to any additional compensation or expense reimbursement in connection with such services.

**§12.1.7** Except as provided herein, Construction Manager shall neither perform any of the Work with its own forces, or provide any of the materials or equipment for the Project. Construction Manager may with the Owner's prior permission given in the specific instance, self-perform (a) portions of the Work if and as necessary to protect the interests of the Owner in the event of a bona fide emergency, (b) Work of a temporary nature that facilitates the construction process if necessary, or (c) as otherwise directed by Owner. If Construction Manager performs any Work with its own forces in accordance with this Section, Construction Manager shall comply with the requirements of the Contract Documents and applicable laws, including without limitation those pertaining to maintenance of required insurance coverage, payment of prevailing rates of wages, provision of performance and labor and material payment bonds, maintenance of a Sexual Harassment Policy and maintenance of a Drug Free Workplace and a Substance Abuse Prevention Program. When self-performing or having an affiliated company perform any portion of the Work, as well as when acting as the Construction Manager, the Construction Manager shall at all times act in the interests of the Owner. The foregoing sentence is not intended to create a fiduciary relationship between Construction Manager and Owner.

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**§12.1.8** As part of the Construction Manager's Basic Services, for a period of one year after the Date of Substantial Completion, the Construction Manager shall assist the Owner, if and as requested by the Owner to:

- (a). Coordinate and expedite the resolution of construction-related problems related to the services of the Construction Manager or the Work of the Construction Manager or an affiliated company, under the Construction Documents.
- (b). Coordinate and expedite the repair/replacement of items covered under guaranties/warranties.
- (c). Conduct a site visit and follow-up review of the complete facility in the eleventh month following Substantial Completion of the Project to verify satisfactory performance of materials and systems.

**§12.1.9** As part of its Basic Services, the Construction Manager shall review Contractors' payment applications and shall collect and review lien waivers and Contractor's affidavits relating to the Project. The Construction Manager shall promptly report any known deficiencies in such documentation to the Contractor involved and to the Owner. Notwithstanding the foregoing, the Construction Manager's review of the lien waivers shall be for form only and the Construction Manager will have no responsibility to make any independent investigation as to the authenticity of any signatures on the payment applications and lien waivers or as to the application of any funds by the Contractor. The Construction Manager will not be responsible for Contractor fraud and is not providing a guarantee of the waivers or title to the Owner.

**§12.1.10** If the Construction Manager is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if any provision of the bankruptcy law is invoked by or against the Construction Manager, then notwithstanding any other rights or remedies granted the Owner, the Owner may, without prejudice to any other right or remedy, (i) immediately upon written notice to the Construction Manager terminate the employment of the Construction Manager and/or (ii) finish the services by whatever method the Owner may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the services are finished. If the unpaid balance of the Construction Manager's Compensation exceeds (1) the expenses of completing the services, including compensation for additional managerial, administrative and legal services, plus (2) the Owner's losses and damages because of the Construction Manager's default, such excess shall be paid to the Construction Manager. If such expense plus the Owner's losses and damages shall exceed such unpaid balance, the Construction Manager shall pay the difference to the Owner promptly on demand and the Owner may resort to any other rights or remedies the Owner may have by law or under this Agreement.

**§12.1.11** Upon Final Completion of the Work, the Construction Manager shall request and endeavor to collect from each Contractor and deliver to the Owner, for the Owner's records and review, two sets of Construction Documents consisting of reproducible drawings in field record form (reflecting changes made to the Construction Documents by that Contractor as the Work progressed) and other documents indicating all significant changes, revisions and substitutions in the Work made during the Construction Phase. If a specification allows a Contractor to elect one of several brands, makes or types of material or equipment, the annotations shall show which of the allowable items the Contractor furnished.

**§12.1.12** The relationship of the Construction Manager to the Owner is that of an independent contractor. No employment relationship is intended or created by this Agreement or by any course of dealing between the Parties.

**§12.1.13** Any provision of this Agreement to the contrary notwithstanding, the Owner shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to the Construction Manager hereunder if any one or more of the following conditions exist.

- (a) The Construction Manager is in material default of any of its obligations under this Agreement, including but not limited to persistently or repeatedly refusing or failing (except in cases for which extension of time is provided), to perform the services in accordance with this Agreement, and, after written notification from Owner of said default, fails to remedy such default within the time period provided for termination of the Construction Manager

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under Article 9 of this Agreement provided, however, that the Owner shall only withhold from such payment an amount which the Owner in good faith reasonably believes is the amount by which Owner has been or will be damaged by such default if not fully remedied within said time period and provides a detailed accounting of the amount to be withheld; further provided that the failure of the Owner to withhold any sums from the Construction Manager or the failure of the Owner to withhold a sufficient amount to compensate the Owner fully for the damages it sustains by virtue of such default shall not constitute a waiver by the Owner of its right or a limitation on its right to recover such provable sums subsequently from the Construction Manager; or

- (b) The Construction Manager has failed to make payments promptly to consultants or other third parties used by it in connection with the services for which the Owner has made payment to the Construction Manager unless Construction Manager has a dispute with any such party and is actively working to resolve same; or
- (c) Liens are filed with Owner against Project funds by consultants, subcontractors or other third parties providing services, equipment or materials under contract with or on behalf of Construction Manager in connection with the Project, and payment will be withheld to the extent of the amount of the lien, as required by Illinois law unless the Construction Manager provides a bond in form and substance reasonably acceptable to Owner in the full amount of the lien and applicable law would prevent the release to the Construction Manager of the amount of the lien.

**§12.1.14** Applications for Payment for the Construction Manager's Compensation shall be submitted by the Construction Manager monthly on or before the first day of each month, and shall cover the prior month's services. Applications for payment shall be made in such form as shall be approved by the Owner. The Application for Payment shall be accompanied by (i) evidence satisfactory to the Owner (including paid invoices for which payment has been made, releases, the Construction Manager's affidavits averring to full payment of all labor and materials covered in said application for payment, that all payments, reimbursement of expenses and other indebtedness related to the services provided to the date of the current application will, upon payment of the current application be paid in full or otherwise satisfied; (ii) lien waivers from the Construction Manager covering all services performed through the date of the prior application for payment, in form reasonably acceptable to the Owner; and (iii) such other documents, instruments, and waivers, as the Owner may reasonably request consistent with the types of information required to be provided in this paragraph. Subject to Section 12.1.13, above, payments by the Owner for invoiced amounts shall be due within thirty (30) days after the Owner's receipt of the completed Application for Payment, Construction Manager's Certificate, and all other required deliveries; and with respect to the final payment to the Construction Manager, the Agreement has been fully performed, a final Construction Manager's Application for Payment and related documents have been submitted by the Construction Manager and approved by the Owner, and the Construction Manager has met all of the other conditions to receiving final payment as set forth in this Agreement.

**§12.1.15** The final payment shall not become due until the Construction Manager submits to the Owner (i) a waiver affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the services, for which the Owner might in any way be responsible, have been paid, will be paid out of such payment or shall otherwise be satisfied, (ii) data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may reasonably be designated by the Owner; and (iii) the Construction Manager shall have delivered to the Owner all deliveries required to be made by Construction Manager under this Agreement.

**§12.1.16** None of (i) any progress or final payment, (ii) any partial or entire use of any services, or (iii) occupancy of all or any portion of the Project by the Owner shall constitute an acceptance of the Consultant's services or be construed or relied upon as an indication that the services are in accordance with this Agreement, or that the amount paid or certified therefor represents the correct cost or value of the services or that such amount is in fact or in law due to the Construction Manager.

**§12.1.17** Notices required or permitted to be given under a provision of this Agreement, shall be in writing and shall be given by (i) first class U.S. certified or registered mail, return receipt requested, with postage prepaid; or (ii) by depositing the same into the custody of a nationally recognized overnight delivery service such as Federal Express

Corporation or United Parcel Service; or (iii) by hand delivery with proof of delivery endorsed thereon; or (iv) by fax provided that it is also delivered by express mail or courier (for next business day delivery). All such Notices, sent in compliance with the provisions hereof shall be deemed given and received on (i) if mailed, on the date of delivery as set forth on the return receipt, (ii) the date it is delivered to the other party if sent by overnight delivery or hand delivery or (iii) the date it is delivered to the other party if sent by fax, provided it is confirmed by express mail or courier (for next business day delivery). From time to time either party may designate another address or addresses for all purposes of this Agreement by a notice given to the other party in accordance with the provisions hereof. For purposes of this Section 12.1.17, the addresses of the Parties shall be as follows:

If to Owner: City of Prospect Heights  
8 N Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070  
F: 847-392-4244  
Attn: City Manager

If to Construction Manager: Integrated Facilities Solutions, Inc.  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-5100  
F: 847-673-5100  
Attn: Tim Vander Molen

**§12.1.18** Subject to prior authorization of the Owner's City Council, which is hereby acknowledged, the Owner's Construction Manager shall have the authority to approve and execute, as agent on behalf of Owner, a change in the Work provided that the cost of such change does not result in an increase or decrease in either the cost of the Project by \$10,000 or more or the time of completion by a total of thirty (30) days or more per change. All other change order requests require prior approval by the Owner's City Council or by the Owner's authorized designee to whom change orders shall be submitted and written determinations made with respect to such change orders in accordance with Section 33E-9 of the Criminal Code of 1961 [720 ILCS 5/33E-9]. Evidence of any such designee shall be provided to the Construction Manager in the form of a certified resolution of the Owner's City Council.

