

This is a Master Services **Agreement** effective as of _____, 20__ between the City of Dalton, Georgia [**“Client”**], a corporation chartered under the laws of the State of Georgia, having its principal place of business at 300 W Waugh St, Dalton, GA 30720, and Arcadis U.S., Inc., [**“Arcadis”**] a corporation chartered under the laws of the State of Delaware, having its principal place of business at 630 Plaza Drive, Highlands Ranch, Colorado 80129 and an office at 2839 Paces Ferry Rd. SE Suite 900, Atlanta, GA 30339.

Client engages Arcadis to provide professional engineering services for various tasks [**“Services”**] required by Client for its projects [**“Project”**] under this Agreement.

The Project will have the following characteristics:

The term “Services” as used in this Agreement shall be interpreted to include the entire scope of services provided by Arcadis as described in individual Task Orders. On an as-needed basis, Client will request the Services of Arcadis to be performed as part of the Project. In response to Client's request, Arcadis will prepare a Task Order which will become part of this Agreement upon execution by both parties. The specific location(s) of the Project shall be identified in Task Orders issued by Client to Arcadis [**“Site”**], in State(s) where Client has facilities [**“State”**].

In consideration of the mutual promises herein, Client and Arcadis agree that the terms and conditions of this Agreement are the following:

1 BASIC SERVICES

- 1.1 Scope.** Arcadis shall provide the Basic Services generally described in Schedule A. Arcadis intends to perform the scope of services/work contemplated herein and in the contract documents through a combination of its own employees and employees of its affiliates, and the use of such affiliate labor shall not be deemed a subcontract for purposes of this Agreement. Arcadis shall provide specific basic Services as authorized by written Task Orders in accordance with this Agreement. A sample Professional Services Task Order form is provided in Schedule B. Arcadis' obligations under this Agreement are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder.
- 1.2 Standard of Care.** Arcadis shall perform the professional engineering services under this Agreement at the level customary for competent and prudent engineers performing such services at the time and place where the Services are provided [**Standard of Care**]. These services will be provided by licensed engineers and other professionals and individuals skilled in other technical disciplines, as appropriate.
- 1.3 Instruments of Service.** Arcadis is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all instruments of its services including designs, drawings, specifications, reports [**Service Instruments**] and other services provided under this Agreement.
- 1.4 Applicable Codes.** The Service Instruments will conform to the generally accepted codes and regulations applicable to the Project at the time of performance.
- 1.5 Indemnification.** Arcadis agrees to indemnify and hold Client harmless from all losses and damages resulting from Arcadis' failure to meet the Standard of Care.
- 1.6 Contract Documents.** The Service Instruments shall incorporate Arcadis' standard construction documents [**Contract Documents**]. In any event, Arcadis shall be an additional insured on all liability and property damage insurance policies which the construction contractor(s) for the Project [**Contractor**] shall be required to provide. All contracts between Client and Contractor for the Project shall require the Contractor to indemnify and hold Client and Arcadis harmless from any and all legal actions and liabilities arising out of the construction of the Project including, but not limited to, injury to or death of any person or injury or destruction of tangible property, not caused by the sole negligence of the party to be indemnified.
- 1.7 Subcontractors.** Any subcontractors and outside associates or consultants to be engaged by Arcadis under this Agreement are limited to those identified in executed Task Orders.

1.8 Construction Phase Services. Arcadis shall provide construction phase Services in accordance with a specific Task Order and act as Client's representative at the Site in accordance with the General Conditions of the Contract Documents as modified by Schedule D.

1.8.1 In the event the construction phase services are provided by another party, Arcadis shall not be responsible for and Client shall indemnify and hold Arcadis and Arcadis' consultants harmless from all claims, damages, losses and expenses, including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution, acceptance, shop drawing or sample approval or modifications of such documentation issued or carried out by Client or others or construction observation carried out by others. Nothing contained in this paragraph shall be construed to release Arcadis or Arcadis' consultants from liability for failure to perform in accordance with professional standards any duty or responsibility which Arcadis has undertaken or assumed under this Agreement.

