

**CITY OF MEDINA  
AGENDA FOR COUNCIL MEETING**

June 8, 2015  
Medina City Hall  
7:30 p.m.

**Call to Order.**

**Roll Call.**

**Reading of minutes.** (May 26, 2015)

**Reports of standing committees.**

**Requests for council action.**

**Reports of municipal officers.**

**Notices, communications and petitions.**

**Liquor Permit:**

Not to object to the transfer of a D1, D2 and D3 permit from Mario's Beauty Salon, Inc. 716 N. Court Street to Mario's Beauty Salon, Inc. 740 N. Court Street & Patio.

**Liquor Permit:**

Not to object to the issuance of a new D1 permit to GNM General Contractors Ltd., dba Medina Cigar & Tobacco, 307 E. Washington Street.

**Unfinished business.**

**Introduction of visitors.**

(speakers limited to 5 min.)

**Introduction and consideration of ordinances and resolutions.**

Ord. 73-15

An Ordinance authorizing the expenditure of \$50,749.70 to the Medina County Commissioners for the reimbursement to the Bond Reserve Fund for the Medina County Port Authority Fiber Network.

Ord. 74-15

An Ordinance authorizing the Mayor to enter into an agreement with Brandstetter Carroll Inc. for architectural and engineering services for the Memorial Park Pool Project.

Ord. 75-15

An Ordinance authorizing an expenditure of \$450,000.00 to Avon Regional Water for the City's share of the Spieth Road Ground Storage Tanks Interior Painting Project.

**Ord. 76-15**

An Ordinance amending Ordinance No. 200-14, passed December 8, 2014. (Amendments to 2015 Budget)

**Res. 77-15**

A Resolution of the Council of the City of Medina, Medina County, and State of Ohio, certifying that when a municipal obligation was incurred sums were lawfully appropriated in the funds to satisfy the obligation and sufficient sums currently exist to satisfy this obligation according to the attached sheet(s).

(emergency clause requested)

**Ord. 78-15**

An Ordinance repealing Ordinance No. 213-14, passed December 8, 2014 and replacing Section 161.13 of the Codified Ordinances of the City of Medina, Ohio, relative to the Allocation of Income Tax Funds.

**Council comments.**

**Adjournment.**

**Opening:**

Medina City Council met in regular, open session on Monday, May 26th, 2015. The meeting was called to order at 7:30 p.m. by President of Council John Coyne who led the Pledge of Allegiance.

**Roll Call:**

The roll was called with the following members of Council present D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, B. Lamb, P. Rose, and J. Shields.

Also present were the following members of the Administration: Mayor Dennis Hanwell, Keith Dirham, Greg Huber, Patrick Patton, Acting Police Chief Lt. Birckbichler, Asst. Fire Chief Crumley, Dan Gladish, Nino Piccoli, Jansen Wehrley, Jonathon Mendel and Kimberly Rice.

**Minutes:**

Mr. Shields moved that the minutes from the regular meeting on May 11th, 2015, as prepared and presented by the Clerk be approved, seconded by Mr. Simpson. The roll was called and the minutes were approved by the yeas of J. Coyne, B. Hilberg, M. Kolesar, B. Lamb, P. Rose, J. Shields, and D. Simpson.

**Reports of Standing Committees:**

Finance Committee: Mr. Coyne stated the Finance Committee met prior to Council, there are several items on the agenda and our next meeting will be in two weeks.

Health, Safety & Sanitation Committee: Mr. Rose had no report.

Public Properties Committee: Mr. Shields reported they met last Thursday, May 21<sup>st</sup>. No meetings scheduled and nothing to report.

Special Legislation Committee: Mr. Lamb had no report.

Streets & Sidewalks Committee: Mr. Simpson had no report.

Water & Utilities Committee: Mr. Kolesar reported that the city is committing \$450,000.00 for the repainting of our Spieth Road ground storage tanks.

**Requests for Council Action:**

**Finance Committee**

15-096-5/26 – Budget Amendments

15-097-5/26 – Resolution to Approve/Disapprove Solid Waste Management Plan

15-098-5/26 – Amend Planning & Zoning Code Sec. 1147.07 (J)