**§12.1.19** The Construction Manager hereby represents and warrants to the Owner that: (i) Construction Manager is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital and credit facility to complete the services required and perform its obligations under this Agreement; (ii) Construction Manager is able to furnish all of the services required hereunder to perform all obligations hereunder and to perform all of its obligations hereunder and has sufficient experience and competence to do so; (iii) Construction Manager is authorized to do business in Illinois, and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services required hereunder and the Project itself; (iv) Construction Manager's execution of this Agreement and the performance thereof are within its duly authorized powers.

**§12.1.20** Conflicts: If there is any conflict between any of the provisions in this Article 12.1 of the Agreement and the other Articles of this Agreement or between this Article 12.1 of the Agreement and any of the Contract Documents, the terms and provisions of this Article 12 shall prevail.

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document C132™-2009, Standard Form Agreement Between Owner and Construction Manager as Adviser, as modified.

*(Paragraphs deleted)*

Init.

**.3 Other documents:**

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

|           |                                                                      |
|-----------|----------------------------------------------------------------------|
| Exhibit A | Integrated Facilities Solution, Inc. Proposal dated February 6, 2015 |
| Exhibit B | Construction Manager Compliance and Certification Attachment         |
| Exhibit C | Integrated Facilities Solution, Inc. 2015 Hourly Rates               |

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

CITY OF PROSPECT HEIGHTS

INTEGRATED FACILITIES SOLUTIONS, INC.

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

\_\_\_\_\_  
**CONSTRUCTION MANAGER** *(Signature)*

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

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

#633211

Init.

## Additions and Deletions Report for AIA<sup>®</sup> Document C132<sup>™</sup> – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:16:03 on 02/19/2015.

### PAGE 1

AGREEMENT made as of the day of \_\_\_\_\_ in the year Two Thousand Fifteen e  
(In words indicate day, month and year.)

\*\*\*  
City of Prospect Heights  
8 N Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070  
F: 847-392-4244

\*\*\*  
Integrated Facilities Solutions, Inc.  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-5100  
F: 847-673-5100

\*\*\*  
Milwaukee Avenue Corridor Landscape – Phase 1  
Four (4) areas along North Milwaukee Avenue, Prospect Heights  
Landscaping in four (4) areas along North Milwaukee Avenue, areas will also be provided with irrigation, electrical  
services, and "character piers."

\*\*\*  
(Name, legal status, address and other information)

For all Preconstruction Phase Services, the following shall serve as Architect:

Teska Associates  
627 Grove Street  
Evanston, IL 60201  
T: 847-869-2015  
F: 847-869-2059

For purposes of this Agreement, the term "Architect" for all Preconstruction Phase Services shall mean Teska Associates

Owner will serve as Architect for all Construction Phase Administration services. For purposes of this Agreement, the term "Architect" for all Construction Phase Administration Services shall mean Owner.

PAGE 3

Landscape drawings dated 1/12/15 as prepared by Teska Associates.  
Irrigation drawings dated 10/8/14 as prepared by Halloran & Yauch, Inc.  
Electrical drawings dated 10/8/14 as prepared by Gewalt Hamilton Associates, Inc.

As outlined in the drawings referenced in Article 1.1.1.

\$360,000

PAGE 4

Procure bids in early March 2015

April 15, 2015

Substantial Completion: June 12, 2015

NA

Multiple prime contractors. Competitively bid in accordance with public bidding statutes.

NA

NA

William R. Balling 8 North Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070 x 202  
F: 847-398-4244  
Mobile: 847-863-7101  
Email: wballing@prospect-heights.org

...

NA

PAGE 5

NA

...

~~3 Civil Engineer~~

NA.3 Civil Engineer NA

...

*(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)*

Landscape Architect: Teska Associates

Irrigation Designer: Halloran & Yauch, Inc.

Electrical Engineer: Gewalt Hamilton Associates, Inc.

...

Timothy Vander Molen  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-0010  
F: 847-673-5100  
Mobile: 847-980-8980  
Email: tvandermolen@ifspm.com

...

John Zachara  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-0010  
F: 847-673-5100  
Mobile: 847-714-7481  
Email: jzachara@ifspm.com

...

NA



NA

PAGE 6

NA

NA

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

~~§ 2.2 The Construction Manager shall perform its services consistent with the skill and care ordinarily provided by construction managers practicing in the same or similar locality under the same or similar circumstances. The Construction Manager understands and acknowledges that it has been engaged by the Owner to provide professional construction management services because of Construction Manager's represented character, expertise and qualifications, including its represented experience in providing construction management services on projects of similar kind and scope to this Project which were successfully completed. The Construction Manager accepts the relationship of trust and confidence established with the Owner by the terms of this Agreement, and covenants with the Owner to use Construction Manager's reasonable efforts, skill, judgment, experience and ability to perform its services under this Agreement in an expeditious, economical and professional manner and otherwise consistent with good construction management practices as would be exercised by a reputable construction manager with extensive experience in projects of similar scope and kind as this Project in the Chicago statistical metropolitan area, and to cooperate with the Owner and the Architect in furthering the interests of the Owner. The foregoing statement of the manner in which the Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project, for this Project is not intended as a "warranty" of performance, but rather is an articulation of the professional standard of care (the "Professional Standard") in accordance with which the proper performance by the Construction Manager of its services under this Agreement shall be determined, unless a stricter standard of performance is specifically stated in this Agreement with respect to the provision of a particular service.~~

~~§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™ - 2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, a design team as contracted by Owner. The Construction Manager shall not be responsible for actions taken by the Architect-designers.~~

~~§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project, subject to Owner's concurrence.~~

~~§ 2.6 The Construction Manager shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.~~

~~§ 2.6.1 Comprehensive General Liability with policy limits of not less than (\$ ) for each occurrence and in the aggregate for bodily injury and property damage.~~



~~§ 2.6.2 Automobile Liability covering owned and rented vehicles operated by the Construction Manager with policy limits of not less than (\$ ) combined single limit and aggregate for bodily injury and property damage.~~

~~§ 2.6.3 The Construction Manager may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.~~

~~§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than (\$ ).~~

~~§ 2.6.5 Professional Liability covering the Construction Manager's negligent acts, errors and omissions in its performance of services with policy limits of not less than (\$ ) per claim and in the aggregate.~~

~~§ 2.6.6 The Construction Manager shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.~~

§ 2.6 The Construction Manager shall provide sufficient organization, personnel and management to properly carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager accepts sole responsibility for the acts and omissions of its employees, agents, consultants and other persons which it assigns, employs or engages to work on this Project and for the acts and omissions of their respective employees and agents. The Construction Manager shall at all times enforce strict discipline and good order among its employees, and shall cooperate with, and coordinate its services with those of, the Architect and the Architect's consultants. The Construction Manager shall employ, contract with and assign to work on, or to perform services under, this Agreement only persons who are fit and skilled in the task assigned to them. The Owner and the Construction Manager shall each endeavor to promote harmony and cooperation among the Owner, the Architect and the Construction Manager and other persons employed or engaged by any of them in connection with the Project. In the event that the Construction Manager believes that the action or inaction of any other person involved in the Project is having an adverse impact on the successful completion of the Project, it will promptly notify the Owner.

§ 2.7 The Construction Manager shall maintain the following insurance for the duration of this Agreement.

§ 2.7.1 Construction Manager shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location. Owner shall be included as an additional insured under the CGL.

§ 2.7.2 Construction Manager shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including hired and non-owned autos.

§ 2.7.3 Construction Manager shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

§ 2.7.4 Construction Manager shall maintain professional liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000, and \$2,000,000 in the aggregate, for negligent acts, errors or omissions in the performance of the services.

§ 2.7.5 General Insurance provisions:

.1 Evidence of Insurance

The Construction Manager shall not commence its services until it has provided the Owner with a certificate of insurance evidencing that the Construction Manager maintains insurance in accordance with this

Agreement. If the Construction Manager fails to furnish and maintain insurance as required, upon written notice to the Construction Manager and failure of the Construction Manager to furnish evidence within seven (7) days of the giving of such notice that Construction Manager has obtained and is maintaining such insurance, the Owner may either: a) terminate this Contract; or b) purchase such insurance on behalf of the Construction Manager, and the Construction Manager shall pay the cost thereof to the Owner upon demand. During the period provided to the Construction Manager to obtain and provide proof of insurance coverage, the Owner may suspend the Construction Manager's services. Insurance policies set forth in this Agreement shall be maintained in force for at least twenty four months after the date of Final Completion of the Project.

