

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

§ 5.5 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,

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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 Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 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:

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

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

### § 8.3 ARBITRATION

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

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

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

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

### § 8.3.4 CONSOLIDATION OR JOINDER

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

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

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

## 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.

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§ 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:

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

Creech & Associates fee shall be based upon 8.5% of the estimated construction cost at the completion of the Design Development phase. At that time, the percentage fee shall be converted to a lump sum fee equal to that amount. Prior to the completion of that phase, the fee shall be based upon 8.5% of the preliminary budget of \$6.0 million. No Adjustments shall be made to previous billing if the estimate exceeds or falls below \$6.0 million.

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

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

Hourly per the attached rates.

§ 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:

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

Hourly per the attached 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 Fifteen percent ( 15 %), 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 Phase	Forty	percent (	40	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

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

Employee or Category	Rate
Managing Principal	\$225
Associate/ Team Leader	\$195
Project Architect	\$150
CAD/Technical	\$125
Administrative	\$100

**§ 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 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 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;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 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 Ten percent ( 10 % ) 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:

N/A

**§ 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.

(Insert rate of monthly or annual interest agreed upon.)

8 % per annum

§ 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.

11.11 The total amount approved by the Town under this contract is \$600,000.00. If costs are to exceed \$600,000.00, the Architect shall receive written notice from the Town, and formal approval from the Town Council before continuing with any Architectural Services. The Architect shall provide at a minimum of a 14-day notice when the \$600,000.00 threshold will be met. The Town will not compensate for any costs over \$600,000.00 without prior approval.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

12.1 Public workshops held for the purpose of gaining input regarding appearance and relationship to the site and overall development shall be billed hourly as an additional service.

12.2 The Schematic Design Phase shall consist of the development of two to three concepts which shall be shared with the Building Committee and in the workshops. This phase shall not extend more than sixty days and shall not involve more than four meetings with Council and/or Committee. If Council and/or Committee desire to explore additional concepts, the architect shall do so on an hourly basis.

12.4 The architect shall review the existing Space Needs Study with the Town to verify its accuracy. It is anticipated that this can be done in a one to two day period of time. Any time beyond two days or 16 hours) shall be billed as an additional service.

12.6 During the Bidding and Negotiation Phase, a construction cost and contingency shall be established. The Town Manager shall have the ability to approve changes to the contract cost as long as the contingency is not exceeded so as to keep the project moving forward on schedule.

12.8 The following site design services are outside the town hall and town square scope and shall be billed as an additional service:

- Entrance road and streetscape
- Entrance plaza and clock tower
- Pond amenities
- Hardscape or landscape features
- Utility studies (water, sewer, electrical, telecom, etc.)
- Stormwater or detention design for entire site
- Traffic studies
- Environmental or geotechnical services
- Surveying

## 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

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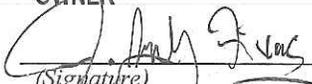
(1329816120)

- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:  
*(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)*

The Town of Indian Trail's Request for Qualifications (RFQ) Design Services for Construction of a New Indian Trail Town Hall and Town Square Area dated June 18, 2014.

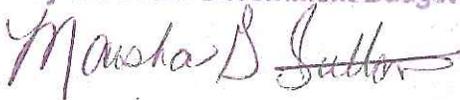
To the extent this Agreement conflicts with the Town of Indian Trail's Request for Qualifications (RFQ) Design Services for Construction of a New Indian Trail Town Hall and Town Square Area dated June 18, 2014, then the stricter standard shall apply.

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

OWNER  
  
 \_\_\_\_\_  
*(Signature)*  
 Joseph A. Fivas, Town Manager  
 \_\_\_\_\_  
*(Printed name and title)*

ARCHITECT  
  
 \_\_\_\_\_  
*(Signature)*  
 David A. Creech, AIA, Managing Principal  
 \_\_\_\_\_  
*(Printed name and title)*

*This instrument has been presaudited in the manner required by the Local Government Budget and Fiscal Control Act.*



2/2/15

## **Additions and Deletions Report for AIA® Document B101™ – 2007**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:52:14 on 01/26/2015.

PAGE 1

AGREEMENT made as of the Seventh day of January in the year Two Thousand Fifteen

...