15-099-5/26 – Revocable Use Permit Request – PJ Marley's Restaurant

15-100-5/26 – MCRC / Parks Dept. Income Tax Allocation Adjustment

15-101-5/26 – Architectural Services for Memorial Park Pool

15-102-5/26 – Expenditure to Medina County Commissioners for Fiber Project

15-103-5/26 – Spieth Road Ground Storage Tanks – Interior Painting Project

**Reports of Municipal Officers:**

**Dennis Hanwell, Mayor,** reported the following:

- 1) **Healthy Strides** - The walks will continue at various county parks with different health professional talks and walks on the second and fourth Saturday of each month from April 11 and concluding Oct. 24. Good exercise, good information, and good way to see the many county parks and the amenities they have to offer. Walks and talks are both done in an hour, 9 a.m. to 10 a.m. Park locations will be on Healthy Medina Website – [www.healthymedina.com](http://www.healthymedina.com) or Medina County Parks' website – [www.medinacountyparks.com](http://www.medinacountyparks.com)
- 2) **Memorial Day Parade, Monday 5/25** – 10 a.m. parade; 11 a.m. ceremony at Spring Grove Cemetery - thank you to community for coming out to support our Veterans, active military, and those who gave the ultimate sacrifice. Well attended.
- 3) Thanks to Jansen Wehrley, Parks, Murray and Sue Van Epp for their generous donation of fountain at Bicentennial Park. Worked diligently last week to complete project and grounds to have ready for Memorial Day. Many compliments on park and facility with adequate restrooms for crowds we are blessed with at events. Also, placed flower urns around Square for beautification of same. Community looks excellent.
- 4) **May is Older Americans Month** - Proud of the programs the city has implemented to assist our local seniors remain in their homes including our Senior/Disabled Snow Plow Program; Healthy Medina; Love Medina; and Rebuilding Together.
- 5) **Community Band Concerts** - Start Friday, June 5 and each Friday night in June and July except Friday 7/3. This concert will be Sat. 7/4 at 8:30 p.m. instead of Friday.
- 6) **June 13<sup>th</sup> is the 240<sup>th</sup> Army Birthday Celebration** and oath of enlistment ceremony in the Public Square with Mayor Hanwell officiating at 11 a.m.

**Keith Dirham, Finance Director,** reported the second set of budgets were due on May 20<sup>th</sup>, Finance Dept. is working on entering those and getting them prepared. They should be complete for next week.

**Greg Huber, Law Director,** had no report.

**Lt. Birckbichler, Acting Police Chief,** had no report.

**Kimberly Rice, Economic Development Director,** reported in conjunction with MSM, & Medina Chamber of Commerce there will be several ribbon cuttings throughout the city starting at 10 a.m. on Friday, June 12<sup>th</sup> – Uptown Hair 102 W. Washington St., 11 a.m. – Spokes Coffee Shop & Bike Rental, 406 S. Broadway St., 12 p.m. – Medina Town Hall & Engine House Museum, 50 Public Square, 1 p.m. – Lager Heads, 325 W. Smith Rd., 2 p.m. – Finding Your Identity, LLC, 124 Lafayette Rd., 3 p.m. – TinMan Fitness, 567 North State Rd., and at 4 p.m. – Brookdale Medina North, 49A Leisure Lane.

We just revised the Historic District – New Visitor's Guide.

**Jonathon Mendel, Planning Community Director,** Had no report.

**Mark Crumley, Assistant Fire Chief**, had no report.

**Mike Wright, Recreation Center Director**, Summer Camp starts June 1<sup>st</sup> and runs through August 14<sup>th</sup>. You may sign up for one week or the entire 11 week session. There is a different field trip each week, some are a trip to the Cleveland Zoo, Kalahari and Dave & Busters. Check our website for more information [www.medinarec.org](http://www.medinarec.org)

We are hosting the National Basketball Academy Cav's Camp on June 15<sup>th</sup> – 19<sup>th</sup> 9 a.m. – 2:30 p.m. for ages 7-15. Each participant will receive a camp tee shirt, a basketball and a Cav's home game ticket for the 2015-2016 season. The cost per camper is \$250.00 and you can register @ [www.tnbabasketball.com](http://www.tnbabasketball.com). Our next scheduled Rec. Advisory Committee meeting will be Thursday, June 18<sup>th</sup> at 7:30 a.m.

**Jansen Wehrley, Parks and Recreation Director**, Thanked all those that helped with the Bicentennial Commons landscape enhancements and fountain installation. Thank you to Murray and Sue Van Epp for the donation of the fountain and its installation. Thanks to the Feckley Foundation for donating the entry walls. JTS Landscaping for the design and construction of the fountain sitting wall and entry walls. Jim Venus Concrete for their flat work, Ron Pfaff Electric for electric hookup, Davis Tree Farm and Nursery, Roberts and Iron for the construction of the Fountain, Royal Fountains for fountain components and Rocco Masonry for repairing a portion of the brick wall at the entrance. Thanks to the City of Medina Water Dept. for doing the plumbing for the project, to our Street Dept. for assisting with concrete removal, and to the Building Dept., specifically Dan Gladish, for his help and oversight of the project. Thank you to Don Lehotan and staff from the Parks Dept. for removing the parking lot, excavating, installing sod, planting all the nursery stock and mulching all this before Memorial Day.

Bricks that will line the walkway are still for sale and we will continue to sell them throughout this year with an anticipated installation for spring of 2016. To date we have sold approximately \$18,000.00 worth of bricks. The fountain will be on 7 days a week from 10:30 a.m. to 11:00 p.m. Memorial Day through Labor Day weather permitting. This Saturday is the first Farmers Market and the Medina Half Marathon will be starting at 6:45 a.m. Jansen thanked the Cemetery Dept. for their hard work and dedication in preparing for this important day of remembrance for our Veterans, both cemeteries looked exceptional.

**Dan Gladish, Building Official**, had no report.

**Patrick Patton, City Engineer**, reported he was notified by Columbia Gas that they will be doing a gas line replacement project in the city this summer. Specifically this project will border on the North West Homestead St. to the South West Friendship and then on to West North Huntington to North Court and will consist of replacing the gas lines on all those streets and then replacing individual services to every home and or business in that area. It is quite an extensive project and are anticipating it taking a couple of months to complete. There will be a public meeting on June, 2<sup>nd</sup> at 6 p.m. at the Medina Public Library on the square.