1.9 Title to Hazardous Materials. Client agrees that title to all types of hazardous or toxic waste, material, or substance originating at or removed from Client's premises will remain in and with Client and that Client will not challenge said title by any means, including actions in state or federal court or any other forum.

2 ADDITIONAL SERVICES

2.1 Scope. Arcadis will provide the **Additional Services** as generally described in Schedule A when authorized in writing in a Task Order or amendment to a Task Order by Client.

2.2 Excluded Services. Client acknowledges the Services provided by Arcadis hereunder do not and shall not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services; (4) nor any form of professional accounting or insurance advisory services.

3 CLIENT'S RESPONSIBILITIES

Unless stated otherwise in Section 8 or in individual Task Orders, Client shall do the following in a timely manner:

3.1 Client's Representative. Designate a representative having authority to give instructions, receive information, define Client's policies, and make decisions with respect to the Project.

3.2 Project Criteria. Provide all criteria and information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, and any budgetary limitations. Furnish copies of all design and construction standards which Client will require to be included in the Service Instruments.

3.3 Data. Provide all available information, including previous reports and any other data in the possession of Client relevant to design or construction of the Project. These data may include (1) data prepared by others including borings, subsurface explorations, hydrographic surveys, and laboratory tests and inspections of samples, materials and equipment, (2) appropriate professional interpretations of such data, (3) environmental assessments and impact statements, (4) property, boundary, easement, right-of-way, topographic and utility surveys, (5) property descriptions, zoning, deed and other land use restrictions, and (6) other necessary special data or consultations. Arcadis may rely on the accuracy and completeness of the supplied data.

3.4 Surveys. Provide engineering surveys to define construction reference points to enable Contractor to lay out Project construction.

3.5 Access. Arrange for Arcadis to enter upon public and private property as necessary.

3.6 Review. Examine the Service Instruments and obtain the advice of attorneys, insurance counselors or other consultants as Client thinks appropriate. Render written decisions concerning the Service Instruments within a reasonable time. Client expressly acknowledges and agrees that the Services provided do not and shall not include: (1) serving as a

“municipal advisor” for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services, nor any form of insurance advisory services.

- 3.7 Permits.** Furnish approvals and permits from governmental authorities or other entities having jurisdiction over the Project and approvals from others as may be necessary for the timely completion of the Project.
- 3.8 Expert Advice.** Provide legal, accounting, insurance or other necessary advisory services for the Project. Client expressly acknowledges and agrees that the Services provided do not and shall not include the practice of law or other legal services, nor any form of professional accounting or insurance advisory services.
- 3.9 Site Representative.** If Client designates a person other than Arcadis to represent Client at the Site, specify the duties, responsibilities and limitations of authority of such other person and the effect on Arcadis' duties and responsibilities in a schedule attached to this Agreement.
- 3.10 Ancillary Costs.** If the Construction Cost includes the cost of the activities described in 3.7 through 3.10, provide an estimate of such costs to Arcadis for Project cost estimating purposes.
- 3.11 Meetings.** Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and Final Payment inspections.
- 3.12 Project Developments.** Give prompt written notice to Arcadis whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Arcadis' services, or any defect or non-conformance in the work of any Contractor.