Construction Manager shall provide 30 days' written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested.

Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Construction Manager's obligation to maintain such insurance.

Construction Manager shall provide certified copies of all insurance policies required above within 10 days of Owner's written request for said copies.

## 2 Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

## 3 Cross-Liability

If Construction Manager's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

## 4 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the Owner.

## 5 Subcontractors

Construction Manager shall cause each subcontractor employed by Construction Manager to purchase and maintain insurance of the type specified above. When requested by the Owner, Construction Manager shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

**§ 2.7.6 Indemnification.** To the fullest extent permitted by applicable law, Construction Manager shall indemnify and hold harmless the Owner and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Construction Manager's services, which claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use thereof and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Construction Manager, any subcontractor or Construction Manager or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph nor shall such obligation negate the right of the Construction Manager to assert any defenses available to it under the principles articulated in *Kotecki v. Cyclops*, 146 Ill. 2d 155, 166 Ill. Dec. 1 (1991). Construction Manager shall similarly protect, indemnify and hold and save harmless the Owner and its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Construction Manager's breach of any of its obligations

under, or Construction Manager's failure to provide its services in accordance with any provision of this Agreement.

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The Construction Manager's Basic Services consist of those described in Construction Manager's Proposal dated February 6, 2015, attached to and incorporated as part of this Agreement as Exhibit A ("Construction Manager's Proposal"), Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, value engineering and allocation of construction activities among the Multiple Prime Contractors, Contractors and such others services described in this Agreement.

**§ 3.2.3** The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan only as required that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

**§ 3.2.4** ~~Based on preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.~~

**§ 3.2.5** ~~The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life cycle data, and possible cost reductions.~~

**§ 3.2.6** ~~The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and highlight items that could affect the Project's timely completion.~~

**§ 3.2.7** ~~As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement. The Construction Manager shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.~~

**§ 3.2.8** ~~As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that design details adversely affect constructability, cost or schedules.~~

**§ 3.2.9** ~~The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.~~



**§ 3.2.4-§ 3.2.9 Intentionally omitted.**

**§ 3.2.10** The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. The Construction Manager shall verify that there is provision in the Contract Documents for: a) the holding of scheduled safety meetings ; b) Contractor attendance at said safety meetings; c) require adherence to the safety standards; and d) during construction shall periodically review with the Contractor the safety program and Contractor's adherence to the safety program.

**§ 3.2.11** The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) ~~all requirements for the Project are assigned to the appropriate Contract~~, (3) ~~the likelihood of jurisdictional disputes is minimized~~, and (4) ~~Work is appropriately assigned to each respective trade contractor~~, (3) no overlap exists in the assignment of the Work to the trade contractors; (4) the Work is assigned in a manner that provides for appropriate sequencing of the Work; (5) the likelihood of labor jurisdictional disputes is minimized, and (6) proper coordination is provided for phased construction.

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**§ 3.2.13** ~~The Construction Manager shall expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.~~Intentionally omitted.

**§ 3.2.15** The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor ~~shortages-shortages and labor conflicts~~. During the Pre-Construction Phase, as part of its Basic Services the Construction Manager will advise the Owner of any regional collective bargaining agreements relevant to trades that will be working on the Project and which Construction Manager knows are scheduled to expire during the period of Project construction and may be the source of labor disputes, shortages or work stoppages. The Construction Manager shall recommend to Owner strategies to ameliorate or avoid any such anticipated labor events. The Construction Manager will also advise the Owner of any current or industry anticipated shortages of materials proposed to be used in or in connection with the Project.

**§ 3.2.16** The Construction Manager shall consult with Owner's legal counsel to assist the Owner in obtaining information regarding applicable ~~requirements for equal employment opportunity programs, and other programs as may be required by governmental and for quasi-governmental authorities for inclusion in the Contract Documents.~~ legal requirements for inclusion in the Bidding and Contract Documents. The Construction Manager shall coordinate with the Architect in providing the Owner's legal counsel with a complete copy of the Bidding and Contract Documents prepared by the Architect and the Construction Manager at least seven (7) business days prior to making them available to prospective bidders, to permit sufficient time for responsible review and revision as may be recommended by the Owner's legal counsel.

**§ 3.2.17** Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for ~~the Architect's~~ Owner's review and the Owner's approval.

**§ 3.2.18** The Construction Manager shall submit the list of prospective bidders for the ~~Architect's review and the Owner's approval.~~ Owner's review and approval. The submission of this list is intended to supplement, and not to act as a substitute for, public competitive bidding as required by law.

**§ 3.2.19** The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall assist in preparing Project Manual and Bidding Documents for use in publicly bidding the Work on the Project as required by law, issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders. ~~bidders and answer questions and issue addenda associated~~

with the same. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the ~~Architect-Owner~~ with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Construction Manager shall receive bids, review the bids including with respect to the responsiveness of the bidder to the requirements of the Bidding Documents and the responsibility of the bidder to successfully complete the Work for which the bid has been submitted, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids. The Construction Manager shall consult with the Architect prior to making recommendations to the Owner to determine whether the Architect has had or has knowledge of others having had a prior unsatisfactory experience with any of the bidders, and shall review published governmental agency lists to determine whether any of the bidders or their proposed subcontractors have been disqualified from the award of public contracts due to violations of applicable laws.

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§ 3.2.22 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall verify that the ~~Owner has~~ Contract Documents include clear, unambiguous and non-conflicting requirements and assignment of responsibilities regarding obtainment of permits and payment of applicable fees and assessments. The Construction Manager shall verify that the Owner, or the applicable Contractor, as required by the Contract Documents, has obtained all required permits and paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and ~~terminates on the date the Architect issues the final Certificate for Payment, will end thirty (30) days after final payment to all Contractors is due.~~

§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. ~~If the Owner and Contractor modify AIA Document A232-2009, these modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement. Edition, as modified by Owner.~~

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Architect, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall determine the cause of such failure and promptly notify and recommend corrective action, if any, to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule and conduct at least weekly meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

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**§ 3.3.9** The Construction Manager shall ~~endeavor~~ endeavor, using its reasonable diligent efforts consistent with good construction management practices and the "Professional Standard" as defined in Section 2.2. of this Agreement, to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall timely recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

**§ 3.3.10** The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated ~~costs~~ costs periodically and timely as required during the course of the Project in order to assist the Owner to maintain adequate budget and cash flow controls and to afford the Owner the opportunity to make changes in the Work, if and as necessary, to keep within the Project budget without unreasonably delaying the orderly progress of the Work. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner. The Construction Manger shall research and advise Owner of any discounts or pricing promotions available for materials and/or equipment specified by the Architect or which relate to equal substitute to that specified by the Architect and the requirements that must be met to obtain such price advantage

**§ 3.3.11** The Construction Manager shall ~~develop~~ develop, prepare and submit to Owner at such intervals as reasonably required by Owner, cash flow reports and forecasts for the ~~Project~~ Project, indicating when major payments will be required, and shall advise the Owner and Architect as to anticipated and actual variances between actual and budgeted or estimated cost as indicates in Section 3.3.10.

**§ 3.3.12.2** ~~Not more frequently than monthly,~~ Based on the Construction Manager's observations of the Work performed by each Contractor and evaluations of each Contractor's Application for Payment, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

**§ 3.3.12.3** The Construction Manager's certification for payment shall constitute a representation to the Owner, ~~but not to the Contractor,~~ based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a ~~recommendation to the Architect and Owner that the Contractor be paid the amount certified,~~ representation to the Owner, but not to the Contractor, that Contractor is entitled to payment in the amount certified subject to the Contractor's submission with its application of all documents required by its contract with Owner.

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**§ 3.3.13** The Construction Manager shall ~~review the safety programs developed by each of the Multiple Prime Contractors solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any safety programs not included in the Work of the Multiple Prime Contractors.~~ The Construction Manager's responsibilities for understands and acknowledges that Project site safety is a material concern of the Owner. The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs, procedures and equipment among the Contractors and the recommended means for achieving Contractor compliance, and coordination relative to same. The Construction Manager shall verify that provision for such responsibilities is included in the appropriate Contract Documents prepared by the Architect. Notwithstanding the foregoing, however, the Construction Manager's responsibilities for institution, administration and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Multiple Prime Contractors, omissions, procedures, means, methods, operative details and incidental aspects of the Work of the Contractors or Subcontractors, agents or



employees of the Contractors or ~~Multiple Prime Contractors or~~ Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager. The Construction Manager shall not exercise control over, or take charge of, these activities of the Contractors or Subcontractors.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and Documents, endeavoring consistent with good construction management practices and the Professional Standard to guard the Owner against defects and deficiencies in the Work, and shall notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have ~~the authority~~ the authority, upon written authorization from Owner, to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures. The Construction Manager shall also have the authority, upon written authorization from Owner, to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1. ~~Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.~~

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager 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 of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. ~~Documents and provided that Construction Manager shall not direct any Contractor in any of these regards.~~ The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager'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 Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work. However, the foregoing is not intended to relieve and shall not relieve the Construction Manager of responsibility for the proper performance of its services and obligations in accordance with this Agreement.