**Nino Piccoli, Service Director**, reported by Mayor Hanwell.

Flushing of hydrants have begun. The schedule is posted on the City website. At times discolored water may be present in homes as a result of flushing and we recommend running cold water until it becomes clear. For any questions call water service at 330-722-9081.

Cities of Medina and Wadsworth were successful bidders for the Medina Solid Waste District's Recycling Drop Off Services Program we just need the review and approval from the Law Director, Mayor and Council. Our Sanitation Department will provide pick up services for the Northern half of the county and Wadsworth will handle the southern portion. Aiming for start date of mid-June, this will allow for Single Stream Recycling. Specifically: Plastic bottles and containers, food and beverage cans, paper flattened cardboard and paperboard, food and beverage cartons. More details to follow on our city website and in utility bills.

**Notices, Communications and Petitions:**

There were none.

**Unfinished Business:**

There was none.

**Introduction of Visitors:**

**Introduction and Consideration of Ordinances and Resolutions:**

**Res. 65-15:**

A Resolution authorizing the filing of an application for grant assistance from the Ohio Development Services Agency, Office of Housing and Community Development, in connection with the Small Cities Community Development Block Grant (CDBG) Program. Mr. Shields moved for the adoption of Ordinance/Resolution No. 65-15, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 65-15, seconded by Mr. Simpson. Mr. Mendel stated the City of Medina plans to apply to the State for Small Cities Community Development Block Grant Allocation in the amount of \$75,000 as well as Critical Infrastructure Competitive Set Aside Program in the amount of \$300,000 for the FY2015. Money implemented in 2016. The emergency clause is being requested due to the application being due June 26<sup>th</sup>. This would authorize the mayor to file the application and accept if approved. Part of this would be funding Public Transits, sidewalk and ADA curb ramps throughout the city, some code enforcement, fair housing and administration. The proposing for the critical infrastructure replacement of street replacement of Longview in the northern part of the city. Need to reallocate some money from one of the other activities to add to the Fair Housing Activity line with an additional \$2,500 to be able to pay for that and it would be good for 5 years after this process, taken from activity #3 and moved to activity #5. The roll was called on adding the emergency clause and was approved by the yea votes of M. Kolesar, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and B. Hilberg. The roll was called and Ordinance/Resolution No. 65-15 passed by the yea votes of B. Hilberg, M. Kolesar, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

**Ord. 66-15:**

**An Ordinance authorizing an expenditure not to exceed \$75,000 to Epic Aviation LLC for the purchase of jet fuel at the Medina Municipal Airport.** Mr. Shields moved for the adoption of Ordinance/Resolution No. 66-15, seconded by Mr. Simpson. Mr. Dirham stated this was budgeted so this is the authorization for the expenditure and relates to Ord. 68-15. The roll was called and Ordinance/Resolution No. 66-15 passed by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, B. Hilberg, and M. Kolesar.

**Res. 67-15:**

**A Resolution of the Council of the City of Medina, Medina County, and the State of Ohio, certifying that when a municipal obligation was incurred sums were lawfully appropriated in the funds to satisfy the obligation and sufficient sums currently exist to satisfy this obligation according to the attached sheet(s).** Mr. Shields moved for the adoption of Ordinance/Resolution No. 67-15, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 67-15, seconded by Mr. Simpson. Mr. Dirham stated this is in regards to physicals for the Fire Dept. Emergency is requested because the physicals have already been performed and we need to pay the vendor. The roll was called on adding the emergency clause and was approved by the yea votes of J. Shields, D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, B. Lamb and P. Rose. The roll was called and Ordinance/Resolution No. 67-15 passed by the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, and B. Lamb.

**Res. 68-15:**

**A Resolution of the Council of the City of Medina, Medina County, and State of Ohio, certifying that when a municipal obligation was incurred sums were lawfully appropriated in the funds to satisfy the obligation and sufficient sums currently exist to satisfy this obligation according to the attached sheet(s).** Mr. Shields moved for the adoption of Ordinance/Resolution No. 68-15, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 68-15, seconded by Mr. Simpson. Mr. Dirham stated this is for fuel at the Medina Municipal Airport. It was purchased to meet the demand and the emergency is to pay the vendor. The roll was called on adding the emergency clause and was approved by the yea votes of J. Coyne, B. Hilberg, M. Kolesar, B. Lamb, P. Rose, J. Shields, and D. Simpson. The roll was called and Ordinance/Resolution No. 68-15 passed by the yea votes of D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, B. Lamb, P. Rose, and J. Shields.

**Ord. 69-15:**

**An Ordinance authorizing the Mayor to execute a Deed Restriction for the City owned property at Spring Grove Cemetery, Permanent Parcel No. 028-19B-21-304, known 775 and 785 East Washington Street.** Mr. Shields moved for the adoption of Ordinance/Resolution No. 69-15, seconded by Mr. Simpson. Mr. Patton stated this is for the construction of a maintenance building/garage at the Spring Grove Cemetery. The Friends of the Cemetery will be constructing a new office building there also. We petitioned the County to allow us to install one sanitary sewer lift station to service both buildings since there will be low usage. They approved if we pass this deed restriction which limits the city's ability to ever split that off and sell one or both of the properties and before doing that we are committing to installing a second service if that ever

happens. The roll was called and Ordinance/Resolution No. 69-15 passed by the yea votes of B. Hilberg, M. Kolesar, B. Lamb, P. Rose, J. Shields, D. Simpson, and J. Coyne.