4 PERIODS OF SERVICE

- 4.1 Time of Performance.** Sections 4 and 5 anticipate the orderly and continuous progress of Task Orders through completion of each Task Order's scope of work. The time of performance is the period given in each Task Order reasonably expected to be required for the design, award of contracts, construction and initial operation of the Project, including any necessary Client or regulatory agency review and approval.
- 4.2 Delays.** If a Task Order specifies periods of time for performance of Services or specific dates by which services are to be completed and if such periods or dates are exceeded through no fault of Arcadis, the compensation specified under Section 5 shall be subject to equitable adjustment.
- 4.3 Start of Performance.** Arcadis will start the Services described in each Task Order upon authorization by Client. If Client gives authorization before signing a Task Order, Arcadis shall be paid as if the services had been performed after both parties signed the Task Order.
- 4.4 Completion of Performance.** For the purposes of final payment under Section 5, completion of Arcadis' services will occur as specified in a Task Order.
- 4.5 Force Majeure.** If a force, event, or circumstance beyond Arcadis' control interrupts or delays Arcadis' performance, the time of performance of the Basic or Additional Services shall be equitably adjusted.

5 COMPENSATION

- 5.1 Basic Services.** Client shall pay Arcadis the Amount stated in invoices issued for each Task Order in accordance with Schedule C, Method of Payment, the Task Order’s pricing schedule for actual work performed and reimbursable expenses incurred on each Task Order during the period covered by the invoice. Arcadis shall be entitled to invoice for Affiliate labor in the same manner as it invoices its own employees. Invoices are due and payable within 30 days after receipt by Client. Client’s payments shall be in the form and shall be sent to the Arcadis address as described in the invoices.

5.2 Additional Services. Client shall pay Arcadis for Additional Services authorized under a Task Order or Amendment to a Task Order and actually performed in accordance with monthly invoices issued in accordance with the Task Order’s pricing schedule.

5.3 Litigation Services. If Client requires Arcadis' services either as a witness in, or support of, litigation or other dispute resolution procedures between Client and a third party, Arcadis will provide such services in accordance with a Pricing Schedule for litigation services. In addition Client will promptly reimburse Arcadis for its reasonable fees and expenses (including without limitation attorney’s fees and other legal costs incurred by Arcadis in response to a subpoena, or request for the production of documents, for any appearance at a deposition, trial or other legal proceeding) – provided Arcadis is not a named party to such legal proceeding.

5.4 Delay or Termination.

5.4.1 If Client delays the performance of, or payment for, Services under this Agreement for more than 3 months for a reason(s) other than Arcadis' fault, Arcadis may suspend performance until it receives payment in full for Services rendered and expenses incurred to the date of suspension.

5.4.2 If Client terminates this Agreement prior to completion of the Services described in executed Task Orders, Arcadis shall be paid in full for Services rendered and expenses incurred to the date of termination, including reasonable demobilization and termination expenses.

5.5 Disputed Amounts. Notwithstanding the provisions of Section 7, if Client disputes an item(s) or amount(s) contained in an invoice, Client agrees to pay the balance of the undisputed invoiced amounts to Arcadis in accordance with the Task Order.

5.6 Collection. Any reasonable attorney's fees or other reasonable costs incurred by Arcadis in collection of delinquent amounts shall be paid by Client.

6 OPINIONS OF CONSTRUCTION COST

6.1 Construction Cost. The cost of construction [**Construction Cost**] means the total cost to Client of those portions of the Project designed and specified in the Service Instruments. Construction Cost will not include Arcadis' compensation and expenses, the cost of land, rights of way, or compensation for properties unless specified in the Task Order. Construction Cost will also not include Client's legal, accounting, or insurance counseling services, or interest and financing charges incurred in connection with the Project, or the cost of services to be provided by others under paragraphs 3.7 and 3.8 unless otherwise specified in the Task Order.

6.2 Opinions of Cost. Arcadis has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions. Arcadis' opinion of probable Construction Cost is made on the basis of Arcadis' experience and qualifications and represents Arcadis' judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. Arcadis does not guarantee that proposals, bids or actual Project cost will not vary from Arcadis' opinions of probable Construction Cost.

7 GENERAL CONSIDERATIONS

7.1 Changes. By written notice at any time, Client may change Services required by a Task Order, provided such changes are within the general scope of the Services contemplated by this Agreement. In such event, an equitable adjustment both in the compensation for and time of performance of the Agreement shall be made in writing prior to Arcadis' performing the changed services.