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§ 3.3.18 ~~The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section 4.3.1.7.~~ Intentionally omitted.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. ~~The Project submittal schedule and any revisions shall be submitted to the Architect for approval.~~ The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

...

.5 Tests and inspection reports;

~~.6~~ reports; .6 Status report of nonconforming and rejected Work;



...

NA

~~§ 3.3.20.2~~ In addition, for Projects constructed on the basis of the Cost of the Work, the Construction Manager shall include the following additional information in its progress reports:

- ~~1 Contractor's work force report;~~
- ~~2 Equipment utilization report;~~
- ~~3 Cost summary, comparing actual costs to updated cost estimates; and~~
- ~~4 Any other items as the Owner may require;~~

§ 3.3.21 Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in duplicate, electronic form, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work. The Construction Manager shall not agree to payment for materials, systems and equipment stored off site without first consulting with the Owner and assuring proper storage, protection (including adequate insurance in favor of the Owner) and security, and assignment of all right, title and interest in and to the items to the Owner.

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§ 3.3.26 The Construction Manager shall secure and forward to the Owner, with a copy to the Architect, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens, and (4) all warranties and similar submittals required by the Contract Documents, (5) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

|                                                                   |                     |  |
|-------------------------------------------------------------------|---------------------|--|
| § 4.1.1 Measured drawings                                         | <u>Not Provided</u> |  |
| § 4.1.2 Architectural interior design (B252™-2007)                | <u>Not Provided</u> |  |
| § 4.1.3 Tenant-related services                                   | <u>Not Provided</u> |  |
| § 4.1.4 Commissioning (B211™-2007)                                | <u>Not Provided</u> |  |
| § 4.1.5 LEED® certification (B214™-2012)(B214™-2007)              | <u>Not Provided</u> |  |
| § 4.1.6 Furniture, furnishings, and equipment design (B253™-2007) | <u>Not Provided</u> |  |

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None

§ 4.3 Additional Services may be provided after execution of this Agreement, upon prior written authorization from Owner, without invalidating this Agreement. Except for services required due to the fault of the Construction

Manager, any Additional Services provided in accordance with this Section 4.3 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

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

- ~~.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;~~
  - ~~.2 Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement, except for those revisions that Construction Manager knew of or reasonably should have known of prior to the date of this Agreement;~~
  - ~~.4 Preparation preparation for, and attendance at, a public presentation, meeting or hearing;~~
  - ~~.5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto; or~~
  - ~~.6 Providing consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such Work;~~
  - ~~.7 Assistance to the Initial Decision Maker, if other than the Architect; or~~
  - ~~.8 Service as the Initial Decision Maker. Work.~~
- 
- ~~.1 Services in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work when the Architect is serving as the Initial Decision Maker. Work.~~
  - ~~.2 To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier. later.~~

§ 4.3.3 If the services covered by this Agreement have not been completed within twelve ( 12 ) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services.

#### §4.4 EXCEPTIONS

§4.4.1 Notwithstanding anything to the contrary contained in or implied from any provision of this Agreement, if a service which would otherwise be considered an Additional Service is required due in whole or in part to the negligence or the willful or wrongful act, or the error or omission of the Construction Manager or otherwise due to the Construction Manager's failure to properly perform its services in accordance with the terms of this Agreement, the service shall not be deemed to be, and shall not be compensable as, an Additional Service, but shall be deemed to be, and compensable as a Basic Service.

#### PAGE 16

§ 5.2 The Owner shall establish and periodically ~~update~~ update, based on consultation with Construction Manager and Architect, the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. The outlined in the Owner- Architect Agreement. Upon request, the Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and Architect, and any further modifications to the agreement.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Construction Manager shall advise Owner of any such tests or reports which Construction Manager knows prior to commencement of the Work will be required for the Project in order to assist Owner to properly plan, schedule and budget for same.

#### PAGE 17

~~§ 5.11 The Owner shall provide prompt written notice to the Construction Manager and Architect if the Owner becomes aware of any fault or defect in Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Construction Manager's services.~~

#### § 5.11 INTENTIONALLY OMITTED

§ 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 the contractors' general conditions costs, and reasonable overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner. The actual final Cost of the Work shall be calculated net of trade discounts and rebates, refunds and returns, and of the amounts received from the sale of surplus materials, equipment and supplies.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a competent and experienced Contractor and Construction Manager as a person or entity familiar with the construction industry. industry, including without limitation construction of public recreational facilities. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Owner, or from any cost estimate or evaluation prepared by the Construction Manager.

~~§ 6.3 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another.~~ § 6.4 Intentionally omitted.

~~§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.~~



The Construction Manager and the Construction Manager's consultants, if any, Drawings, Specifications and other documents prepared by the Architect or by Owner's legal counsel are instruments of the Architect's or Owner's legal counsel service through which the Work to be executed by the Contractors is described. The Construction Manager may retain one record set. The Construction Manager shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Construction Manager intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Drawings, Specifications and other documents prepared by the Architect or Owner's legal counsel, and unless otherwise indicated in the Agreement between the Owner and the Architect or in an agreement between the Owner and legal counsel, the Architect or Owner's legal counsel, as applicable, shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. The Drawings, Specifications and other documents prepared by the Architect or the Owner's legal counsel, and copies thereof furnished to the Construction Manager, are for use solely with respect to this Project. They are not to be used by the Construction Manager on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and the Architect or Owner's legal counsel, as applicable. The Construction Manager is granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and Owner's legal counsel appropriate to and for use in the performance of the Construction Manager's services under this Agreement.

All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009, General Conditions of the Contract for Construction. The Owner or the Construction Manager, 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 Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including 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 Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

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

## **§ 8.2 Mediation**

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

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

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

~~§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, Unless otherwise agreed to by the Parties in writing at the time of the dispute, the method of binding dispute resolution shall be the following:~~

☐ — Arbitration pursuant to Section 8.3 of this Agreement

☒ — **X** — Litigation in a court of competent jurisdiction

☐ — Other (*Specify*)

## **§ 8.3 Arbitration**

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

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

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

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

#### **§ 8.3.4 Consolidation or Joinder**

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

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

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

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

**§ 9.2** ~~If the Owner suspends the Project, the~~ The Owner may suspend the Construction Manager's services or the Project immediately upon at least twenty four (24) hours prior written notice. Construction Manager shall take reasonable steps in consultation with the Owner to secure the Project site for the period of suspension and to protect any materials onsite. The Owner shall reimburse the Construction Manager for the reasonable, necessary and actual costs incurred by the Construction Manager in taking such action upon detailed written documentation of same reasonably acceptable to the Owner. If the Project is suspended by the Owner for more than 30 consecutive days, the Construction Manager shall be compensated for services properly performed and authorized in accordance with this Agreement prior to notice of such suspension. When the Project is resumed, the Construction Manager shall be compensated for expenses incurred unless and except to the extent such suspension was caused by or resulted from the Construction Manager's breach of its obligations under this Agreement, the Construction Manager's compensation shall be equitably adjusted to provide for the reasonable and actual expenses necessarily incurred by the Construction Manager in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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**§ 9.6** In the event of termination not the fault of the Construction Manager, the Construction Manager shall be compensated for services performed prior to termination, ~~together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7, authorized and properly performed prior to termination in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses, as defined in Section 9.7, then due in accordance with this Agreement.~~

**§ 9.7** ~~Termination Expenses are in addition to compensation for the Construction Manager's services and include expenses directly attributable to termination reasonable, necessary and actual out-of-pocket or other reasonable, necessary and actual expenses incurred in disengagement of Construction Manager's services and directly attributable~~



to termination without cause, and for which the Construction Manager is not otherwise compensated, plus an amount for the Construction Manager's anticipated profit on the value of the services not performed by the Construction Manager, as set forth below, compensated. Termination Expenses shall in no event include any amounts for lost profits, lost opportunities, or incidental or consequential damages or costs.

§ 9.7.1 In the event of termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services performed, costs incurred by reason of such termination and reasonable overhead and profit on Preconstruction services not completed during the Preconstruction Phase, authorized and properly performed in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement

§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services performed and costs incurred by reason of such termination, along with reasonable overhead and profit on services not completed during the Construction Phase, authorized and properly performed prior to termination in accordance with this Agreement, together with Reimbursable Expenses and Termination Expenses then due in accordance with this Agreement.

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8-3 Illinois.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction, as modified by Owner, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager 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, prior written consent of the other.

