

Thornton Tomasetti

October 12, 2017

Mr. Louis Minuto
Trustee
INC. VILLAGE OF GARDEN CITY
351 Stewart Avenue
Garden City, NY 11530

**RE: PROPOSAL FOR STRUCTURAL ENGINEERING SERVICES
ST PAUL'S RECREATION COMPLEX, GARDEN CITY, NY**

Dear Mr. Minuto

Thornton Tomasetti is pleased to submit the following proposal and contract to provide Structural Engineering Services for the St. Paul's Recreation Complex (the Project). The Project Owner is the Inc. Village of Garden City. The project architect(s) are Beyer, Blinder, Belle, and Eight Inc.

I. PROJECT DESCRIPTION

We understand the Project is as defined by the scope and objectives document provided by the Inc. Village of Garden City dated October 2017 and as described during the September 27, 2017 kickoff meeting.

II. THORNTON TOMASETTI'S CAPABILITIES AND SERVICES

TT works as an integrated firm in which expertise across all our offices and practices can be brought to bear on the evaluation, design and construction of a project of any type, scale or complexity. As illustrated in Exhibit C – Thornton Tomasetti's Capabilities and Services, which summarizes our practices, TT is uniquely qualified to assist the St. Paul's Recreation Center project team in achieving its goals.

III. SCOPE OF SERVICES

Our Scope of Services for this Project include a structural feasibility study for a new multi-level community center/recreational facility incorporated within the existing St. Paul's School building footprint. As part of this conceptual study, Thornton Tomasetti will provide the following services:

- Research existing structural information to assist in planning analysis.
- Site walk through to observe if there are any noticeable structural concerns due to age and conditions of structure.
- Coordinate with the architect and owner to advise on the structural systems and framing layouts for new building design concepts.

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- Provide approximate tonnages for structural system elements based on preliminary architectural programming layouts.
- Evaluate existing structural elements to remain and advise on potential renovation work required to maintain these elements.
- Evaluate and describe conceptual strategies for temporary bracing of existing façade walls, and other structural elements to remain, as required.
- Evaluate and provide conceptual feedback on demolition engineering and sequencing, as required.
- Participate in design presentations, as required.

IV. PROJECT DELIVERY METHOD AND SCHEDULE

A. Project Delivery Method

Our basic fee listed below is based on a traditional delivery method for a conceptual feasibility study. TT will issue structural information in narrative and sketch format.

B. Schedule:

This proposal is based on an approximately 6 to 8 week feasibility study.

V. FEES

A. Basic Fee

1. Based on the above assumed schedule and Project delivery method, we propose to provide the Scope of Services for the lump sum fee of **\$15,000 (FIFTEEN THOUSAND DOLLARS)**, plus reimbursable expenses.

B. Expenses

The following expenses are in addition to the Basic Fee and will be billed to the Client at our cost:

1. Travel, out-of-town living and related expenses, printing, courier service, and express mail.
2. Deliverables and reviewed submittals will be transferred via electronic means whenever possible. Plotting and reproductions requests by Client or Owner will be electronically forwarded to an outside reproduction facility, and the cost will be charged to the Client.

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3. Fees and expenses for securing approvals of governing authorities having jurisdiction over the Project.
 4. Consultants, physical models, 3-dimensional flythrough and special presentation materials.
- C. Payment

TT will invoice the Client on a monthly cycle for fees and expenses. Payments will be due from the Client to TT within 30 days of the invoice date.

VI. ADDITIONAL PROVISIONS

Exhibit A – Client and Owner Responsibility

Exhibit B – Additional Services

VII. TERMS AND CONDITIONS

Thornton Tomasetti, Inc. Standard Conditions for Investigation and/or Design Services are attached hereto and made a part of this Proposal.

Upon authorization to proceed, unless notified otherwise in writing, we will provide our services under the terms of this Proposal.

TT reserves the right to revise the terms of this Proposal if a notice to proceed has not been received within three months of the date of this Proposal.