7.2 Confidentiality. Arcadis will hold secret and confidential all information designated by Client as confidential [**Confidential Information**]. Arcadis will not reveal Confidential Information to a third party unless:

- 7.2.1 Client consents in writing;
- 7.2.2 the information is or becomes part of the public domain;

- 7.2.3 Arcadis lawfully possessed the information before receipt from Client;
 - 7.2.4 applicable law, regulation, court order or an agency of competent jurisdiction requires its disclosure; or
 - 7.2.5 failure to disclose the information would pose an imminent and substantial threat to human health or the environment.
- 7.3 Professional Service.** The Service Instruments furnished under this Agreement are the tangible results of Arcadis' professional services for the Project and Arcadis shall have the right to use or reuse and retain the copyright of the Service Instruments for its purposes and at its sole risk, without liability to Client.
- 7.3.1 **Reuse.** Arcadis does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Project or on any other project. Any reuse without written verification or adaptation by Arcadis for the specific purpose intended is at Client's sole risk, without liability to Arcadis. Any such verification or adaptation will entitle Arcadis to compensation at rates to be agreed on by Client and Arcadis.
 - 7.3.2 **CADD.** Arcadis may provide information related to the Service Instruments in computer-assisted design and drafting format [**CADD**] to Client. CADD is derived in part from computer software for which Arcadis is licensed. These licenses are not transferable. Any unlicensed reuse of CADD may subject the user to liabilities to the software licensor.
 - 7.3.3 **Electronic Media.** Either party to this Agreement may rely on the data or information set forth on paper (also known as "hard copies") that the party receives from the sending party by mail, hand delivery, or facsimile as items the sending party intended to send. Data or information sent in electronic media format by one party to the other party are furnished only for the convenience of the receiving party and shall not be relied upon by the receiving party. If there is a discrepancy between the data received in electronic media format and the hard copies, the hard copies govern. Any conclusion or information obtained or derived from the data in electronic media format shall be at the user's sole risk. When transferring documents in electronic media format, the sending party makes no representations as to the long term compatibility, usability, or readability of such documents resulting from the use of software, application packages, operating systems or computer hardware differing from those used by the document's creator.
- 7.4 Disputes.** If any dispute arises out of or relates to this Agreement, or the breach thereof, then in the first instance, representatives of both parties shall endeavor in good faith to negotiate a settlement of the dispute. If such dispute cannot be settled through direct discussions by such representatives of the parties, then higher level representatives of both parties shall endeavor in good faith to negotiate a settlement of such dispute. If such dispute cannot be settled through direct discussion by such higher level representatives of the parties, then the parties agree to submit the matter to mediation before having recourse to a judicial forum. No written or oral representation made during the course of any settlement negotiations or mediation shall be deemed a party admission.
- 7.5 Insurance.** Arcadis will maintain **insurance** against the following risks during the term of the Agreement:
- 7.5.1 workers compensation in statutory amounts and employer's liability for Arcadis' employees' Project-related injuries or disease;
 - 7.5.2 general liability and automobile liability each in the amount of \$1,000,000 for personal injury or property damage to third parties which arises from Arcadis's performance under this Agreement; and
 - 7.5.3 professional liability in the amount of \$1,000,000 for legal obligations arising out of Arcadis' failure to meet the Standard of Care.
- 7.6 Interpretation.** This Agreement shall be interpreted in accordance with the laws of the State of New York.
- 7.7 Successors.** This Agreement is binding on the successors and assigns of Client and Arcadis. The Agreement may not be assigned in whole or in part to any third parties without the written consent of both Client and Arcadis.
- 7.8 Independent Contractor.** Arcadis represents that it is an independent contractor and is not an employee of Client.
- 7.9 Notices.** Written notices may be delivered in person or by certified mail, or by facsimile, or by courier. All notices shall be effective upon the date of receipt by the party. Notices shall be delivered or sent to the designated representative of the other party at the address given on the last page of this Agreement. An address may only be changed by written notice.