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§ 10.6 Unless otherwise required in this Agreement, the Construction Manager 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 and to the extent that such materials or substances were introduced to the site by the Construction Manager or the result of the Construction Manager's failure to perform its obligations in accordance with this Agreement. The Owner shall be responsible for all costs associated with the removal, remediation of any kind, detoxification, clean up and disposal of such hazardous substances and determining whether the project site is in compliance with all applicable environmental laws.

§ 10.7 The Construction Manager shall have the right to include photographic or artistic representations of the design of the Project among the Construction Manager's promotional and professional materials. The Construction Manager shall be given reasonable access to the completed Project to make such representations. However, the Construction Manager's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Construction Manager in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Construction Manager in the Owner's promotional materials for the Project. Owner reserves the sole right to release all Project information, as well as to time its release, form and content. This requirement shall survive the expiration of the Contract Documents. Notwithstanding the foregoing, the Owner shall not withhold permission unreasonably for the Construction Manager to release general promotional information concerning the Project, provided that such information shall be reviewed and approved in advance in writing by the Owner. The foregoing shall not be deemed to preclude the Construction Manager from (i) including the Owner's name in a list of former clients in specific proposals to prospective clients or (ii) listing the Owner's name or a Project in the Construction Manager's internal publications, brochures and website including photos of the Project taken by or on behalf of the Construction Manager. Under no circumstances shall the

Construction Manager include among its promotional materials photographic or artist's representations of the design of the Project for which the Architect or Construction Manager was compensated by the Owner, without the Owner's express written permission in each specific instance, which permission may be denied in the Owner's sole discretion, or may be made subject to payment to the Owner or to such other terms as the Owner shall require.

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

§ 10.9 Construction Manager shall perform its services for this Project in accordance with all applicable local, state and federal laws, rules and regulations. Construction Manager's Compliance and Certification Attachment is attached to and incorporate herein by reference as **Exhibit B**.

Bidding and Project Setup: \$15,840.00

Construction Management and Closeout: \$18,700.00

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Per the hourly rates set forth in Integrated Facilities Solution, Inc. 2015 Hourly Rates, attached to and incorporated as part of this Agreement as Exhibit C.

Per the hourly rates set forth in the attached, Integrated Facilities Solution, Inc. 2015 Hourly Rates

§ 11.4 Compensation for Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus zero percent ( 0 %), or as otherwise stated below:

Per the hourly rates set forth in the attached, Integrated Facilities Solution, Inc. 2015 Hourly Rates

**Employee or Category**

**Rate (\$0.00)**

- .3 Fees paid for securing approval of authorities having jurisdiction over the ~~Project~~Project provided that Construction Manager shall first notify Owner of the nature and the amount of such fees and the deadline for payment of the same in sufficient advance of such deadline and must afford Owner the opportunity to obtain a complete or partial waiver of same or to pay same directly.;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;

...

- ~~.9 All taxes levied on professional services and on reimbursable expenses;~~
- ~~.10 Site office expenses; and~~
- ~~.11 Other similar Project-related expenditures.~~

**§ 11.6.2** For Reimbursable Expenses the compensation shall be the actual and necessary expenses incurred by the Construction Manager and the Construction Manager's consultants plus 10 percent ( 10 %) of the expenses incurred. Reimbursable Expenses shall not exceed \$1,000.00 without prior written approval of Owner. Architect shall provide all supporting documentation of said Reimbursable Expenses.

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

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

~~—%—~~ Payments are due and payable and shall bear interest, if applicable, in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.

**§ 11.7.3** ~~The Owner shall not withhold amounts from the Construction Manager's compensation to impose a penalty or liquidated damages on the Construction Manager, or to offset sums requested by or paid to Contractors for the cost of changes in the Work unless the Construction Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding.~~ Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

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

...

## ARTICLE 12.1

**§12.1.1** Payment and performance bond is not required for the Construction Manager. Contractors will be required to provide bonds in their contracts as directed by Owner. Construction Manager will review Contractor bonds for general conformance with Owner's specifications.

**§12.1.2** Except as provided in Section 12.1.18, Construction Manager shall prepare all Change Orders for Owner's review, approval and execution. Construction Manager will provide the Owner with an accounting of these Change Orders updated as required.

**§12.1.3** Construction Manager will include contract language in Contractor Contracts to require compliance with the Illinois Prevailing Wage Act and other legal requirements as determined by Owner's Attorney.

**§12.1.4** Construction Manager will comply with the most current Illinois Prevailing Wage Act.

**§12.1.5** Intentionally deleted.

**§12.1.6** In addition to and not in limitation of the Basic Service described in the printed form of this Agreement Construction Manager's Basic Services shall include services of the Construction Manager, whether occurring before or after Project completion and payment to all Contractors, which are made necessary by Construction Manager's



negligence or failure to properly perform its duties and obligations in accordance with the provisions of this Agreement. The Construction Manager shall not be entitled to any additional compensation or expense reimbursement in connection with such services.

§12.1.7 Except as provided herein, Construction Manager shall neither perform any of the Work with its own forces, or provide any of the materials or equipment for the Project. Construction Manager may with the Owner's prior permission given in the specific instance, self-perform (a) portions of the Work if and as necessary to protect the interests of the Owner in the event of a bona fide emergency, (b) Work of a temporary nature that facilitates the construction process if necessary, or (c) as otherwise directed by Owner. If Construction Manager performs any Work with its own forces in accordance with this Section, Construction Manager shall comply with the requirements of the Contract Documents and applicable laws, including without limitation those pertaining to maintenance of required insurance coverage, payment of prevailing rates of wages, provision of performance and labor and material payment bonds, maintenance of a Sexual Harassment Policy and maintenance of a Drug Free Workplace and a Substance Abuse Prevention Program. When self-performing or having an affiliated company perform any portion of the Work, as well as when acting as the Construction Manager, the Construction Manager shall at all times act in the interests of the Owner. The foregoing sentence is not intended to create a fiduciary relationship between Construction Manager and Owner.

§12.1.8 As part of the Construction Manager's Basic Services, for a period of one year after the Date of Substantial Completion, the Construction Manager shall assist the Owner, if and as requested by the Owner to:

- (a). Coordinate and expedite the resolution of construction-related problems related to the services of the Construction Manager or the Work of the Construction Manager or an affiliated company, under the Construction Documents.
- (b). Coordinate and expedite the repair/replacement of items covered under guaranties/warranties.
- (c). Conduct a site visit and follow-up review of the complete facility in the eleventh month following Substantial Completion of the Project to verify satisfactory performance of materials and systems.

§12.1.9 As part of its Basic Services, the Construction Manager shall review Contractors' payment applications and shall collect and review lien waivers and Contractor's affidavits relating to the Project. The Construction Manager shall promptly report any known deficiencies in such documentation to the Contractor involved and to the Owner. Notwithstanding the foregoing, the Construction Manager's review of the lien waivers shall be for form only and the Construction Manager will have no responsibility to make any independent investigation as to the authenticity of any signatures on the payment applications and lien waivers or as to the application of any funds by the Contractor. The Construction Manager will not be responsible for Contractor fraud and is not providing a guarantee of the waivers or title to the Owner.

§12.1.10 If the Construction Manager is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if any provision of the bankruptcy law is invoked by or against the Construction Manager, then notwithstanding any other rights or remedies granted the Owner, the Owner may, without prejudice to any other right or remedy, (i) immediately upon written notice to the Construction Manager terminate the employment of the Construction Manager and/or (ii) finish the services by whatever method the Owner may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the services are finished. If the unpaid balance of the Construction Manager's Compensation exceeds (1) the expenses of completing the services, including compensation for additional managerial, administrative and legal services, plus (2) the Owner's losses and damages because of the Construction Manager's default, such excess shall be paid to the Construction Manager. If such expense plus the Owner's losses and damages shall exceed such unpaid balance, the Construction Manager shall pay the difference to the Owner promptly on demand and the Owner may resort to any other rights or remedies the Owner may have by law or under this Agreement.

§12.1.11 Upon Final Completion of the Work, the Construction Manager shall request and endeavor to collect from each Contractor and deliver to the Owner, for the Owner's records and review, two sets of Construction Documents

consisting of reproducible drawings in field record form (reflecting changes made to the Construction Documents by that Contractor as the Work progressed) and other documents indicating all significant changes, revisions and substitutions in the Work made during the Construction Phase. If a specification allows a Contractor to elect one of several brands, makes or types of material or equipment, the annotations shall show which of the allowable items the Contractor furnished.

§12.1.12 The relationship of the Construction Manager to the Owner is that of an independent contractor. No employment relationship is intended or created by this Agreement or by any course of dealing between the Parties.

§12.1.13 Any provision of this Agreement to the contrary notwithstanding, the Owner shall not be obligated to make any payment (whether a Progress Payment or Final Payment) to the Construction Manager hereunder if any one or more of the following conditions exist.