**Ord. 70-15:**

**An Ordinance authorizing the Mayor to execute Consent Legislation with the Ohio Department of Transportation (ODOT) for the Granger Road Low Head Dam Removal.** Mr. Shields moved for the adoption of Ordinance/Resolution No. 70-15, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 70-15, seconded by Mr. Simpson. Mr. Patton stated ODOT put on a presentation of why they wanted to remove the low head dam adjacent to our water plant on Granger Road. The emergency is needed because the agreement expires in 30 days. The roll was called on adding the emergency clause and was approved by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, B. Hilberg, and M. Kolesar. The roll was called and Ordinance/Resolution No. 70-15 passed by the yea votes of M. Kolesar, B. Lamb, P. Rose, J. Shields, D. Simpson, J. Coyne, and B. Hilberg.

**Ord. 71-15:**

**An Ordinance authorizing the Mayor to accept seventeen (17) easements necessary for the Ryan Road Sidewalk Project.** Mr. Shields moved for the adoption of Ordinance/Resolution No. 71-15, seconded by Mr. Simpson. Mr. Shields moved that the emergency clause be added to Ordinance/Resolution No. 71-15, seconded by Mr. Simpson. Mr. Patton explained this if for the Ryan Road Project in conjunction with the county sharing costs and received a grant to pay for a substantial portion of this. The easements were necessary in order to install a sidewalk from Lafayette Rd. to W. Sturbridge on the east side of the road. The roll was called on adding the emergency clause and was approved by the yea votes of J. Shields, D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, B. Lamb and P. Rose. The roll was called and Ordinance/Resolution No. 71-15 passed by the yea votes of P. Rose, J. Shields, D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, and B. Lamb.

**Ord. 72-15:**

**An Ordinance amending Ordinance No. 200-14, passed December 8, 2014, (Amendments to 2015 Budget)** Mr. Shields moved for the adoption of Ordinance/Resolution No. 72-15, seconded by Mr. Simpson. Mr. Dirham stated there are 3 line items and the first one is a donation from the Odd Fellows and the money needs to be appropriated, the second one is refunding/paying our share of the guarantee on the fiber project that we agreed to in 2010. The final one is to spend some of the money brought in from the sale of the bricks for the Bicentennial Commons. The roll was called and Ordinance/Resolution No. 72-15 passed by the yea votes of D. Simpson, J. Coyne, B. Hilberg, M. Kolesar, B. Lamb, P. Rose, and J. Shields.

**Council Comments:**

Mr. Kolesar thanked everyone involved in the Memorial Day parade and ceremony. He thanked Renew Medina and all the other contractors involved in enhancing 530 S. Court St. Saturday, June 6<sup>th</sup> is the Champion Creek Cleanup meeting at Roscoe Ewing Park at 9 am -12 pm.

Mr. Lamb acknowledged Mark Kolesar for his contributions to our environment at large. Saturday, June 6<sup>th</sup> at 12:00 – 4:00 p.m. second annual “Rockin’ the Court” on South Court St.

Medina City Council  
May 26th, 2015

including 24 musicians, hot dogs, t-shirts a magician. So bring a blanket and enjoy.  
Mr. Lamb mentioned how beautiful our square looked this weekend for the Memorial Day celebration and thanked Jansen for all his hard work.

Mr. Coyne introduced Charissa Whitman who gave a presentation to Council on her life as a recovering heroin addict and the need for more treatment facilities in Medina County.

**Adjournment:**

There being no further business before Council, the meeting adjourned at 8:40 p.m.

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Kathy Patton, CMC - Clerk of Council

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John M. Coyne, President of Council

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

|                |     |             |  |
|----------------|-----|-------------|--|
| 55449160022    |     | TRFL        | MARIOS BEAUTY SALON INC<br>DBA MARIOS INTERNATIONAL SPA & SALON<br>716 N COURT ST<br>MEDINA OH 44256 |
| 10   01   2014 |     |             |  |
| 05   27   2015 |     |             |  |
| D1   D2   D3   |     |             |  |
| 52             | 077 | C           |  |
| TAX DISTRICT   |     | RECEIPT NO. |  |

FROM 05/29/2015

|                |     |             |  |
|----------------|-----|-------------|--|
| 55449160021    |     |             | MARIOS BEAUTY SALON INC<br>DBA MARIOS INTERNATIONAL SPA & SALON<br>740 N COURT ST & PATIO<br>MEDINA OHIO 44256 |
| 10   01   2014 |     |             |  |
| 05   27   2015 |     |             |  |
| D1   D2   D3   |     |             |  |
| 52             | 077 |             |  |
| TAX DISTRICT   |     | RECEIPT NO. |  |



MAILED 05/29/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN. 06/29/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING. C TRFL 5544916-0022  
REFER TO THIS NUMBER IN ALL INQUIRIES \_\_\_\_\_  
(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.   
DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title) -  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF MEDINA CITY COUNCIL  
132 NORTH ELMWOOD AVENUE  
MEDINA OHIO 44256