Town of Indian Trail  
130 Blythe Drive  
Indian Trail, NC 28079  
Telephone Number: 704-821-5401  
Fax Number: 704-821-9045

...

Creech & Associates, PLLC  
127 W. Worthington Ave.  
Suite 270  
Charlotte, NC 28203  
Telephone Number: 704.376.6000  
Fax Number: 704.376.5550

...

Indian Trail Town Hall and Town Square  
Indian Trail, NC  
A new Town Hall and Town Square for the Town of Indian Trail approximately 20,000-25,000 sf.

PAGE 2

Town of Indian Trail Request for Qualifications (RFQ) Design Services for Construction of a New Indian Trail Town Hall and Town Square Area dated June 18, 2014

...

To be determined

...

To be determined

PAGE 3

Bodily injury and property damage liability as shall protect Architect and any subcontractor performing work under this Agreement, from claims of bodily injury or property damage which arise from

operation of this Agreement, whether such operations are performed by Architect, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence and \$1,000,000 property damage each occurrence and aggregate of \$1,000,000 bodily injury and property damage.

...

Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.

...

Architect shall meet the statutory requirements of the State of North Carolina.

...

The Architect shall carry at least \$1,000,000.00 in professional liability insurance. The Architect's professional liability insurance coverage shall, if written on a claims-made basis, have a tail of no less than the relevant statute of limitation duration, or the Architect shall maintain its current \$1,000,000.00 policy of professional liability insurance for a period of no less than the relevant statute of limitation duration with an aggregate of \$1,000,000. Such insurance policy shall be available for inspection by the Owner upon request.

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§ 4.1.1	Programming (B202™-2009)	Additional	
§ 4.1.2	Multiple preliminary designs	Basic Service (3)	
§ 4.1.3	Measured drawings	Additional	
§ 4.1.4	Existing facilities surveys	Additional	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	Basic Service	
§ 4.1.6	Building Information Modeling (E202™-2008)	Basic Service	
§ 4.1.7	Civil engineering	Basic Service	
§ 4.1.8	Landscape design	Basic Service	
§ 4.1.9	Architectural Interior Design (B252™-2007)	Basic Service	
§ 4.1.10	Value Analysis (B204™-2007)	Additional	
§ 4.1.11	Detailed cost estimating	Additional	
§ 4.1.12	On-site Project Representation (B207™-2008)	Additional	
§ 4.1.13	Conformed construction documents	Additional	
§ 4.1.14	As-Designed Record drawings	Additional	
§ 4.1.15	As-Constructed Record drawings	Additional	
§ 4.1.16	Post occupancy evaluation	Additional	
§ 4.1.17	Facility Support Services (B210™-2007)	Additional	
§ 4.1.18	Tenant-related services	Additional	
§ 4.1.19	Coordination of Owner's consultants	Basic Service	
§ 4.1.20	Telecommunications/data design	Additional	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Additional	
§ 4.1.22	Commissioning (B211™-2007)	Additional	
§ 4.1.23	Extensive environmentally responsible design	Additional	
§ 4.1.24	LEED® Certification (B214™-2012)	Additional	
§ 4.1.25	Fast-track design services	Additional	
§ 4.1.26	Historic Preservation (B205™-2007)	Additional	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Additional	

...

Refer to Article 12 for more information regarding additional services.

PAGE 10

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Twenty-four ( 24 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) 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 Twenty-four ( 24 ) 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.

PAGE 14

Litigation in a court of competent jurisdiction

PAGE 16

Creech & Associates fee shall be based upon 8.5% of the estimated construction cost at the completion of the Design Development phase. At that time, the percentage fee shall be converted to a lump sum fee equal to that amount. Prior to the completion of that phase, the fee shall be based upon 8.5% of the preliminary budget of \$6.0 million. No Adjustments shall be made to previous billing if the estimate exceeds or falls below \$6.0 million.

...

Hourly per the attached rates.

...

Hourly per the attached 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 Fifteen percent ( 15% ), or as otherwise stated below:

...