We look forward to your favorable response and an opportunity to provide our services. Please call if you have any questions. If the above meets with your agreement, kindly sign and return one copy of this letter agreement, keeping one for your records.

Very truly yours,
THORNTON TOMASETTI, INC.



Stephen Szycher, P.E.
Principal

ACCEPTED BY:

INC. VILLAGE OF GARDEN CITY

BY: 

DATE: Oct. 27, 2017

EXHIBIT A CLIENT [AND OWNER] RESPONSIBILITY

To facilitate the seamless progression of the Project, TT's proposal is based on the assumption that the Client will be responsible for the following information:

1. The Owner to retain a licensed Geotechnical Engineer to perform a geotechnical investigation and to provide a comprehensive Geotechnical Report, including recommendations of foundation and site excavation systems appropriate to the site conditions and Project requirements.
2. The Owner to retain a Cost Consultant to perform cost estimates at milestone dates agreed upon by the Design Team, Construction Manager and the Owner. The Owner's cost estimate may be performed by the Construction Manager.
3. At the completion of each phase, the Owner to provide authorization to the Design Team to proceed to the next phase. Once this authorization is provided any revisions to previous work resulting from Owner changes or budgetary considerations will be treated as additional services.
4. The Owner to hire a Testing Agency for the Project.
5. The Client to provide reports, drawings and topography survey results of existing conditions. Provide all applicable available existing drawings, specifications, shop drawings, photographs, materials submittals and other building data.
6. The Client to advise TT at the time of the Project's commencement of the Owner's Project requirements and budget constraints.
7. The Client to provide copies of letters and memoranda pertaining to the work of the design and construction consultants, multi-discipline design drawings, specifications, and other data as necessary to perform our services.
8. The Owner to provide access to the Project to the extent required to perform our structural engineering services.

It is understood that TT has the right to rely on the accuracy and completeness of data and information furnished to TT.

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EXHIBIT B ADDITIONAL SERVICES

While TT is capable of performing many of the following services, they are not included in the proposed Scope of Services and are not included in the Basic Fee. If requested, we would be pleased to provide separate proposals for these services.

1. Providing design for elements outside the building footprint, such as site structures [monuments, permanent seating, signage structures, lighting structures, and related foundations], landscape walls, retaining walls, security structures and foundation (bollards and planters), pads, and pavements.
2. Providing extensive steel/cold-form/CMU block backup design for masonry exterior walls. Designs that can be detailed with typical details are part of the basic Scope of Services.
3. Addressing future facilities, systems, and equipment and tenant modifications that are not identified in the scope of work.
4. Addressing existing conditions at the Project site and the adjacent sites not identified to TT prior to this proposal.
5. Accommodating significant scope changes including, but not limited to, difference in the Project scope, area, cost, schedule, or delivery method, [delegated design changes from performance criteria and design assumptions included in the Construction Documents, and revisions to architectural and/or MEP components that affect the structural system.
6. Indicating measurements of existing conditions on TT drawings.
7. Providing an as-built set of drawings.
8. Providing full-time observation of the structural work or performing Special Inspections.
9. Performing site visits or attending site meetings beyond the number listed in the Scope of Service.
10. Processing submittals from the Contractor, which have not been solicited by the Contract Documents, including but not limited to, those related to loads imposed by the Contractor's temporary work, temporary equipment, construction cranes, and/or construction hoists, or the processing of submittals related to alternate designs and/or contractor substitutions.
11. Time and expenses related to serving as an expert witness or consultant in connection with any public or private hearing, arbitration, or legal proceeding.
12. Revisions to work that have already been completed and approved.
13. Services provided either after the issuance of the final Certificate of Payment for construction or 60 days after the date of Substantial Completion of the work, whichever occurs first.
14. Services made necessary during the construction phase by the default of the Contractor or corrections required due to deficiencies in the work of the Contractor.