- (a) The Construction Manager is in material default of any of its obligations under this Agreement, including but not limited to persistently or repeatedly refusing or failing (except in cases for which extension of time is provided), to perform the services in accordance with this Agreement, and, after written notification from Owner of said default, fails to remedy such default within the time period provided for termination of the Construction Manager under Article 9 of this Agreement provided, however, that the Owner shall only withhold from such payment an amount which the Owner in good faith reasonably believes is the amount by which Owner has been or will be damaged by such default if not fully remedied within said time period and provides a detailed accounting of the amount to be withheld; further provided that the failure of the Owner to withhold any sums from the Construction Manager or the failure of the Owner to withhold a sufficient amount to compensate the Owner fully for the damages it sustains by virtue of such default shall not constitute a waiver by the Owner of its right or a limitation on its right to recover such provable sums subsequently from the Construction Manager; or
- (b) The Construction Manager has failed to make payments promptly to consultants or other third parties used by it in connection with the services for which the Owner has made payment to the Construction Manager unless Construction Manager has a dispute with any such party and is actively working to resolve same; or
- (c) Liens are filed with Owner against Project funds by consultants, subcontractors or other third parties providing services, equipment or materials under contract with or on behalf of Construction Manager in connection with the Project, and payment will be withheld to the extent of the amount of the lien, as required by Illinois law unless the Construction Manager provides a bond in form and substance reasonably acceptable to Owner in the full amount of the lien and applicable law would prevent the release to the Construction Manager of the amount of the lien.

§12.1.14 Applications for Payment for the Construction Manager's Compensation shall be submitted by the Construction Manager monthly on or before the first day of each month, and shall cover the prior month's services. Applications for payment shall be made in such form as shall be approved by the Owner. The Application for Payment shall be accompanied by (i) evidence satisfactory to the Owner (including paid invoices for which payment has been made, releases, the Construction Manager's affidavits averring to full payment of all labor and materials covered in said application for payment, that all payments, reimbursement of expenses and other indebtedness related to the services provided to the date of the current application will, upon payment of the current application be paid in full or otherwise satisfied; (ii) lien waivers from the Construction Manager covering all services performed through the date of the prior application for payment, in form reasonably acceptable to the Owner; and (iii) such other documents, instruments, and waivers, as the Owner may reasonably request consistent with the types of information required to be provided in this paragraph. Subject to Section 12.1.13, above, payments by the Owner for invoiced amounts shall be due within thirty (30) days after the Owner's receipt of the completed Application for Payment, Construction Manager's Certificate, and all other required deliveries; and with respect to the final payment to the Construction Manager, the Agreement has been fully performed, a final Construction Manager's Application for Payment and related documents have been submitted by the Construction Manager and approved by the Owner, and the Construction Manager has met all of the other conditions to receiving final payment as set forth in this Agreement.

**§12.1.15** The final payment shall not become due until the Construction Manager submits to the Owner (i) a waiver affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the services, for which the Owner might in any way be responsible, have been paid, will be paid out of such payment or shall otherwise be satisfied; (ii) data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may reasonably be designated by the Owner; and (iii) the Construction Manager shall have delivered to the Owner all deliveries required to be made by Construction Manager under this Agreement.

**§12.1.16** None of (i) any progress or final payment, (ii) any partial or entire use of any services, or (iii) occupancy of all or any portion of the Project by the Owner shall constitute an acceptance of the Consultant's services or be construed or relied upon as an indication that the services are in accordance with this Agreement, or that the amount paid or certified therefor represents the correct cost or value of the services or that such amount is in fact or in law due to the Construction Manager.

**§12.1.17** Notices required or permitted to be given under a provision of this Agreement, shall be in writing and shall be given by (i) first class U S certified or registered mail, return receipt requested, with postage prepaid; or (ii) by depositing the same into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service; or (iii) by hand delivery with proof of delivery endorsed thereon; or (iv) by fax provided that it is also delivered by express mail or courier (for next business day delivery). All such Notices, sent in compliance with the provisions hereof shall be deemed given and received on (i) if mailed, on the date of delivery as set forth on the return receipt, (ii) the date it is delivered to the other party if sent by overnight delivery or hand delivery or (iii) the date it is delivered to the other party if sent by fax, provided it is confirmed by express mail or courier (for next business day delivery). From time to time either party may designate another address or addresses for all purposes of this Agreement by a notice given to the other party in accordance with the provisions hereof. For purposes of this Section 12.1.17, the addresses of the Parties shall be as follows:

If to Owner:                      City of Prospect Heights  
8 N Elmhurst Road  
Prospect Heights, IL 60070  
T: 847-398-6070  
F: 847-392-4244  
Attn: City Manager

If to Construction Manager:      Integrated Facilities Solutions, Inc.  
5270 Lincoln Avenue  
Skokie, IL 60077  
T: 847-673-5100  
F: 847-673-5100  
Attn: Tim Vander Molen

**§12.1.18** Subject to prior authorization of the Owner's City Council, which is hereby acknowledged, the Owner's Construction Manager shall have the authority to approve and execute, as agent on behalf of Owner, a change in the Work provided that the cost of such change, does not result in an increase or decrease in either the cost of the Project by \$10,000 or more or the time of completion by a total of thirty (30) days or more per change. All other change order requests require prior approval by the Owner's City Council or by the Owner's authorized designee to whom change orders shall be submitted and written determinations made with respect to such change orders in accordance with Section 33E-9 of the Criminal Code of 1961 [720 ILCS 5/33E-9]. Evidence of any such designee shall be provided to the Construction Manager in the form of a certified resolution of the Owner's City Council.

**§12.1.19** The Construction Manager hereby represents and warrants to the Owner that: (i) Construction Manager is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital and credit facility to complete the services required and perform its obligations under this Agreement; (ii) Construction Manager is able to furnish all of the services required hereunder to perform all obligations hereunder and to perform all of its obligations hereunder and has sufficient experience and competence to do so; (iii) Construction Manager is authorized to do business in Illinois, and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services required hereunder and the Project itself; (iv) Construction



Manager's execution of this Agreement and the performance thereof are within its duly authorized powers.

**§12.1.20 Conflicts:** If there is any conflict between any of the provisions in this Article 12.1 of the Agreement and the other Articles of this Agreement or between this Article 12.1 of the Agreement and any of the Contract Documents, the terms and provisions of this Article 12 shall prevail.

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- ~~.1~~ AIA Document C132™–2009, Standard Form Agreement Between Owner and Construction Manager as ~~Adviser~~ ~~Adviser~~, as modified.
- ~~.2~~ AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- ~~.3~~ AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- ~~.4~~ Other documents

**PAGE 26**

|                  |                                                                             |
|------------------|-----------------------------------------------------------------------------|
| <u>Exhibit A</u> | <u>Integrated Facilities Solution, Inc. Proposal dated February 6, 2015</u> |
| <u>Exhibit B</u> | <u>Construction Manager Compliance and Certification Attachment</u>         |
| <u>Exhibit C</u> | <u>Integrated Facilities Solution, Inc. 2015 Hourly Rates</u>               |

CITY OF PROSPECT HEIGHTS

INTEGRATED FACILITIES SOLUTIONS, INC.

#633211

## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, Nicole L. Karas, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:16:03 on 02/19/2015 under Order No. 2899074363\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C132™ – 2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

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*(Title)*

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*(Dated)*

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## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Nicole L. Karas, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:16:03 on 02/19/2015 under Order No. 2899074363\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C132™ – 2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Nicole Karas  
(Signed) *N. L.*

Attorney  
(Title)

2/19/15  
(Dated)



## Integrated Facilities Solutions, Inc.

February 6, 2015

William R. Balling, ICMA-CM  
Interim City Manager  
City of Prospect Heights  
8 North Elmhurst Road  
Prospect Heights, Illinois 60070

Subject: Milwaukee Avenue Corridor  
Landscape  
Construction Management Proposal

Dear Mr. Balling:

Thank you for the opportunity to present our proposal for the above project. Integrated Facilities Solutions, Inc. (IFS) is looking forward to an opportunity to serve you and the City of Prospect Heights.

### Project Scope:

The project consists of landscaping and street scape work along North Milwaukee Avenue in the City of Prospect Heights based on the drawings dated 1/12/2015 from Teska Associates. The work is located in four (4) areas consisting of:

1. Four (4) landscape areas at the Palatine Road and Milwaukee Avenue intersection.
2. A landscape island south of the Palatine/Milwaukee intersection.
3. A landscape island on Milwaukee Avenue north of the River Road intersection.
4. And, a landscape island on River Road just south of the Milwaukee Avenue intersection.

Each of the above areas will be landscaped and provided with irrigation and electrical service as outlined on the drawings. In addition, "Character Piers" will be installed as noted on the drawings.

The project schedule calls for the work to be bid in March, 2015 with a start date on or about April 15, 2015.

The project budget has been set at \$360,000.

### Project Process:

We understand that the project has been submitted to IDOT and is in the final stages of review. This process will continue to be managed by the City Engineer.