Schematic Design Phase	<u>Twenty</u>	percent (	<u>20</u>	)	%)
Design Development Phase	<u>Fifteen</u>	percent (	<u>15</u>	)	%)
Construction Documents Phase	<u>Forty</u>	percent (	<u>40</u>	)	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	)	%)
Construction Phase	<u>Twenty</u>	percent (	<u>20</u>	)	%)

PAGE 17

<u>Managing Principal</u>	<u>\$225</u>
<u>Associate/ Team Leader</u>	<u>\$195</u>
<u>Project Architect</u>	<u>\$150</u>
<u>CAD/Technical</u>	<u>\$125</u>
<u>Administrative</u>	<u>\$100</u>

...

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User Notes:

(1329816120)

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

...

N/A

...

§ 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.

PAGE 18

8 % per annum

...

11.11 The total amount approved by the Town under this contract is \$600,000.00. If costs are to exceed \$600,000.00, the Architect shall receive written notice from the Town, and formal approval from the Town Council before continuing with any Architectural Services. The Architect shall provide at a minimum of a 14-day notice when the \$600,000.00 threshold will be met. The Town will not compensate for any costs over \$600,000.00 without prior approval.

...

12.1 Public workshops held for the purpose of gaining input regarding appearance and relationship to the site and overall development shall be billed hourly as an additional service.

12.2 The Schematic Design Phase shall consist of the development of two to three concepts which shall be shared with the Building Committee and in the workshops. This phase shall not extend more than sixty days and shall not involve more than four meetings with Council and/or Committee. If Council and/or Committee desire to explore additional concepts, the architect shall do so on an hourly basis.

12.4 The architect shall review the existing Space Needs Study with the Town to verify its accuracy. It is anticipated that this can be done in a one to two day period of time. Any time beyond two days or 16 hours) shall be billed as an additional service.

12.6 During the Bidding and Negotiation Phase, a construction cost and contingency shall be established. The Town Manager shall have the ability to approve changes to the contract cost as long as the contingency is not exceeded so as to keep the project moving forward on schedule.

12.8 The following site design services are outside the town hall and town square scope and shall be billed as an additional service:

Entrance road and streetscape

Entrance plaza and clock tower

Pond amenities

Hardscape or landscape features

Utility studies (water, sewer, electrical, telecom, etc.)  
Stormwater or detention design for entire site  
Traffic studies  
Environmental or geotechnical services  
Surveying

PAGE 19

The Town of Indian Trail's Request for Qualifications (RFQ) Design Services for Construction of a New Indian Trail Town Hall and Town Square Area dated June 18, 2014.

To the extent this Agreement conflicts with the Town of Indian Trail's Request for Qualifications (RFQ) Design Services for Construction of a New Indian Trail Town Hall and Town Square Area dated June 18, 2014, then the stricter standard shall apply.

...