EXHIBIT C THORNTON TOMASETTI'S CAPABILITIES AND SERVICES

TT provides engineering design, investigation, consulting and analysis services to clients worldwide on projects of every size and complexity. Our integrated practices can address the full life cycle of a structure. TT, dating back to 1949, is a 1,200-person organization of engineers, architects and other professionals collaborating from offices across the United States and in Asia-Pacific, Europe, Latin America and the Middle East. In September 2015, Weidlinger Associates became a part of TT, enhancing the breadth and depth of our services.

FORENSICS: We assist attorneys, property managers, building owners, contractors and designers with a wide range of forensic services. As designers, we evaluate for standard of care; as forensic specialists, we seek root cause; as problem solvers, we seek resolution. We provide reports, expert testimony, calculations / drawings and computer models and simulations.

WEIDLINGER APPLIED SCIENCE: The practice leverages a unique combination of technologies and expertise to engineer practical solutions to problems of national and international importance. We apply expertise in solid and fluid dynamics, material science, acoustics, risk assessments and computational simulation methods to solve complex problems. We perform research, mathematical modeling, software development and design to manage risks to life safety in military platforms and installations, critical infrastructure, tall buildings, public facilities, industrial and petro-chemical plants, and automotive and airborne vehicles. Military, government, corporate and academic clients value the validation of Weidlinger Applied Science's software and the critical insights gained from correlating analysis with testing. Our sixty-five-year record of proven success is driven by the sustained focus of our uniquely qualified and experienced staff of engineers and scientists.

RENEWAL: Our experts provide building owners and managers with a wide range of envelope, structural, mechanical, electrical, plumbing and fire protection services. We conduct performance investigations, condition assessments, prepurchase due diligence surveys, feasibility studies and peer reviews. We design repairs, renovations and alterations and oversee their execution.

PROPERTY LOSS CONSULTING: Our specialists work with insurance companies to analyze risks and claims arising from natural or man-made perils. Our experienced multidisciplinary staff of structural engineers, architects and mechanical, electrical and plumbing engineers provides investigation, cause and origin analysis, assessment for reoccupancy of damaged buildings, building code upgrade analysis and specialized claim response. We also provide expert reports and testimony based on our investigations.

STRUCTURAL ENGINEERING: We collaborate with architects, owners and builders to design elegant solutions for challenging projects of all types – from the tallest buildings and longest spans to inventive structures and expansion projects. We focus on achieving the optimal balance among the demands of form, function, constructability, sustainability, schedule and budget.

CONSTRUCTION ENGINEERING: We offer advanced project delivery services to provide owners and contractors with complete and detailed information to improve the project schedule. We create customized project delivery strategies including integrated modeling, connection design, erection engineering and full-time field representation, to meet the specific needs of each project and client.

WEIDLINGER PROTECTIVE DESIGN: The practice's 50 years of experience in providing physical security analysis, advice and design – to architects, building owners, developers, and public agencies – makes us the premier provider of protective design services. We assess vulnerability to multiple

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hazards and provide balanced and economical mitigation for every type of structure. We collaborate with team members to achieve appropriate solutions that also uphold each project's aesthetic and budgetary goals, crafting solutions that provide the required protection without compromising unique architectural features.

FAÇADE ENGINEERING: Our team applies expertise in systems and materials to integrate façade design and structural design in new buildings, renovations and recladding projects. We help solve complex design challenges, improve constructability, maximize efficiency and increase security. Our skill in 3D parametric and building information modeling allows us to work directly with manufacturers to design, engineer and install these systems.

SUSTAINABILITY: We partner with clients to integrate green solutions into the design, construction and operation of buildings, reducing their impact on the environment throughout the building life cycle. We use whole-systems thinking and analytic tools to develop solutions that balance design, economic, social and environmental factors. We provide sustainable design strategies, energy analysis, green building certification consulting, and education and training.

WEIDLINGER TRANSPORTATION: We specialize in analysis, design, construction inspection, evaluation, monitoring and rehabilitation for a wide variety of transportation infrastructure. Our experience encompasses aviation facilities, bridges, cruise terminals and waterfront facilities, rail and intermodal transit stations, streetscapes and tunnels. We offer a wide range of expertise to support client needs for both new and existing transportation structures.

