



**STANDARD TERMS AND CONDITIONS  
FOR PROFESSIONAL ARCHITECTURAL SERVICES AGREEMENTS**

**(Version AGC-981)**

**CITY OF ASPEN, COLORADO**  
**STANDARD TERMS AND CONDITIONS**  
**FOR PROFESSIONAL ARCHITECTURAL SERVICES AGREEMENT**  
(Version AGC-981)

These standard terms and conditions have been prepared by the City of Aspen to be incorporated by reference into Agreements entered into between the City of Aspen and architects or professional architectural firms for professional architectural services. The provisions herein are interrelated with other standard contract documents customarily used by the City of Aspen and a change in one may necessitate a change in others. Whenever a conflict exists in the terms and conditions of this document and the Agreement, the terms and conditions set forth in the Agreement shall take precedence.

**ARTICLE 1**  
**ARCHITECT'S SERVICES AND RESPONSIBILITIES**

1.1. GENERAL

1.1.1. The Architect shall perform the services undertaken according to the Agreement with the City. The part of the project for which Architect is to provide services pursuant to the Agreement with the City is hereinafter called This Part of the Project.

1.1.2. The Architect shall designate, when necessary, a representative authorized to act in the Architect's behalf with respect to This Part of the Project.

1.1.3. The Architect's services shall be performed in character, sequence and timing so that they will be coordinated with those of the City and all other consultants for the Project.

1.1.4 The Architect shall recommend to the City the obtaining of such investigations, surveys, tests, analyses and reports as may be necessary for the proper execution of the Architect's services.

1.1.5 The Architect shall provide progress copies of drawings, reports, specifications and other necessary information to the City and other consultants. All aspects of the Work designed by the Architect shall be coordinated by the Architect, and the Architect shall also become familiar with the Work designed by the City and other consultants as necessary for the proper coordination of the Project.

1.1.6 The Architect shall cooperate with the City in determining the proper share of the construction budget to be allocated to This Part of the Project.

## 1.2 BASIC SERVICES

The Scope of Work document shall set forth the Basic Services which the Architect has agreed to perform. The Scope of Work may consist of one or more of the following phases. The terms and conditions set forth below apply to those phases which have been made a part of the Scope of Services.

### *SCHEMATIC DESIGN PHASE*

1.2.1 The Architect shall ascertain the requirements for This Part of the Project and shall confirm such requirements with the City.

1.2.2 The Architect shall review alternative systems with the City, attend necessary conferences, prepare necessary analyses, drawings and other documents, be available for general consultation, and make recommendations regarding basic systems for This Part of the Project. When necessary, the Architect shall consult with public agencies and other organizations concerning utility services and requirements.

1.2.3 The Architect shall prepare and submit to the City a Statement of Probable Construction Cost of This Part of the Project based on current area, volume or other unit costs, as directed by the City.

### *DESIGN DEVELOPMENT PHASE*

1.2.4 When authorized by the City, the Architect shall prepare from the Schematic Design Studies approved by the City the Design Development Documents. These shall consist of drawings and other documents to fix and describe This Part of the Project, including materials, equipment, component systems and types of construction as may be appropriate, all of which are to be approved by the City.

1.2.5 The Architect shall submit to the City a further Statement of Probable Construction Cost of This Part of the Project

### *CONSTRUCTION DOCUMENTS PHASE*

1.2.6 When authorized by the City, the Architect shall prepare from the Design Development Documents drawings and specifications setting forth in detail the requirements for the construction of This Part of the Project, all of which are to be approved by the City. The Architect shall prepare the Drawings and Specifications in such format as the City may reasonably require.

1.2.7 The Architect shall advise the City of any adjustments to previous Statements of Probable Construction Cost of This Part of the Project indicated by changes in requirements or general market conditions.

1.2.8 The Architect shall assist the City as necessary in connection with the responsibility for filing the documents concerning This Part of the Project required for the approval of governmental

authorities having jurisdiction over the Project.

*BIDDING OR NEGOTIATION PHASE*

1.2.9 If required by the City, the Architect shall assist the City's project engineer in obtaining and evaluating bids or negotiated proposals, and in awarding and preparing contracts for construction.

*CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT*

1.2.10 The Construction Phase will commence with the award of the Contract for Construction and together with the Architect's obligation to provide Basic Services under this Agreement, will terminate when final payment to the Contractor is due or, in the absence of a final Certificate for Payment or of such due date, sixty days after the date of Substantial Completion of the Work, whichever occurs first.