7.10 Applicable Law. Arcadis and Client shall comply with all applicable federal, state and local laws, regulations or orders issued under such laws prohibiting any form of kickback, bribery or corrupt practices as defined in the Anti-Kickback Act of 1986, the Foreign Corrupt Practices Act and all other applicable federal, state, local laws, regulations or orders issued under such laws regarding kickbacks, bribery or corrupt practices. If applicable to this Agreement, Arcadis will comply with the requirements of:

7.10.1 the Equal Employment Opportunity clause in Section 202 of Executive Order 11246, as amended,

7.10.2 Utilization of Small and Disadvantaged Business Concerns (Public Law 95-507), and

7.10.3 all other federal, state and local laws and regulations or orders issued under such laws.

7.11 Entire Agreement. This Agreement, including any schedules, attachments, Task Orders executed pursuant to this Agreement, and referenced documents, is the entire agreement between Client and the Arcadis. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to this Agreement shall be in writing and signed by Client and Arcadis.

7.12 Waivers and Severability. A waiver or breach of any term, condition, or covenant by a party shall not constitute a waiver or breach of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

7.13 Effective Date. Unless stated otherwise in Schedule A, this Agreement is effective on the date shown on the cover page.

8 SPECIAL PROVISIONS, EXHIBITS and SCHEDULES

8.1 Special Provisions. This Agreement is subject to the following special provisions:

8.2 Schedules. The following **Schedules** are attached to and made a part of this Agreement:

8.2.1 **Schedule A** Scope of Basic and Additional Engineering Services and Related Matters

8.2.2 **Schedule B** Sample Professional Services Task Order form

8.2.3 **Schedule C** Method of Payment

8.2.4 **Schedule D** Construction Phase Services

Execution Authority. This Agreement is a valid and authorized undertaking of Client and Arcadis. The representatives of Client and Arcadis who have signed below have been authorized to do so.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year shown on the cover page.

CLIENT

Arcadis, U.S., INC.

By _____

By _____

Title _____

Title _____

Where applicable to the jurisdiction:

Engineer License or Certificate No. _____

State of _____

Date Signed _____

Date Signed _____

Witness _____

Witness _____

Address for Giving Notices:

Address for Giving Notices:

Arcadis U.S., Inc.
44 South Broadway, 15th Floor
White Plains, New York, 10601
Attn: Legal Department

Schedule A
Scope of Basic and Additional Engineering Services and Related Matters

A.1 The general scope of basic services¹ consists of general engineering and consulting services related to water, sanitary sewerage, stormwater, and transportation infrastructure and associated support services.

A.2 Specific descriptions of scope of Services will be set forth in individual Task Orders.

¹ Construction phase services under this Agreement shall be performed in accordance with Schedule D insofar as applicable and appropriate.

Schedule B

SAMPLE

PROFESSIONAL SERVICES TASK ORDER

SAMPLE

Task Order Number: _____

Task Order Date: _____

Subject to the Master Services Agreement between the City of Dalton, Georgia [Client] and Arcadis, Inc. [Arcadis], dated _____, 20__, Client hereby authorizes Arcadis to perform services as specified in this Task Order and in accordance with the above mentioned Agreement.

1. Project Description: A description of Client's Project for which work is requested is provided in Attachment 1, incorporated into this Task Order.

Client's Project Number: _____

Project Name: _____

Client's Representative: _____

2. Scope of Work: Arcadis shall perform its services as described in Attachment 1, incorporated into this Task Order.

Arcadis's Job Number: _____

Arcadis's Representative: _____

3. Time Schedule: Arcadis shall use reasonable efforts to complete its work by: _____

4. Compensation: Arcadis's Compensation authorized under this Task Order, which shall not be exceeded without prior written authorization of Client, is:

\$ _____ [_____] This Task Order's Method of Payment is incorporated and attached as Attachment 2.