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

|                |     |      |   |
|----------------|-----|------|---|
| 3233475        |     | NEW  | GNM GENERAL CONTRACTORS LTD<br>DBA MEDINA CIGAR & TOBACCO<br>307 E WASHINGTON ST<br>MEDINA OH 44256 |
| PERMIT NUMBER  |     | TYPE |   |
| ISSUE DATE     |     |      |   |
| 12             | 26  | 2014 |   |
| FILING DATE    |     |      |   |
| D1             |     |      |   |
| PERMIT CLASSES |     |      |   |
| 52             | 077 | C    | A66013  |
| TAX DISTRICT   |     |      | RECEIPT NO.   |

FROM 06/01/2015

|                |  |             |
|----------------|--|-------------|
| PERMIT NUMBER  |  | TYPE        |
| ISSUE DATE     |  |             |
| FILING DATE    |  |             |
| PERMIT CLASSES |  |             |
| TAX DISTRICT   |  | RECEIPT NO. |



MAILED 06/01/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN. 07/02/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

C NEW 3233475

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF MEDINA CITY COUNCIL  
132 NORTH ELMWOOD AVENUE  
MEDINA OHIO 44256

ORDINANCE NO. 73-15

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF \$50,749.70 TO THE MEDINA COUNTY COMMISSIONERS FOR THE REIMBURSEMENT TO THE BOND RESERVE FUND FOR THE MEDINA COUNTY PORT AUTHORITY FIBER NETWORK.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the expenditure of \$50,749.70 to the Medina County Commissioners for reimbursement to the Bond Reserve Fund for the Medina County Port Authority Fiber Network Project is hereby authorized per Ordinance No. 118-10, passed August 12, 2010.

SEC. 2: That the funds to cover this expenditure are available in Account No. 001-0707-56612.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
President of Council Pro-Tem

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Mayor

ORDINANCE NO. 74-15

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH BRANDSTETTER CARROLL INC. FOR ARCHITECTURAL SERVICES FOR THE MEMORIAL PARK POOL PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1: That the Mayor is hereby authorized and directed to enter into an Agreement with Brandstetter Carroll Inc. for architectural and engineering services for the Memorial Park Pool Project, City Job #991.
- SEC. 2: That a copy of the Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3: That the funds to cover this project, in the amount of \$59,200.00, are available in Account No. 104-0303-54412.
- SEC. 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
President of Council Pro-Tem

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Mayor



# Document B101™ – 2007

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-ninth day of April in the year 2015.

BETWEEN the Architect's client identified as the Owner:

City of Medina, OH  
132 North Elmwood Ave  
Medina, OH 44258

and the Architect:

Brandstetter Carroll Inc.  
1220 West 6th Street, Suite 300  
Cleveland, Ohio 44113  
Telephone Number: 216-241-4480

for the following Project:

Memorial Park Pool Renovations, City of Medina, OH  
Memorial Park  
Medina, OH 444258

Renovations to the Memorial Park Swimming Pool and related facilities. For the purpose of this Agreement, the construction cost is not to exceed \$740,000.00

The Owner and Architect agree as follows.

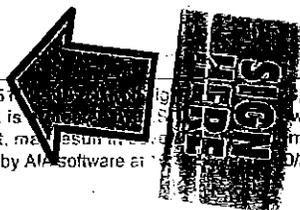
### ADDITIONS AND DELETIONS:

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

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

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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

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

See Exhibit A.

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

.1 Commencement of construction date:

To be determined.

.2 Substantial Completion date:

To be determined.

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall

perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

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

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

- .1 General Liability  
Commercial General Liability – Each occurrence \$5,000,000 Limit  
Medical Expense (any one person) \$5,000 Limit  
General Aggregate \$1,000,000  
Excess/Umbrella Liability – Each occurrence \$1,000,000, Aggregate \$2,000,000
- .2 Automobile Liability  
Liability – Bodily Injury \$1,000,000; Property Damage \$500,000  
No-Fault \$10,000  
250 Deductible Comprehensive  
500 Deductible Collision  
Emergency Road Service  
Car Rental & Travel Expense \$25 per day, \$600 Maximum  
Uninsured Motor Vehicle – Bodily Injury \$250,000/\$500,000  
Underinsured Motor Vehicle - Bodily Injury \$250,000/\$500,000
- .3 Workers' Compensation  
Bodily Injury by Accident -\$100,000 each accident  
Bodily Injury by Disease -\$100,000 each employee  
Bodily Injury by Disease - \$100,000,000 Policy Limit
- .4 Professional Liability  
Professional Liability – Each Claim \$1,000,000; Aggregate \$2,000,000

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

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

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

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

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

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES (See Exhibit A)

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

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

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

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

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

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

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

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

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building

systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

#### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

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

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

#### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

##### § 3.5.1 GENERAL

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

##### § 3.5.2 COMPETITIVE BIDDING

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

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 NEGOTIATED PROPOSALS

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

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

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

### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

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

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be

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entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