It is recommended that the project be bid in four trade areas consisting of landscaping, irrigation, electrical and signs for the "Character Piers". IFS will identify the bidding contractors, manage the bid process and provide the city an evaluation of the bids and recommendation in each trade area. Bids will be received from not less than two contractors and up to five contractors in each trade. Upon acceptance of the bids, IFS will work with each contractor and the city to execute contracts between the contractor and the City. Working with the contractors a scheduled and plan of work will be prepared for the City's approval.

IFS will work with the City and the contractors to coordinate with the required utilities for the project as both electrical service and water service will need to be installed. In addition there will be coordination with IDOT required for temporary lane closures in order to perform the work. We recommend that each contractor be required to handle the permits required for their work. IFS will work closely with them to help assure that the permits are received in a timely manner.

During the construction process, IFS will coordinate, manage and document regular site visits and meetings with the contractors to monitor the progress and quality of the work. On agreed intervals, not less than weekly, IFS will meet with the city staff to keep them informed on the progress of the projects and provide information on any concerns that need to be addressed. In addition, IFS will maintain all necessary documents, review change requests and approve pay requests on behalf of the city. Preparing such documentation that may be required by the city. Upon project completion, IFS will work with the contractors and city to provide final documentation on Lien Waivers, warranties, as built drawings and other documentation as requested.

IFS understands the sensitivity of the work area due to the high volume of traffic and visibility. We will work with the contractors to schedule and perform work to minimize disruption.

**Proposal:**

Based on the above project scope and process, IFS proposes to provide the City of Prospect Heights a Project Manager to coordinate and manage the project from its current status to conclusion working with the City Staff. IFS will provide leadership and coordination of the Project Team.

IFS proposes the following lump sum fee for the project.

|                                         |                 |
|-----------------------------------------|-----------------|
| • Bidding and Project Set up            | \$15,840        |
| • Construction Management and Close-out | <u>\$18,700</u> |
| Total Lump Sum                          | \$34,560        |

Additional services furnished by IFS will be provided on a mutually agreed basis, at a rate of \$180 per hour.



Milwaukee Avenue Corridor  
Landscape  
Construction Management Proposal  
February 6, 2015  
Page 3 of 3

The City will compensate IFS for reimbursable expenses and third party costs incurred by IFS in connection with the project. These costs would include but are not limited to printing and/or reproduction of documents, prints and drawings; overnight mail or local messenger service; and travel expenses.

Upon acceptance of this proposal, IFS will enter into an agreement based on the AIA contract A132 Construction Manager as Advisor or equivalent agreement.

Thank you for the opportunity to present our proposal. Please let me know if there are any questions or clarifications. We look forward to the opportunity to work with the City of Prospect Heights.

Sincerely



Tim Vander Molen  
President  
Integrated Facilities Solutions, Inc.





## **EXHIBIT B**

### **CONSTRUCTION MANAGER COMPLIANCE AND CERTIFICATIONS ATTACHMENT**

**Note: The following certifications form an integral part of the Agreement between the Owner and Construction Manager. Breach by Construction Manager of any of the certifications may result in immediate termination of the Construction Manager's services by Owner.**

**THE UNDERSIGNED CONSTRUCTION MANAGER HEREBY ACKNOWLEDGES, CERTIFIES, AFFIRMS AND AGREES AS FOLLOWS:**

- A. Construction Manager has carefully read and understands the contents, purpose and legal effect of this document as stated above and hereafter in this document. The certifications contained herein are true, complete and correct in all respects.
- B. Construction Manager shall abide by and comply with, and, if applicable, in contracts which it has with all persons providing any of the services or Work on this Project on its behalf, shall require compliance with, all applicable Federal, State and local laws and rules and regulations including without limitation those relating to 1) fair employment practices, affirmative action and prohibiting discrimination in employment; 2) workers' compensation; 3) workplace safety; 4) wages and claims of laborers, mechanics and other workers, agents, or servants in any manner employed in connection with contracts involving public funds or the development or construction of public works, buildings or facilities; and 5) steel products procurement.
- C. All contracts for this Project are subject to the provisions of the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), providing for the payment of the prevailing rate of wage to all laborers, workmen and mechanics engaged in the Work. Construction Manager shall comply with said Act and ensure that all bidding and contract documents for this Project require all contractors and subcontractors hired to perform the Work to comply with said Act. Construction Manager shall include the following language in said bidding and contract documents: "Contractor shall pay prevailing rates of wages in accordance with the wage determination included with the Contract Documents and any subsequent determinations issued by the Illinois Department of Labor which shall supersede the determination included in the Contract Documents, all in accordance with applicable law. Contractor is responsible for determining the applicable prevailing wage rates at the time of bid submission and at the time of performance of the Work. Failure of Contractor to make such determination shall not relieve it of its obligations in accordance with the Contract Documents. Contractor shall also comply with all other requirements of the Act including without limitation those pertaining to inclusion of required language in subcontracts, job site posting, maintenance and submission of certified payroll records and inspection of records."
- D. To the best of Construction Manager's knowledge, no officer or employee of Construction Manager has been convicted of bribery or attempting to bribe an officer or employee of the

State of Illinois, or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct which is a matter of record.

- E. Construction Manager is not barred from bidding on or entering into public contracts due to having been convicted of bid-rigging or bid rotating under paragraphs 33E-3 or 33E-4 of the Illinois Criminal Code. Construction Manager also certifies that no officers or employees of the Construction Manager have been so convicted and that Construction Manager is not the successor company or a new company created by the officers or owners of one so convicted. Construction Manager further certifies that any such conviction occurring after the date of this certification will be reported to the Owner, immediately in writing, if it occurs during the bidding process, or otherwise prior to entering into the Contract therewith.
- F. Pursuant to the Illinois Human Rights Act (775 ILCS 5/2-105), Construction Manager has a written sexual harassment policy that includes, at a minimum, the following information: (i) a statement on the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment utilizing examples; (iv) the Construction Manager's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and (vi) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. Construction Manager further certifies that such policy shall remain in full force and effect. A copy of the policy shall be provided to the Illinois Department of Human Rights upon request.
- G. Construction Manager shall abide by the "Employment of Illinois Workers on Public Works Act" (30 ILCS 570/0.01 *et seq.*) which stipulates that whenever there is a period of excessive unemployment in Illinois, defined as any month immediately following two (2) consecutive calendar months during which the level of unemployment in Illinois exceeds five percent (5%) as measured by the U.S. Bureau of Labor Statistics in its monthly publication of employment and unemployment figures, the Construction Manager shall employ only Illinois laborers unless otherwise exempted as so stated in the Act. ("Illinois laborer" means any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident). Other laborers may be used if Illinois laborers are not available or are incapable of performing the particular type of work involved if so certified by the Construction Manager and approved by the Architect.
- H. (i) Construction Manager's proposal was made without any connection or common interest in the profits anticipated to be derived from the Contract by Construction Manager with any other persons submitting any proposal for the Contract; (ii) the Contract terms are in all respects fair and the Contract will be entered into by Construction Manager without collusion or fraud; (iii) no official, officer or employee of the Owner has any direct or indirect financial interest in Construction Manager's bid proposal or in Contract, (iv) the Construction Manager has not directly or indirectly provided, and shall not directly or indirectly provide, funds or other consideration to any person or entity (including, but not limited to, the Owner and the Owner's

employees and agents), to procure improperly special or unusual treatment with respect to this Agreement or for the purpose of otherwise improperly influencing the relationship between the Owner and the Construction Manager. Additionally, the Construction Manager shall cause all of its officers, directors, employees, (as the case may be) to comply with the restrictions contained in the preceding sentence.