1.2.11 Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Architect shall assist the City in the Administration of the Contract for Construction with respect to This Part of the Project, as set forth below and in General Conditions of the Contract for Construction.

1.2.12 The Architect shall visit the site at intervals appropriate to the stage of construction for This Part of the Project or as otherwise agreed with the City in writing, to become familiar with the progress and quality of the Work for This Part of the Project and to determine if such Work is proceeding in accordance with the Contract Documents. The Architect shall keep the City informed of the progress and quality of the Work for This Part of the Project and shall guard the City against defects and deficiencies in such Work of the Contractor.

1.2.13 The Architect shall at all times have access to the Work for This Part of the Project wherever it is in preparation or progress.

1.2.14 The Architect, based on observations at the site and on evaluations of the Contractor's Applications for Payment, shall assist the City in determining the amounts owing to the Contractor for This Part of the Project and shall certify such amounts to the City. Such certification shall be in writing if requested.

1.2.15 Certification by the Architect to the City of an amount owing to the Contractor shall constitute a representation by the Architect to the City that, based on the Architect's observations at the site as provided in Subparagraph 1.2.12 and the data comprising the Contractor's Application for Payment, the Work for This Part of the Project has progressed to the point indicated; that in the Architect's professional opinion, the quality of such Work is in accordance with the Contract Documents (subject to an evaluation of such Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated by the Architect); and that the Contractor is entitled to payment in the amount certified.

1.2.16 Upon written request of the City, the Architect shall furnish to the City, with reasonable promptness, written interpretations of the Contract Documents prepared by the Architect, if, in the opinion of the City, such interpretations are necessary for the proper execution or progress of the Work.

1.2.17 The Architect shall render written recommendations, within a reasonable time, on all claims, disputes and other matters in question between the City and the Contractor relating to the execution or progress of This Part of the Project or the interpretation of the Contract Documents.

1.2.18 The Architect shall assist the City in determining whether the City shall reject Work for This Part of the Project which does not conform to the Contract Documents or whether special inspection or testing is required.

1.2.19 The Architect shall review and approve, or take other appropriate action upon, and forward to the City for final disposition the Contractor's submittals such as Shop Drawings, Product Data and Samples with respect to This Part of the Project; but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

1.2.20 The Architect shall assist the City in preparing Change Orders for This Part of the Project for the City's approval and execution in accordance with the Contract Documents. The Architect shall recommend to the City minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

1.2.21 The Architect shall assist the City in conducting inspections, with respect to This Part of the Project, to determine the dates of Substantial Completion and final completion, and shall review and approve, or take other appropriate action on, the Contractor's list of items to be completed or corrected and shall forward the list to the City for final disposition. The Architect shall assist the City in receiving and forwarding for review written warranties and related documents required by the Contract Documents and assembled by the Contractor with respect to This Part of the Project. The Architect shall issue to the City a final certificate in writing with respect to final payment for This Part of the Project.

1.2.22 If at any time during This Part of the Project the Architect determines that it is necessary to provide more extensive representation at the site for the Architect to fulfill the Architect's responsibilities at the site as described hereinabove, the Architect shall provide one or more Project Representatives, as necessary, to assist the Architect. Such Project Representatives shall be selected, employed and directed by the Architect.

### 1.3 ADDITIONAL SERVICES

The following Services are not included in Basic Services unless specifically included in the Scope of Work. They shall, however, be provided if requested in writing by the City, and they shall be paid for by the City as provided in the Agreement, in addition to the compensation for Basic

Services.

1.3.1 Providing financial feasibility or other special studies.

1.3.2 Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites, and preparing special surveys, studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

1.3.3 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the construction Phase.

1.3.4 Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information related thereto.

1.3.5 Preparing documents for alternate, separate or sequential bids, or providing extra services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase, when requested by the City.

1.3.6 Providing coordination of work performed by separate contractors or by the City's own forces.

1.3.7 Providing services in connection with the work of a construction manager or separate consultants retained by the City.

1.3.8 Providing Detailed Estimates of Construction Cost, analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor.

1.3.9 Providing engineering services or special consultants related to interior design services and other similar services required for, or in connection with, the selection, procurement or installation of furniture, furnishings and related equipment.

1.3.10 Providing services for planning tenant or rental spaces.

1.3.11 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents, or are due to other causes not solely within the control of the Architect.