5. Special Conditions: This Task Order is subject to the special provisions as described in Attachment 3, attached and incorporated into this Task Order:

6. Amendment: [_____] This Task Order amends a previously executed Task Order:

Previous Task Order Number: _____ Previous Task Order Date: _____

ISSUED AND AUTHORIZED BY:

Client

ACCEPTED AND AGREED TO BY:

Arcadis, INC.

By: _____ (Sample Only) By: _____ (Sample only)

Title: _____ Title: _____

SAMPLE

SAMPLE

PROFESSIONAL SERVICES TASK ORDER

Task Order Number: _____

Attachment 1

Description of Project & Scope of Work

PROFESSIONAL SERVICES TASK ORDER

Task Order Number: _____

Attachment 2

Task Order Payment Terms

PROFESSIONAL SERVICES TASK ORDER

Task Order Number: _____

Attachment 3

Special Conditions

Schedule C
Method of Payment Schedule

C.1 On individual Task Orders, Client shall pay Arcadis in accordance with the following provisions.

a. **Cost of Services.** For services rendered, Client shall pay the cost of Arcadis's Services in accordance with each Task Order. Specific payment amounts, methods and terms will be set forth in individual Task Orders.

b. **Non-Labor Expenses.** Except for certain in-house services, project expenses incurred with outside vendors will be invoiced at cost plus 10% to cover handling. These services may include, but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; permits; or subcontracted services.

c. The following in-house services not subject to handling costs are Computer usage, Transportation, production, Laboratory, and Specialty Equipment

C.2 Terms of Payment

C.2.1 **Invoices.** Arcadis will submit invoices to Client for each month during which Services were performed. The invoice will include the following information unless stated otherwise in Section 8 of the Agreement:

a. For labor costs: labor classifications, number of hours worked, direct hourly labor rates and applicable indirect cost;

b. For non-labor expenses: description of the item, vendor name, vendor invoice no. (if available), cost to Arcadis, and handling costs (if any);

c. A portion of the Fixed Fee proportional to the ratio of the total costs incurred during the invoice period to the Maximum Cost stated in *Basis of Payment*;

d. Carrying charges at 1.5% per month for delinquent payments outstanding over 30 days; and

e. Applicable sales or value-added taxes.

C.3 **Payment Due Date.** All invoices are due and payable within 30 days of the invoice date.

Schedule D
Special Conditions

D.1 The Special Conditions consists of this page plus the following documents, attached and made part of this Agreement:

- a. Schedule D-1 Construction Phase Services, Pages D-1 to D-2.
- b. Schedule D-2 Duties, Responsibilities and Limitations of Authority of Resident Project Representative, Pages D-3 to D-5.

SCHEDULE D-1 -- CONSTRUCTION PHASE SERVICES

Note: For purposes of this Schedule, the expressions Contract Documents, Shop Drawing, and Change Order shall have the meanings given in the Construction Contract between Client and the Contractor.

1. General Administration of Construction Contract. Arcadis shall consult with and advise Client and act as Client's representative as provided in this Agreement. All of Client's instructions to Contractor will be issued through Arcadis who will have authority to act on behalf of Client to the extent provided in this Agreement.

2. Visits to Site and Observation of Construction. In connection with observations of the work of Contractor while it is in progress:

2.1 Arcadis shall make visits to the site at intervals appropriate to the various stages of construction as Arcadis deems necessary to observe, as an experienced and qualified design professional, the progress and quality of the Contractor's work (Work). In addition, Arcadis shall provide the services of a Resident Project Representative (Resident) at the site to provide more extensive inspection of the Work. Based on information obtained during such visits and on its inspections, Arcadis shall endeavor to determine whether the Work is proceeding in accordance with the intent of the Contract Documents. Arcadis shall keep Client informed of the progress of the Work.

2.2 The Resident will be Arcadis's agent or employee and under Arcadis's supervision. The duties and responsibilities of the Resident are set forth in D-2, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative".