SWALLOW ACOUSTICS: The acquisition of Swallow Acoustics in early 2017 bolsters TT's structural engineering and forensics practices with 37 years of experience in acoustics design and noise and vibration analysis and control. We provide a full spectrum of acoustics services including architectural acoustics; environmental, industrial and mechanical noise control; acoustic and vibration testing; vibration control; construction vibration assessment and monitoring; and expert opinion and expert testimony. TT has collaborated on many projects with SACL since 1988, particularly on the design of tuned mass dampers, a device used to help stabilize buildings against wind sway and other kinds of motion.

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Thornton Tomasetti, Inc. (TT)
Standard Conditions for Investigation and/or Design Services ("Standard Conditions")

- (1) These Standard Conditions (including any Project-Specific conditions attached hereto), together with the TT proposal (and any written amendments thereto, including Additional Services) (collectively "Proposal") to which they are attached or in which they are incorporated by reference, shall form the Agreement between the parties. The services TT is required to perform shall be referred to as "TT's Scope of Services" or "Services". TT's Scope of Services shall be limited to those services specifically set forth in the Proposal. The "Project" is the facility, improvements and/or building described in the Proposal or if there is no such description then it shall be the facility, improvements and/or building to which TT's Scope of Services applies.
- (2) TT will perform its services in accordance with the standards of professional skill and care ordinarily exercised by other design firms performing the same services, in the same locale, acting under similar circumstances and conditions ("Standard of Care"). Notwithstanding anything in this Agreement to the contrary and subject to Paragraphs 14, 15, 16 and 17, TT shall only be liable to pay damages to Client arising out of or in connection with the Services or this Agreement, to the extent that such damages are caused by, and are in proportion to, the negligence of, or breach of the Standard of Care by, TT. If TT is considered to be liable jointly with any third parties, the portion of damages payable by TT shall be limited to the portion of liability which is attributable to TT's breach of the Standard of Care on a comparative fault basis. Client acknowledges that TT's services will be rendered without any warranty, express or implied and all such warranties are expressly waived by Client. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party, including the project owner (if not the Client) and any contractor, subcontractor, vendor or material supplier, against either the Client or TT.
- (3) TT shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form in connection with the Project, including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB), bacteria, mold, fungi, lead based paints or other similar materials or other toxic substances, infectious materials, or contaminants.
- (4) Notwithstanding any other provision of this Agreement or any other agreement entered into by TT with respect to the Project, TT shall not have control or charge of, and shall not be responsible for, construction means, methods, techniques, sequences or procedures, for safety precautions and programs in connection with work or activities at the project site, for the acts or omissions of any contractor, subcontractors or any other persons performing any work or undertaking any activities at the project site, or for the failure of any of them to carry out any work or perform their activities in accordance with their contractual obligations, including, but not limited to, the requirements of any drawings, specifications or other documents prepared by TT.
- (5) TT shall be deemed the author and owner of all instruments of service, including all of the reports, drawings, specifications and other documents prepared by it and its consultants (collectively "TT Documents"). TT (or its consultants) shall retain all common law, statutory and other reserved rights, including copyrights in TT Documents, whether the project for which they are made is executed or not. Contingent on the Client's full and timely payment of all sums due under this Agreement, TT grants Client a non-exclusive license to use the final and complete versions of TT Documents solely and exclusively for purposes set forth in the Proposal including, if the TT Documents are intended to be, and are identified as, "for construction" the constructing, using and maintaining, but not for altering, extending or adding to, the Project. The forgoing license does not extend to any CADD files or 3D model created by TT, unless expressly set forth in the Proposal. If TT Documents are prepared "for construction", the license granted in the preceding sentences of this Paragraph 5 permits the Client to authorize the contractor and subcontractors and material or equipment suppliers to reproduce applicable portions of TT Documents solely and exclusively for use in performing their services or construction for the Project. TT Documents shall only be used for their intended purpose, as defined in the TT Documents (or a transmittal document accompanying them) and in the Proposal. TT Documents are not to be used on other projects, for alternations, extensions or additions to this project or for completion of this project by others, except by agreement in writing and with appropriate compensation to TT. If Client is granted a license with respect to any CADD files or 3D models, Client agrees to be bound to the terms of the TT License for Use of Electronic Files and 3D Models.
- (6) The review of contractor submittals (for example, shop drawings or project samples) is not included in TT's Scope of Services unless specifically set forth in the Proposal. If such services are to be provided, the review is conducted only for the limited purpose of checking for conformance with information given and the design concept expressed in the construction drawings and specifications prepared by TT (or by others if so set forth in the Proposal) and is not conducted for the purpose of determining the accuracy and completeness of details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor, all of which remain the responsibility of the contractor to the extent required by its contract. TT's review shall not constitute approval of safety precautions or of construction means, methods, techniques, sequences, or procedures. TT's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the drawings, specifications and other documents applicable to the contractor's obligations, TT shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the drawings, specifications and other documents prepared by TT.