#### § 3.6.6 PROJECT COMPLETION

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

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

#### ARTICLE 4 ADDITIONAL SERVICES

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

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

| Additional Services   | Responsibility<br>(Architect, Owner<br>or<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 Programming (B202™-2009)                                      | Not Provided   |  |
| § 4.1.2 Multiple preliminary designs                                  | Not Provided   |  |
| § 4.1.3 Measured drawings   | Not Provided   |  |
| § 4.1.4 Existing facilities surveys                                   | Not Provided   |  |
| § 4.1.5 Site Evaluation and Planning (B203™-2007)                     | Not Provided   |  |
| § 4.1.6 Building Information Modeling (E202™-2008)                    | Not Provided   |  |
| § 4.1.7 Civil engineering   | Architect  | See Article 3.1  |
| § 4.1.8 Landscape design  | Architect  | See Article 3.1  |
| § 4.1.9 Architectural Interior Design (B252™-2007)                    | Not Provided   |  |
| § 4.1.10 Value Analysis (B204™-2007)                                  | Not Provided   |  |
| § 4.1.11 Detailed cost estimating                                     | Not Provided   |  |
| § 4.1.12 On-site Project Representation (B207™-2008)                  | Not Provided   |  |
| § 4.1.13 Conformed construction documents                             | Not Provided   |  |
| § 4.1.14 As-Designed Record drawings                                  | Not Provided   |  |
| § 4.1.15 As-Constructed Record drawings                               | Not Provided   |  |
| § 4.1.16 Post occupancy evaluation                                    | Not Provided   |  |
| § 4.1.17 Facility Support Services (B210™-2007)                       | Not Provided   |  |
| § 4.1.18 Tenant-related services                                      | Not Provided   |  |
| § 4.1.19 Coordination of Owner's consultants                          | Not Provided   |  |
| § 4.1.20 Telecommunications/data design                               | Not Provided   |  |
| § 4.1.21 Security Evaluation and Planning<br>(B206™-2007)             | Not Provided   |  |
| § 4.1.22 Commissioning (B211™-2007)                                   | Not Provided   |  |
| § 4.1.23 Extensive environmentally responsible design                 | Not Provided   |  |
| § 4.1.24 LEED® Certification (B214™-2012)                             | Not Provided   |  |
| § 4.1.25 Fast-track design services                                   | Not Provided   |  |
| § 4.1.26 Historic Preservation (B205™-2007)                           | Not Provided   |  |
| § 4.1.27 Furniture, Furnishings, and Equipment Design<br>(B253™-2007) | Not Provided   |  |
|   | Not Provided   |  |

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

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;

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

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

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

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

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Eighteen ( 18 ) visits to the site by the Architect over the duration of the Project during construction
- .3 One ( 1 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One ( 1 ) inspections for any portion of the Work to determine final completion

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

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies

related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

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

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

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

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

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

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

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

## ARTICLE 6 COST OF THE WORK

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

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

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

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment

of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

### § 8.2 MEDIATION

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

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

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

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

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other (Specify)

#### ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

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

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

## ARTICLE 11 COMPENSATION

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

The Fee for Basic Services shall be \$59,200.00 based upon a construction cost of \$740,000.00. If the Owner approved construction cost exceeds \$740,000.00 by more than 5% then the fee for Basic Services will be raised on a pro-rate basis.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:  
Not applicable.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:  
See Article 11.7 (Hourly Rates).

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

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

|                          |                   |    |    |
|--------------------------|-------------------|----|----|
| Schematic Design Phase   | Twenty percent (  | 20 | %) |
| Design Development Phase | Fifteen percent ( | 15 | %) |
| Construction Documents   | Forty percent (   | 40 | %) |

|                              |             |           |     |    |
|------------------------------|-------------|-----------|-----|----|
| Phase                        |             |           |     |    |
| Bidding or Negotiation Phase | Five        | percent ( | 5   | %) |
| Construction Phase           | Twenty      | percent ( | 20  | %) |
| <hr/>                        |             |           |     |    |
| Total Basic Compensation     | one hundred | percent ( | 100 | %) |

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

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

| Employee or Category         | Rate          |
|------------------------------|---------------|
| Principal                    | \$160.00/hour |
| Senior Registered Architect  | 115.00/hour   |
| Senior Professional Engineer | 115.00/hour   |
| Registered Architect         | 95.00/hour    |
| Professional Engineer        | 95.00/hour    |
| Landscape Architect          | 95.00/hour    |
| Resident Inspector           | 90.00/hour    |
| City Planner                 | 85.00/hour    |
| Engineer in Training         | 70.00/hour    |
| Intern Architect             | 70.00/hour    |
| Engineering Designer         | 65.00/hour    |
| Intern Landscape Architect   | 65.00/hour    |
| AutoCAD Operator             | 55.00/hour    |
| Drafter                      | 50.00/hour    |
| Clerical                     | 35.00/hour    |

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

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

- .1 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .2 Printing, reproductions, plots, standard form documents;
- .3 Postage, handling and delivery;
- .4 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .5 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .6 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .7 All taxes levied on professional services and on reimbursable expenses;
- .8 Site office expenses; and
- .9 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent ( 0 %) of the expenses incurred.

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

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

Not applicable.

**§ 11.10 PAYMENTS TO THE ARCHITECT**

**§ 11.10.1** An initial payment of Zero (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

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

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

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 Exhibit A.