2.3 The purpose of Arcadis's visits to and representation by the Resident at the site will be to provide for Client a greater degree of confidence that the completed Work will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor.

Arcadis shall not, during such visits or as a result of observations or inspections of the Work in progress, supervise, direct or have control over the Work nor shall Arcadis have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing the Work. Arcadis can neither guarantee the performance of the Work by the Contractor nor assume responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3. Defective Work. During its visits, Arcadis may disapprove of or reject the Work while it is in progress if Arcadis believes that the Work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

4. Interpretations and Clarifications. Arcadis shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare Change Orders for execution by Client, if appropriate.

5. Shop Drawings. Arcadis shall review and approve (or take other appropriate action) Shop Drawings, samples and other data which Contractor is required to submit. Such reviews shall be for conformance with the design concept of the Project as a functioning whole and compliance with the information given in the Contract Documents. Any approvals or other actions associated with the reviews shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

6. **Substitutes.** Arcadis shall evaluate and determine the acceptability of substitute or 'equivalent' materials and equipment proposed by Contractor.

7. **Inspections and Tests.** Arcadis shall have authority, as Client's representative, to require special inspection or testing of the work, and shall review all certificates of inspections, testings and approvals required by law or the Contract Documents to determine that both the content of the certificates and the certified inspection or test results comply substantially with such requirements.

8. **Disputes between Client and Contractor.** Arcadis shall act as the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of Client or Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.

9. **Applications for Payment.** Based on Arcadis's on-site observations, on information provided by the Resident, and on review of applications for payment and the accompanying data and schedules, Arcadis shall:

9.1 Recommend in writing payments to Contractor. Such recommendations of payment will constitute a representation to Client that the Work has progressed to the point indicated and that, to the best of Arcadis's knowledge, information and belief, the quality of the Work is generally in accordance with the Contract Documents subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations.

9.2 In the case of unit price Work, include final determinations of quantities and classifications of the Work in the recommendations of payment, subject to any subsequent adjustments allowed by the Contract Documents.

9.3 By recommending any payment Arcadis will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations beyond the responsibilities specifically assigned to Arcadis in this Agreement and the Contract Documents have been made by Arcadis to check the quality or quantity of the Work as it is furnished and performed. Arcadis is not responsible to examine how or for what purposes the Contractor has used the moneys paid on account, or to determine that title to any of the Work, materials or equipment has passed to Client free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

10. **Contractor's Completion Documents.** Arcadis shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests, approvals, and record documents which are to be assembled by Contractor in accordance with the Contract Documents. Such review is limited to determining that their content complies with the requirements of the Contract Documents. Arcadis shall transmit the documents to Client with written comments.

11. **Inspections.** Arcadis shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed Work is acceptable so that Arcadis may recommend, in writing, final payment to Contractor. Arcadis may give written notice to Client and the Contractor that the Work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 9.3.

12. **Limitation of Responsibilities.** Arcadis shall not be responsible for the acts or omissions of the Contractor, or of any subcontractor or supplier, or any of the Contractor's or subcontractor's or supplier's agents or employees or any other persons (except Arcadis's own employees and agents) at the site or otherwise furnishing or performing any of the Work. However, nothing contained in paragraphs 1 thru 11, shall be construed to release Arcadis from liability for failure to properly perform the duties and responsibilities assumed by Arcadis in the Contract Documents.

SCHEDULE D-2 DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

The duties and responsibilities of the Resident Project Representative (Resident) are limited to those of Arcadis in Schedules A and B and are further described as follows:

1. **General.** The Resident is Arcadis's agent at the site, will act as directed by and under the supervision of Arcadis, and will confer with Arcadis regarding Resident's actions. Resident's dealings in matters pertaining to the on-site Work shall in general be with Arcadis and Contractor, but keeping Client advised as appropriate. Resident's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident shall generally communicate with Client with the knowledge of and under the direction of Arcadis.