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- (7) Neither site visits for any purpose nor the observation by TT of any contractor's work are included in TT's Scope of Services unless specifically set forth in the Proposal. If TT is engaged to visit the site and conduct observations of a contractor's work, TT shall provide such services at the intervals agreed with Client in writing (including if agreed with Client in writing on a full-time basis) (or if no such interval is agreed upon in writing, then at such intervals as TT deems appropriate), subject to any limitations on the number of such visits set forth in Proposal. The purpose of such observations is to become generally familiar with the progress and quality of the construction work designed by TT or described in the drawings, specifications or other documents specifically identified in the Proposal and to determine, in general, if such construction work is proceeding in accordance with such drawings, specifications or other identified documents. TT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such construction work. On the basis of such on-site observations as an engineer, TT shall keep Client informed of the progress and quality of such construction work and shall endeavor to guard the Client against defects and deficiencies in such work of contractor. The furnishing of such observation services either periodically or on a full-time basis shall be subject to Paragraph 4 above and TT shall not be responsible for, the acts or omissions of the contractors, subcontractors, or any other persons performing any of the construction work or for the failure of the contractor, subcontractors or any other persons performing any work to carry out their work in accordance with their contractual obligation or other applicable documents. If TT's Scope of Services includes providing such observation services on a full-time basis, TT shall endeavor to provide further protection for the Client against defects and deficiencies in the observed work of such contractor, but the furnishing of such full-time services shall not modify the rights, responsibilities or obligations of TT as described elsewhere in this Agreement, including this paragraph.
- (8) The review and/or certification of the amounts due any contractor are not included in TT's Scope of Services unless specifically set forth in the Proposal. If such services are included in TT's Scope of Service, TT's review and/or certification and/or recommendation of any application for payment submitted by any contractor shall only constitute a representation to Client that, based on: (1) TT's observation of the construction work for which it prepared drawings and/or specifications or for which it has agreed in the TT's Scope of Services to review applications for payment by a contractor; (2) observations as set forth in Paragraph 7; and (3) the data comprising the contractor's request/application for payment, to the best of TT's knowledge, information and belief, such construction work has progressed to the point indicated in the application and that the quality of such construction work is in accordance with the applicable drawings, specifications or other documents. The foregoing representations are subject to: (i) an evaluation of such construction work for conformance with the applicable drawings, specifications and other documents upon substantial completion; (ii) results of subsequent tests and inspections; (iii) correction of minor deviations from the applicable drawings, specifications and other documents prior to completion; and (iv) specific qualifications expressed by TT. The issuance of any recommendation or certification for payment shall not be a representation that TT has: (A) made exhaustive or continuous on-site inspections to check the quality or quantity of such construction work; (B) reviewed construction means, methods, techniques, sequences or procedures; (C) reviewed copies of requisitions received from contractors or subcontractors and material suppliers and other data requested to substantiate the contractor's or subcontractor's right to payment; or (D) ascertained how or for what purpose the contractor or subcontractor has used money previously paid on account of the amounts due under any contract.
- (9) Payment to TT for Services rendered and reimbursable expenses incurred shall be due not more than thirty days after the date of the invoice submitted by TT, unless other terms are set forth in the Proposal. In the event that the Client disputes any items billed in an invoice, the Client shall notify TT within ten (10) days specifying the complaint and, in the meantime, all amounts to which there is not a reasonable and good faith dispute to payment shall be paid promptly. Any dispute not raised within such ten (10) day period is waived. The Client's failure to make timely payment due under this Agreement in accordance with the terms of this Agreement shall constitute a material breach of this Agreement and TT shall be entitled, upon seven (7) days written notice to client to terminate this Agreement or, at its option, suspend its performance until all sums then due under this Agreement have been paid. Furthermore, in the event that Client's obligation to make payment to TT is contingent on Client's receipt of payment from any individual or entity, TT shall, notwithstanding such non-payment, be entitled to suspend its performance if TT does not receive payment within thirty days of submission of its invoice to Client. Any past due payments shall accrue interest at the rate of one percent (1%) per month or part thereof, unless prohibited by law in which case interest at the maximum rate allowed by law (if any) shall accrue. TT shall be entitled to recover any and all costs incurred, including attorneys' fees, ("Collection Costs") in connection with its efforts to collect past due sums. The minimum amount of such Collection Costs is agreed to be the lesser of (1) ten percent (10%) of the past due amount or (2) the maximum amount allowed by law.
- (10) If TT is called upon by Client, or subpoenaed by any other person, to testify or produce records in an action at law, equity, arbitration, or in a pre-trial hearing or conference, as to any work performed by anyone in connection with the Project, TT shall be paid by the Client for all time spent while testifying and preparing therefor and producing such records in accordance with the rates set forth in the attached agreement.
- (11) If the project is suspended or abandoned in whole or in part for more than three months, TT shall, at its option, be permitted to terminate this Agreement upon seven (7) days written notice to Client. TT shall be compensated for all services performed and expenses incurred prior to receipt of written notice from Client of such suspension or abandonment in an amount as determined in accordance with the provisions set forth in this Agreement, together with all reasonable termination costs and expenses.