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

OWNER

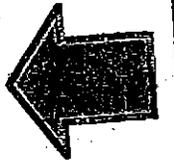
ARCHITECT

*(Signature)*

*Dennis Hanwell, Mayor*  
City of Medina

*(Signature)*

*Lawrence W. Brandstetter*  
Lawrence W. Brandstetter, President  
Brandstetter Carroll Inc.



init.



BRANDSTETTER  
CARROLL INC  
ARCHITECTS, ENGINEERS, PLANNERS

2360 Chauvin Dr  
LEXINGTON  
KY 40517  
859.268.1933  
FX: 859.268.3341

April 23, 2015

308 East 8<sup>th</sup> St  
CINCINNATI  
OH 45202  
513.651.4224  
FX: 513.651.0147

## EXHIBIT A

The following services will be provided as part of the services as outlined in Article 3.

### I. Schematic Design Phase

#### A. Program Study-The Architect will:

1. Examine alternatives and costs with respect to filtration systems, electrical systems, water heating, and other possible improvements to the mechanical systems for the pool.
2. Review possible improvements to the pool house with respect to ADA compliance, a family restroom, as well as other improvements such as building renovations, and chemical storage as directed by the Owner.
3. Examine possible site improvements including ADA compliance, perimeter fence and pool area deck replacement.
4. Determine, with the Owner, the final scope of the project based upon cost parameters as established by the Owner.

#### B. Design and Construction Documents-The Architect will:

1. Prepare detailed drawings and specifications to include:
  - a. Renovations to the pool tank.
  - b. Filter, mechanical and electrical upgrades.
  - c. Building renovations.
  - d. Site improvements.
  - e. Other improvements as directed by the Owner.

1220 West 6<sup>th</sup> St  
Suite 300  
CLEVELAND  
OH 44113  
216.241.4480  
FX: 216.736.7155

17300 Preston Rd  
Suite 310  
DALLAS  
TX 75252  
469.941.4926  
FX: 469.941.4112

**ORDINANCE NO. 75-15**

**AN ORDINANCE AUTHORIZING AN EXPENDITURE OF \$450,000.00 TO AVON REGIONAL WATER FOR THE CITY'S SHARE OF THE SPIETH ROAD GROUND STORAGE TANKS INTERIOR PAINTING PROJECT.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

- SEC. 1: That the expenditure of \$450,000.00 is hereby authorized to Avon Regional Water for the City's share of the Spieth Road Ground Storage Tanks Interior Painting Project.
- SEC. 2: That the funds to cover this expenditure are available in Account No. 546-0530-54412.
- SEC. 3: That this Ordinance is subject to the Law Director's final approval.
- SEC. 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
President of Council Pro-Tem

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Mayor

ORDINANCE NO. 76-15

AN ORDINANCE AMENDING ORDINANCE NO. 200-14,  
PASSED DECEMBER 8, 2014. (Amendments to 2015 Budget)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That Ordinance No. 200-14, passed December 8, 2014, shall be amended by the following additions:

| <u>Account No./Line Item</u>                    | <u>Additions</u> |
|---|------------------|
| 546-0530-54412 (Water Capital-Spieth Rd. tanks) | 450,000.00 *     |
| 301-0381-52215 (Bicentennial Commons-plaques)   | 1,500.00 *       |

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

\* - new appropriation

PASSED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
President of Council

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Mayor

RESOLUTION NO. 77-15

A RESOLUTION OF THE COUNCIL OF THE CITY OF MEDINA, MEDINA COUNTY, AND STATE OF OHIO, CERTIFYING THAT WHEN A MUNICIPAL OBLIGATION WAS INCURRED SUMS WERE LAWFULLY APPROPRIATED IN THE FUNDS TO SATISFY THE OBLIGATION AND SUFFICIENT SUMS CURRENTLY EXIST TO SATISFY THIS OBLIGATION ACCORDING TO THE ATTACHED SHEET(S), AND DECLARING AN EMERGENCY.

WHEREAS: Certain certifications are necessary for the continued operations of Municipal Services; and

WHEREAS: This Resolution will provide for the efficient and lawful certifications to provide Municipal Services; and

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Finance Director is authorized to draw warrants for the payment of municipal expenses pursuant to the attached Exhibit "A" which is incorporated herein.

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Resolution shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason because of the immediate need for the authorization of expenditures, this Resolution shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
President of Council Pro-Tem

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Mayor

## ORDINANCE NO. 78-15

**AN ORDINANCE REPEALING ORDINANCE NO. 213-14,  
PASSED DECEMBER 8, 2014 AND REPLACING SECTION  
161.13 OF THE CODIFIED ORDINANCES OF THE CITY OF  
MEDINA, OHIO, RELATIVE TO THE ALLOCATION OF  
INCOME TAX FUNDS.**