- I. Construction Manager knows and understands the Equal Employment Opportunity Clause administrated by the Illinois Department of Human Rights, which is incorporated herein by this reference, and agrees to comply with the provisions thereof. Construction Manager further certifies that Construction Manager is an "equal opportunity employer" as defined by Section 2000 (e) of Chapter 21, Title 42 of the United States Code Annotated and Executive Orders #11246 and #11375 as amended, which are incorporated herein by this reference.
- J. Neither Construction Manager nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.
- K. Construction Manager is not barred from contracting with the Owner because of any delinquency in the payment of any tax administrated by the Illinois Department of Revenue, unless it is being contested. Construction Manager further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A misdemeanor and, in addition, voids the Contract and allows the Owner, a municipal entity, to recover in a civil action all amounts paid to the Construction Manager.
- L. If Construction Manager has 25 or more employees at the time of letting of the Contract, Construction Manager knows, understands and acknowledges its obligations under the Illinois Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the Drug Free Workplace Act. Construction Manager further certifies that it has not been debarred and is not ineligible for award of this Contract as the result of a violation of the Illinois Drug Free Workplace Act.
- M. Construction Manager knows, understands and acknowledges its obligations under the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 *et seq.* A true and complete copy of Construction Manager's Substance Abuse Prevention Program Certification is attached to and made a part of this Construction Manager Compliance and Certification Attachment. Construction Manager shall ensure that all bidding and contract documents for this Project require all contractors and subcontractors hired to perform the Work to comply with said Act.
- N. The Construction Manager shall comply with the requirements and provisions of the Freedom of Information Act (5 ILCS 140/1 *et. seq.*) (FOIA) and, upon request of the City of Prospect Height's designated Freedom of Information Act Officer (FOIA Officer), Construction Manager



## SUBSTANCE ABUSE PREVENTION PROGRAM CERTIFICATION

The Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq., ("Act") prohibits any employee of the Construction Manager or any contractor on a public works project to use, possess or be under the influence of a drug or alcohol, as those terms are defined in the Act, while performing work on the project. The Construction Manager, by its undersigned representative, hereby certifies and represents to the City of Prospect Heights that Construction Manager [must complete either Part A or Part B below]:

A. The Construction Manager has in place for all of its employees not covered by a collective bargaining agreement that deals with the subject of the Act a written substance abuse prevention program, a true and correct copy of which is attached to this certification, which meets or exceeds the requirements of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq. **[Construction Manager must attach a copy of its substance abuse prevention program to this Certification.]**

\_\_\_\_\_  
Name of Construction Manager (print or type)

\_\_\_\_\_  
Name and Title of Authorized Representative (print or type)

\_\_\_\_\_  
Signature of Authorized Representative

Dated: \_\_\_\_\_

B. The Construction Manager has one or more collective bargaining agreements in effect for all of its employees that deal with the subject matter of the Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq.

\_\_\_\_\_  
Name of Construction Manager (print or type)

\_\_\_\_\_  
Name and Title of Authorized Representative (print or type)

\_\_\_\_\_  
Signature of Authorized Representative

Dated: \_\_\_\_\_

633333



# Integrated Facilities Solutions, Inc.

## 2015 Hourly Rates

|                           |        |
|---------------------------|--------|
| Project Executive         | 180.00 |
| Senior Project Manager    | 165.00 |
| Project Manager           | 140.00 |
| Assistant Project Manager | 110.00 |
| Clerical                  | 60.00  |





TO: Mayor Helmer and City Council  
FROM: Bill Balling  
SUBJECT: Sewer televising services for Old Town Sanitary District infrastructure  
DATE: February 18, 2015

Mayor and Council,

As you know the City is interested in evaluating the condition of the Old Town Sanitary District Infrastructure and has solicited proposals to televise approximately 10% of the system under the supervision of the City Engineer. Bids for this service were solicited and a low qualified bidder United Septic in Bristol , IL was selected to perform this work. The actual costs for this work will be paid by the Old Town Sanitary District and once the system is televised, the City Engineer will render an opinion on the condition of the system.

I recommend a contract award SUBJECT to securing a the funding commitment from the Old Town Sanitary District. Those conversations are continuing, and I expect a separate Agreement to be presented to the City for execution regarding funding. Snow cover will inhibit the televising work but it is anticipated that work should be completed by late spring.



# City of Prospect Heights

Department of Building & Zoning-Engineering Division  
8 North Elmhurst Road, Prospect Heights Illinois, 60070-6070  
Office: 847/398-6070 x 211-FAX: 847/590-1854-[www.prospect-heights.il.us](http://www.prospect-heights.il.us)

February 18, 2015

Mr. William Balling, Interim City Administrator  
City of Prospect Heights  
8 N. Elmhurst Road  
Prospect Heights, IL 60070

Re: 2015 Closed Circuit Television (CCTV) of Sewers in Old Town Sanitary Sewer District (OTSSD)  
Bid Recommendation & Bid Tabulation

Dear Mr. Balling:

The City received three bids on February 17<sup>th</sup> at 10:00 AM for the above referenced project. I have checked all bids and bid price extensions. The results are displayed on the enclosed bid tabulation. All bids were totaled correctly. The low base bid of \$40,800 was received from United Septic Inc. of Bristol, Illinois. The engineer's opinion of probable cost was \$44,000. We did not find any bidding irregularities in United Septic's schedule of prices that would affect the outcome of the project. Base bids ranged from \$40,800 to \$89,000.

As with all projects, this project was advertised publicly with over 10 companies expressing initial interest in it. Seven contractors ended up picking up the contract documents. We believe the low bid received is a reasonable cost to complete the proposed work. I have not worked with United Septic previously. I called on six references (out of the 35) provided by United Septic. All references were positive on their work completed and some of the comments were:

- Fast, reliable, amazing work, good communication, good work, would definitely hire them again

We believe that they will complete the project in general conformance with the plans, specifications and in a timely manner. Their quality of work on projects that has been witnessed by the references I called has been at or above industry standards.

Based upon all the above, we believe that United Septic Inc. will complete this project in general conformance with the plans, specifications and in a timely manner. We recommend award of the base bid to United Septic Inc. at the unit prices bid and an estimated total cost of \$40,800.00.

Sincerely,

  
Steven D. Berez, P.E.  
City Engineer

Cc: Steve Cutaia, Director of Public Works  
Steve Skiber, Building and Zoning Director

**City of Prospect Heights**  
**Closed Circuit Television of Various Sewers in Old Town Sanitary Sewer District**  
**Bid Tabulation**

**February 17, 2015**

| Item #           | Description                                  | Unit | Qty    | Engineers Estimate |                    | United Septic<br>Bristol, IL |             | Hydrovision Technology<br>Romeoville, IL |             | National Power Rodding<br>Chicago, IL |             |
|------------------|----------------------------------------------|------|--------|--------------------|--------------------|------------------------------|-------------|------------------------------------------|-------------|---------------------------------------|-------------|
|                  |                                              |      |        | Unit Price         | Total              | Unit Price                   | Total       | Unit Price                               | Total       | Unit Price                            | Total       |
| 1.               | CCTV Inspection of Sewer, 8" to 18" Diameter | LF   | 20,000 | \$1.25             | \$25,000.00        | \$1.20                       | \$24,000.00 | \$1.00                                   | \$20,000.00 | \$4.00                                | \$80,000.00 |
| 2.               | Light Duty Cleaning, 8" to 18"               | LF   | 18,000 | \$0.80             | \$14,400.00        | \$0.80                       | \$14,400.00 | \$1.00                                   | \$18,000.00 | \$0.36                                | \$6,480.00  |
| 3.               | Heavy Duty Cleaning, 8" to 18"               | LF   | 2,000  | \$1.25             | \$2,500.00         | \$1.20                       | \$2,400.00  | \$1.00                                   | \$2,000.00  | \$0.01                                | \$20.00     |
| 4.               | Traffic Control & Protection (Special)       | LS   | 1      | \$2,100.00         | \$2,100.00         | \$0.00                       | \$0.00      | \$2,500.00                               | \$2,500.00  | \$2,500.00                            | \$2,500.00  |
| <b>Total Bid</b> |                                              |      |        |                    | <b>\$44,000.00</b> | <b>\$40,800.00</b>           |             | <b>\$42,500.00</b>                       |             | <b>\$89,000.00</b>                    |             |

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| <b>Total Bid</b> |                                              |      |        |                    | <b>\$44,000.00</b> |                              | <b>\$40,800.00</b> |                                          | <b>\$42,500.00</b> |                                       | <b>\$89,000.00</b> |

## APPROVAL OF WARRANTS



| <b>2/23/2015 COUNCIL MEETING</b> |           |                   |
|----------------------------------|-----------|-------------------|
|                                  |           |                   |
| <b><u>Checks</u></b>             |           |                   |
| General Fund                     | \$        | 130,820.80        |
| MFT Fund                         |           | 11,377.30         |
| Palatine/Milwaukee TIF           |           | 17,400.02         |
| Tourism District                 |           |                   |
| Development Fund                 |           | 121.29            |
| DEA Fund                         |           |                   |
| Solid Waste Fund                 |           |                   |
| S S Area #1                      |           |                   |
| S S Area #2                      |           |                   |
| S S Area #3                      |           |                   |
| S S Area #4                      |           |                   |
| S S Area #5                      |           |                   |
| S S Area #8 - Levee Wall #37     |           |                   |
| S S Area-Constr#6(Water Main)    |           |                   |
| S S Area-Debt#6                  |           | 450.00            |
| Road Construction                |           |                   |
| Road Construction Debt           |           |                   |
| Water Fund                       |           | 2,818.02          |
| Parking Fund                     |           | 1,653.10          |
| Road/Building Bond Escrow        |           |                   |
| <b>TOTAL</b>                     | <b>\$</b> | <b>164,640.53</b> |
|                                  |           |                   |
| <b><u>Wire Payments</u></b>      |           |                   |
| 2/6/15 PAYROLL                   |           | 120,239.89        |
| POLICE PENSION PAYMENT           |           | 24,970.01         |
|                                  |           |                   |
| Total Warrant                    | <b>\$</b> | <b>309,850.43</b> |
|                                  |           |                   |