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- (12) The parties agree that if Client makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy, is adjudged a bankrupt or insolvent, files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, files any answer admitting or not contesting the material allegations of a petition filed against Client in any such proceeding, or seeks, consents to, or acquiesces in, the appointment of any trustee, receiver, custodian or liquidator of Client or of all or any substantial part of the properties of Client, or if Client, its directors, partners, members, or shareholders, takes action to dissolve or liquidate Client, the Client shall be in default of this Agreement and TT may terminate for cause or, at TT's option, suspend performance of its obligations under this Agreement.
- (13) To the fullest extent permitted by law, the Client shall hold harmless, defend and indemnify TT and its consultants, and each of their owners, directors, officers and employees and any of their heirs, successors and assigns (collectively "TT Parties"), from and against any and all claims, suits, demands, damages, losses, judgments, payments, awards, costs and expenses (including attorneys' fees and other costs of investigation and defense) (collectively "Claims") arising, in whole or in part, out of: i) the negligence of Client or any of its partners or employees in connection with the Project; ii) any contractor(s)' negligence or breach of contract in connection with the Project or performing any work and/or supplying any materials; or iii) the negligence of any other party relative to the Project, except that, TT shall not be indemnified with respect to damages, losses, judgments and/or expenses to the extent they are caused solely by the negligence of, or breach of the Standard of Care by, TT or its consultants or any of their owners, directors, officers or employees. In addition, the Client shall hold harmless, defend and indemnify TT Parties, from and against any and all Claims arising, in whole or in part, out of: i) the use of the "fast-track" delivery method for the Project; and/or ii) the discovery, presence, handling, removal or disposal of, or exposure of persons to, any hazardous materials in any form at the Project site, including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB), bacteria, mold, fungi, lead based paints or other similar materials or other toxic substances, infectious materials, or contaminants.
- (14) The Client shall cause any contractor responsible for the construction of work (or related activities) designed, specified or reviewed by TT or responsible for any other activities relating to TT's services, to hold harmless, indemnify and defend TT Parties, to the fullest extent permitted by law, from and against any and all damages, liabilities, claims, suits, costs and expenses (including reasonable attorney's fees and other costs of investigation and defense) arising in connection with the negligence, breach of contract or strict liability of any contractor or any of their subcontractors or any of their vendors. Client shall also name, and cause such contractor(s) to name, TT Parties as additional insureds on its and each such contractor's Commercial General Liability insurance policy and Umbrella/Excess liability insurance policy (with policy limits at the greater of the limits required for the project or Five Million Dollars per occurrence and in the per project aggregate) and to maintain such coverage until the completion of its contract and to provide TT with a Certificate of Insurance so naming TT as an additional insured on an annual basis for so long as Client and/or contractor maintains or is obligated to maintain such coverage.
- (15) Notwithstanding anything to the contrary provided for in this Agreement, to the extent permitted by law, it is specifically understood and agreed that there shall be no personal liability on the part of the owners, directors, officers, members, shareholders or employees of TT or any of its affiliates or its successors and assigns with respect to the Services or any of the terms, covenants, obligations and conditions of this Agreement.
- (16) Notwithstanding anything to the contrary contained in this Agreement or provided for under any applicable law, neither TT nor Client shall be liable to the other party, either in contract or in tort, for any consequential, incidental, indirect, special or punitive damages, including without limitation any delays damages, loss of future revenue, income or profits or any diminution of value, financing costs or costs of lost opportunities relating to this Agreement, the Services or the Project, whether or not the possibility of such damages has been disclosed to the other party in advance or could have been reasonably foreseen by such other party.
- (17) It is expressly understood and agreed that, to the fullest extent permitted by law and notwithstanding any other provision of this Agreement, the aggregate total of TT's liability (and the liability of its owners, directors, officers and employees, if any such liability otherwise exists) arising from any and all claims, suits, demands, damages, losses, judgments, payments, awards, and expenses relating to the Project, Services and/or this Agreement shall be limited to and in no event exceed three times the fee actually received by TT for Services rendered on the project.
- (18) The foregoing conditions are incorporated into any agreement under which services are to be performed by TT for the Client in connection with the Project. If any of the Standard Conditions or any portions thereof are adjudged null and void, it is agreed that the remaining Standard Conditions shall remain intact and be given full force and effect. These Standard Conditions shall not be construed to indemnify TT for its own negligence, if not permitted by law, or to provide for any indemnification which would, as a result thereof, make the provisions of these Standard Conditions void, or to eliminate or reduce any other indemnification or right which TT has by law.