**WHEREAS:** Section 161.13 of the codified ordinances of the City of Medina, Ohio, presently reads as follows:

**161.13 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be distributed as follows beginning January 1, 2015:

- a) Such part thereof which is necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof shall be paid into the General Fund.
- b) Twenty percent (20%) of the balance shall be paid into the newly created Special Revenue Fund (2004) to be used for street, storm water, and utility construction, maintenance, repair and improvements.
- c) After the costs of collecting the taxes and administering and enforcing the provisions thereof and the required street, storm water, and utility construction, maintenance, repair and improvements are provided for as set forth in subsections (a) and (b) above, the remaining funds shall be distributed as follows:
  - A. Forty-five percent (45%) of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the Police Department of the City.
  - B. Seven percent (7%) of the net available income tax receipts received annually shall be used to defray operating and annual capital expenses of the Fire Department of the City.
  - C. One and one-half percent (1-1/2%) of the net available income tax receipts received annually shall be set aside in a growth fund to be used to defray major capital expenses of the Fire Department of the City.
  - D. ~~Ten percent (10%)~~ of the net available income tax receipts received annually shall be used to defray operating expenses for the Parks and Recreation Department of the City.
  - E. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray capital expenses for the Parks and Recreation Department of the City.
  - F. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray Recreation Center debt for the Parks and Recreation Department of the City.
  - G. Nineteen and one-half percent (19.5%) of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the General Fund of the City.
  - H. Five percent (5%) of the net available income tax receipts received annually shall be used to defray general purpose capital expenses.
  - I. One and one half percent (1.5%) of the net available income tax receipts received

- annually shall be used to defray Electronic Technology capital replacement expenses.
- J. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray expenses related to unanticipated capital necessities.
  - K. ~~Seven and one-half percent (7.5%)~~ of the net available income tax receipts received annually shall be used to defray operating and annual capital expenses of the Recreation Center of the City.
  - L. Three percent (3%) of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the Street M&R Fund of the City.
- d) Exception for Receipts from the Medina-Montville Joint Economic Development District.
- A. After the costs of collecting the taxes and administering and enforcing the provisions thereof and the required street, storm water, and utility construction, maintenance, repair and improvements are provided for as set forth in subsections (a) and (b) above, the remaining funds shall be distributed as follows:
    - 1) Seventy-five percent (75%) of the net available income tax receipts received annually shall be used to defray Economic Development expenses.
    - 2) Twenty-five percent (25%) of the net available income tax receipts received annually shall be distributed in accordance with the distribution laid out in subsection (c) above.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

**SEC. 1:** That Section 161 of the codified ordinances of the City of Medina, Ohio, shall be amended by the addition of a new Section 161.13 which reads as follows:

The funds collected under the provisions of this chapter shall be distributed as follows beginning January 1, 2016:

- a) Such part thereof which is necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof shall be paid into the General Fund.
- b) Twenty percent (20%) of the balance shall be paid into the newly created Special Revenue Fund (2004) to be used for street, storm water, and utility construction, maintenance, repair and improvements.
- c) After the costs of collecting the taxes and administering and enforcing the provisions thereof and the required street, storm water, and utility construction, maintenance, repair and improvements are provided for as set forth in subsections (a) and (b) above, the remaining funds shall be distributed as follows:
  - A. Forty-five percent (45%) of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the Police Department of the City.
  - B. Seven percent (7%) of the net available income tax receipts received annually shall be used to defray operating and annual capital expenses of the Fire Department of the City.
  - C. One and one-half percent (1-1/2%) of the net available income tax receipts received annually shall be set aside in a growth fund to be used to defray major capital expenses of

the Fire Department of the City.

- D. **Nine and one-half percent (9.5%)** of the net available income tax receipts received annually shall be used to defray operating expenses for the Parks and Recreation Department of the City.
  - E. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray capital expenses for the Parks and Recreation Department of the City.
  - F. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray Recreation Center debt for the Parks and Recreation Department of the City.
  - G. **Nineteen and one-half percent (19.5%)** of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the General Fund of the City.
  - H. Five percent (5%) of the net available income tax receipts received annually shall be used to defray general purpose capital expenses.
  - I. One and one half percent (1.5%) of the net available income tax receipts received annually shall be used to defray Electronic Technology capital replacement expenses.
  - J. Zero percent (0%) of the net available income tax receipts received annually shall be used to defray expenses related to unanticipated capital necessities.
  - K. **Eight percent (8%)** of the net available income tax receipts received annually shall be used to defray operating and annual capital expenses of the Recreation Center of the City.
  - L. Three percent (3%) of the net available income tax receipts received annually shall be used to defray operating and capital expenses of the Street M&R Fund of the City.
- d) Exception for Receipts from the Medina-Montville Joint Economic Development District.
- A. After the costs of collecting the taxes and administering and enforcing the provisions thereof and the required street, storm water, and utility construction, maintenance, repair and improvements are provided for as set forth in subsections (a) and (b) above, the remaining funds shall be distributed as follows:
    - 1) **Seventy-five percent (75%)** of the net available income tax receipts received annually shall be used to defray Economic Development expenses.
    - 2) **Twenty-five percent (25%)** of the net available income tax receipts received annually shall be distributed in accordance with the distribution laid out in subsection (c) above.

**SEC. 2:** That Ordinance 213-14, passed December 8, 2014 is hereby repealed.

**SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

**SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

**PASSED:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_  
President of Council Pro-Tem

**ATTEST:** \_\_\_\_\_  
Clerk of Council

**APPROVED:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_  
Mayor