Joseph A. Fivas, Town Manager

David A. Creech, AIA, Managing Principal

## Certification of Document's Authenticity

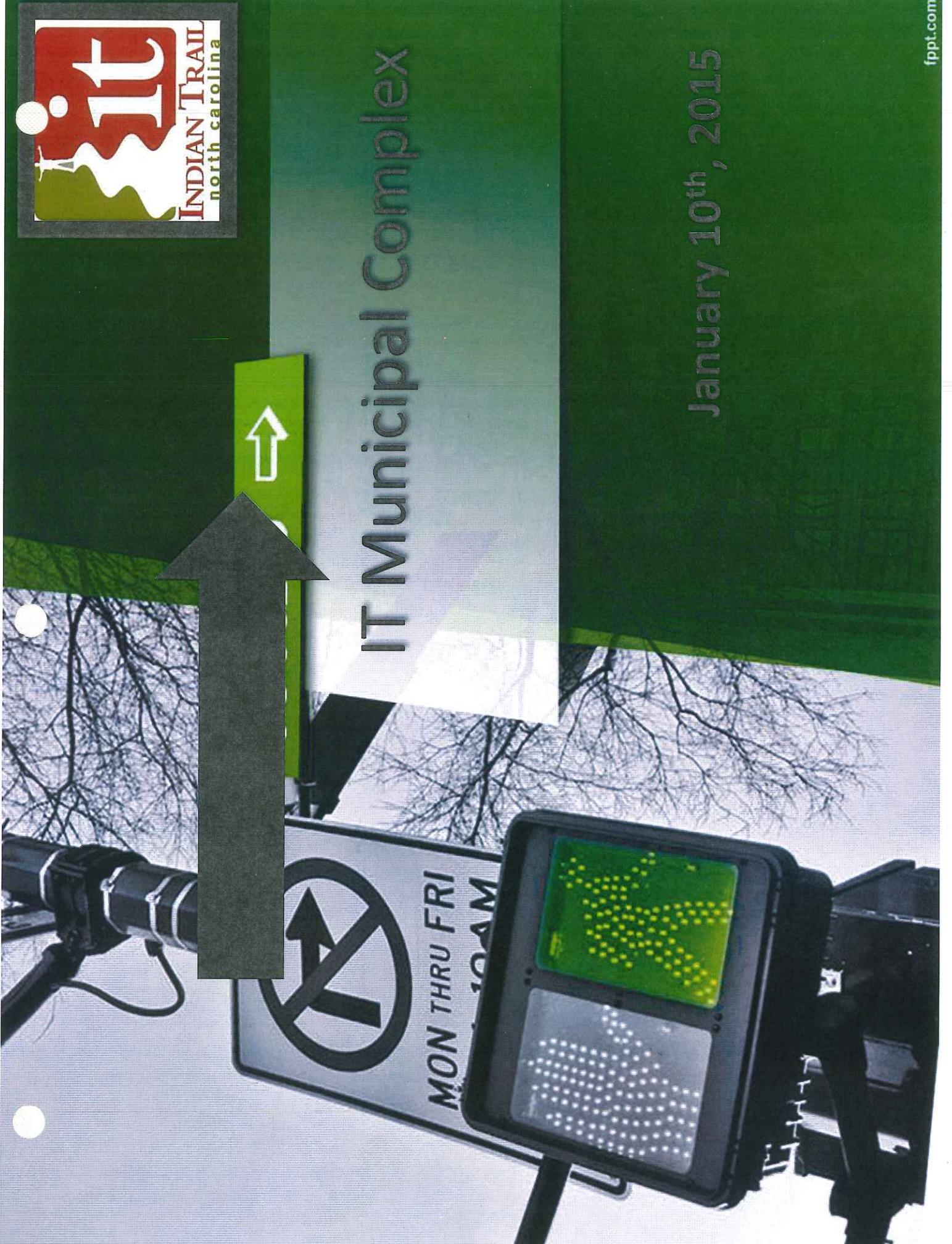
AIA® Document D401™ – 2003

I, David A. Creech, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:52:14 on 01/26/2015 under Order No. 8534897960\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
\_\_\_\_\_  
(Signed)

**MANAGING PRINCIPAL**  
\_\_\_\_\_  
(Title)

**2/10/15**  
\_\_\_\_\_  
(Dated)



# IT Municipal Complex

January 10<sup>th</sup>, 2015



# INTRODUCTION

- History
- Cost & Size
- Financing
- Development Process & Timeline
- Next Steps

## History- Town Hall

- 2002- Discussion started on location
- 2003- Downtown Vision Plan
- 2004- Needs Analysis Completed
- 2004- Cost Estimate \$160 sq ft
- 2004- Cost Estimate 30,000 sq ft (\$4.32 million)
- 2005- Town Center Project Discussion
- 2007- Purchase Blythe Building- 8000 sq ft
- 2008- Last Discussion, reviewed possible locations
- 2014- ????



# Why Would We Need A Town Hall

Historic reasons?

Community Needs?

Cost?

Interest Rates?

## Cost & Size

- 25,000 sq ft \* \$250/ sq ft = \$6.25 million
- 20,000 sq ft \* \$250/ sq ft = \$5.0 million
- Design Fees= 8.5% \$500,000 +/-
- Tech/Furniture= 10% \$500,000 +/-
- Contingency= 15% \$1,000,000 +/-



# Financing Options

- Cash
- Loan
- Combination

# Penny Allocation

Total Pennies:

18.0 cents

Operating Pennies:

11.5 cents

Capital Improvement Pennies:

4.0 cents

Transportation Fund Pennies:

2.0 cents

Parks & Recreation Capital Fund Pennies: 0.5 cents

## Financing Options

- Cash
- Town Hall Fund- \$1.45 million
- Capital Reserve Fund- \$2.1 million
- Capital Reserve Fund: 4 cents

2014/15 \$1.33 million Total

2014/15 \$615,000 Remaining