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Project-Specific Conditions

The following conditions are incorporated into any Proposal to which they are attached.

Project-Specific Condition 1 – Opinions of Construction Cost. The preparation and/or evaluation of any project budget and/or any estimates of construction cost are not included in TT's Scope of Services unless specifically set forth in the Proposal. If such services are to be provided, they represent TT's judgment, exercised in accordance with the Standard of Care, as a design professional familiar with the construction industry. It is recognized, however, that TT does not have control over the cost of labor, materials, or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market fluctuations or negotiating conditions. Accordingly, TT cannot and does not warrant or represent that bids or negotiated prices will not vary from the project budget proposed, established or approved by the Client or Owner, if any, or from any statement of probable construction cost or other cost estimate or evaluation prepared by TT.

Project-Specific Condition 2 – Fast-Track Schedule Disclaimer. If the Project is designed, bid and constructed according to a "fast track" schedule, the following provision shall apply. The parties acknowledge that the use of "fast-track" project delivery methods in which the sequencing of design and construction activities enables some portions of the Project to begin before the design is completed on other portions of the Project can adversely impact the overall coordination and completion of each subsequent portion of the Project at the time of its design and construction, can require subsequent revision to the drawings, specifications and other construction related documents depicting such subsequent portions to achieve their overall coordination and completion and can require corresponding change orders or construction change directives (or their equivalent) that may affect the cost of the construction of the Project. None of the foregoing acknowledgments affect TT's responsibility to meet the Standard of Care; however, such acknowledgments do indicate the parties' agreement that additional costs arising from such subsequent revisions or corresponding change orders or construction change directives (or their equivalent) are a possible consequence of this project delivery method and do not in and of themselves constitute a breach of the Standard of Care. In consideration of the benefits to the Client and the Owner of employing the "fast track" process, the Client hereby agrees to waive all Claims against TT Parties for design changes and for modifications made by contractor to portions of the construction work already constructed due to the Client's decision to employ the "fast track" process and related coordination issues. The Client hereby agrees to compensate TT for all Additional Services required to provide any services performed to modify portions of the construction work already constructed, to modify, correct or adjust the drawings, specifications and other documents prepared by it and to coordinate such documents in order to meet the Client's program requirements because of the Client's decision to construct the Project in a "fast track" manner.