2. **Duties and Responsibilities.** The Resident shall:

2.1 *Schedules:* Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Arcadis concerning acceptability.

2.2 *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

2.3 *Liaison:*

2.3.1 Serve as Arcadis's liaison with Contractor, working principally through Contractor's superintendent and assist in explaining the intent of the Contract Documents as necessary.

2.3.2 Assist Arcadis in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-site operations.

2.3.2 Assist in obtaining from Client additional details or information, when required for proper execution of the Work.

2.4 *Shop Drawings and Samples:*

2.4.1 Record date of receipt of Shop Drawings and samples.

2.4.2 Receive samples which are furnished at the site by Contractor and notify Arcadis of availability of samples for examination.

2.4.3 Advise Arcadis and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not yet been received and approved by Arcadis.

2.5 *Review of Work, Rejection of Defective Work, Inspections and Tests:*

2.5.1 Conduct on-site inspections of Work in progress to determine whether the Work is proceeding in general compliance with the Contract Documents.

2.5.2 Report to Arcadis whenever Resident believes that any Work is unsatisfactory, faulty or defective, or does not conform to the Contract Documents, has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise Arcadis of Work that Resident believes should be corrected or rejected, should be uncovered for inspection, or requires special testing, inspection or approval.

2.5.3 Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof. Observe, record and report to Arcadis appropriate details relative to the test procedures and startups.

2.5.4 Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Arcadis.

2.6 *Interpretation of Contract Documents:* Report to Arcadis when clarifications and interpretations of the Contract Documents are needed. Transmit to Contractor clarifications and interpretations issued by Arcadis.

2.7 *Modifications.* Consider and evaluate Contractor's suggested changes to Drawings or Specifications and report to Arcadis with Resident's recommendations. Transmit Arcadis's decisions to Contractor.

2.8 *Records:*

2.8.1 Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Construction Contract, Arcadis's clarifications and interpretations of the Contract Documents, progress reports, and

2.8.2 Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions concerning Change Orders or changed conditions, list of job site visitors, daily activities, decisions, general observations, and specific, more detailed observations as in the case of test procedures. Send copies to Arcadis at appropriate intervals.

2.8.3 Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

2.9 *Reports:*

2.9.1 Furnish reports at appropriate intervals to Arcadis concerning progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.

2.9.2 Consult with Arcadis in advance of scheduled major tests, inspections or start of important phases of the Work.

2.9.3 Draft proposed Change Orders, obtaining supporting information from Contractor, and recommend to Arcadis.

2.9.4 Report any accidents or unusual incidents to Arcadis and Client immediately upon occurrence.

2.10 *Payment Requests:* Review Contractor's applications for payment for compliance with the requirements of the Contract Documents and forward with Resident's recommendations to Arcadis. The Resident will note the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

2.11 *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be furnished by Contractor are appropriate to the items actually installed and in accordance with the Contract Documents. The Resident will have this material delivered to Arcadis for review and forwarded to Client prior to final payment for the Work.

2.12 *Completion:*

2.12.1 Before Arcadis issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

2.12.2 Determine whether necessary inspections and approvals by public agencies having jurisdiction over the Work have been performed and advise Arcadis accordingly.

2.12.3 Conduct a final inspection of the Work in the company of Arcadis, Client, and Contractor and prepare a final list of items to be completed or corrected.

2.12.4 Verify that all items on final list have been completed or corrected and make recommendations to Arcadis concerning acceptance of the Work.

3. Limitations of Authority. The Resident:

3.1 Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment unless authorized by Arcadis.

3.2 Shall not exceed limitations of Arcadis's authority as set forth in this Agreement or the Contract Documents.

- 3.3 Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
- 3.4 Shall not advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
- 3.5 Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
- 3.6 Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.
- 3.7 Shall not authorize Client to occupy the Project in whole or in part.
- 3.8 Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Arcadis.