Project-Specific Condition 3 – Waivers of Liability and Indemnification Agreements Regarding Access to Premises and Use of Ladders, Scaffolds, Equipment. If in connection with the Services, TT is required to access buildings, property, facilities or equipment, such as scaffolding, lifts, platforms or ladders, owned and/or controlled by other individuals or entities including the Client or a contractor (collectively "Access"), Client shall, at its expense, arrange for safe and reasonable access for TT and its consultants to any site where Access is required to perform the Services. The parties recognize that TT did not create and is not responsible for the existence of any unsafe or hazardous conditions in such buildings or facilities or on such property. The parties further recognize that TT is not responsible for, and does not have control over, the erection, operation or maintenance of equipment such as scaffolding, lifts, platforms or ladders. Therefore, neither TT or its consultants, nor any of their employees, shall be required to execute any document whereby they: i) waive or release any claims or rights with respect to personal injury or damage to property related to Access; or ii) indemnify, defend or save harmless any individual or entity with respect to any losses which may be sustained in connection with Access in order to obtain Access. TT agrees that in connection with Access, TT and its employees will exercise due care and will not behave in a reckless manner.

Project-Specific Condition 4 – Construction Support Services. The parties understand and agree that TT may, with the Client's prior approval (which approval shall not be unreasonably withheld or delayed) be engaged by other parties, including the contractors involved with the Project, to provide Construction Support Services (CSS). In the event that TT is engaged to provide CSS, the following provisions apply: CSS shall not constitute Services under this Agreement and, except as provided below, the other provisions of this Agreement shall not apply to CSS. By providing CSS, TT does not alter its rights or obligations under this Agreement. In the event the Client brings any claim or cause of action against TT Parties related to the CSS, the limitation of liability set forth in Paragraphs 15 and 17, and the waiver of consequential damages set forth in Paragraph 16, shall apply to such actions or causes of action. Client has no contractual rights or causes of action against TT Parties arising out of CSS.

Project-Specific Condition 5 – Standard Requirements for Confidentiality Agreements. Notwithstanding anything to the contrary in this Agreement or any other agreement between the parties, any Confidentiality Agreement shall at a minimum be subject to the following exclusions and provisions. The provisions of any confidentiality obligation related to the Project shall not apply to any documents, data or information which is required by operation of law to be disclosed by TT or which: i) was known to TT without restriction prior to disclosure by, or on behalf of, Client; or ii) was independently developed by TT; or iii) is now or hereafter comes into the public domain through no fault of TT; or iv) is disclosed to TT without restriction on disclosure by a third party who has the lawful right to make such disclosure to TT. Notwithstanding any obligation on the part of TT to return or destroy any confidential documents, data or information, TT will be permitted to retain and/or use a copy of such documents, data or information to document its compliance with the requirements of any confidentiality obligation and any agreements related to the Project and/or for defending or maintaining any litigation (including administrative proceedings) relating to such agreements and as otherwise required by law; provided that such retained materials shall otherwise continue to be safeguarded as confidential in the manner required by the confidentiality agreement.