1.3.12 Preparing Drawings, Specifications and supporting data, and providing other services in connection with Change Orders to the extent that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not commensurate with the services required of the Architect, provided such Change Orders are required by causes not solely within the control of the Architect.

1.3.13 Making investigations, surveys, valuations, inventories or detailed appraisals of existing facilities, and providing services required in connection with construction performed by the City.

1.3.14 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

1.3.15 Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the City or the Contractor under the Contract for Construction.

1.3.16 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction, based on marked-up prints, drawings and other data furnished by the Contractor to the City.

1.3.17 Providing extensive assistance in the utilization of any equipment or system, such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

1.3.18 Providing services after issuance to the City of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than sixty days after the Date of Substantial Completion of the Work.

1.3.19 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

1.3.20 Providing services of consultants for other than the normal engineering services for This Part of the Project.

1.3.21 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted engineering practice.

## ARTICLE 2 THE CITY'S RESPONSIBILITIES

2.1 The City shall, with reasonable promptness, provide all available information regarding the requirements for This Part of the Project.

2.2 The City shall designate, when necessary, a representative authorized to act in the City's behalf with respect to This Part of the Project. The City, or such authorized representative, shall examine documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services. Architect's invoice shall be for the period ending the 25th day of each month. The invoice should be received by the City's Project Manager no later than the 1st of each month.

2.8 If the City observes or otherwise becomes aware of any fault or defect with respect to This Part of the Project, or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the City to the Architect.

2.9 The City shall consult with the Architect before issuing interpretations or clarifications of the Architect's Drawings and Specifications and shall request the recommendation of the Architect before acting upon Shop Drawings, Product Data, Samples or other submissions of the Contractor, or upon Change Orders affecting This Part of the Project.

2.11 The City shall advise the Architect of the identity of other consultants participating in the Project and the scope of their services.

2.12 The City shall review the Architect's work for compliance with the City's program and for overall coordination with the City's and other engineering requirements.

### ARTICLE 3 CONSTRUCTION COST

3.1 The Construction Cost of the Project shall be the total cost or estimated cost to the City of all elements of the Project designed or specified by the City or the City's consultants. The Construction Cost of This Part of the Project shall be the total cost or estimated cost to the City of all elements of the Project designed or specified by the Architect.

3.2 The Construction Cost of the Project or of This Part of the Project shall include at current market rates, including a reasonable allowance for overhead and profit, the cost of labor and materials furnished by the City and any equipment which has been designed, specified, selected or specially provided for by the City and, the City's consultants.

3.3 Construction Cost does not include the compensation of the City's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the City as provided in Article 2.

3.4 Evaluations of the City's Project budget, Statements of Probable Construction Cost and Detailed Estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry.

3.5 If a fixed limit of Construction Cost has been established, the City and the Architect shall establish, if practicable, a fixed limit of Construction Cost for This Part of the Project. If such a fixed limit is established, the Architect, after consultation with the City, 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 with respect to This Part of the Project, and to make reasonable adjustments in the scope of This Part of the Project to bring it within the fixed limit. If required, the Architect shall assist the City in including in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Any such fixed limit shall be increased in the amount of any increase in the Contract Sum related to This Part of the Project occurring after execution of the Contract for Construction.

3.5.1 If the Bidding or Negotiation Phase for This Part of the Project has not commenced within



three months after the City receives the Construction Documents any Project budget or fixed limit of Construction Cost for This Part of the Project established as a condition of this Agreement shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Construction Documents to the City and the date on which bids or proposals are sought.

3.5.2 If a Project budget or fixed limit of Construction Cost for This Part of the Project (adjusted as provided in Subparagraph 3.5.1) is exceeded by the lowest bona fide bid or negotiated proposal, the City may require the Architect without additional charge, to modify the Architect's Drawings and Specifications for This Part of the Project as necessary to bring the Construction Cost thereof within such fixed limit for This Part of the Project. If it was not practicable to establish a fixed limit of Construction Cost for This Part of the Project, and if the lowest bona fide bid or negotiated proposal, the Detailed Estimate of Construction Cost or the Statement of Probable Construction Cost established for the entire Project (including the bidding contingency) exceeds the fixed limit of Construction Cost of the entire Project, the City may require that the Drawings and Specifications prepared by the Architect be modified without additional compensation as necessary to make them bear a reasonable portion of the burden of reducing the Construction Cost of This Part of the Project so that the fixed limit of Construction Cost for the entire Project is not exceeded. The providing of such service shall be the limit of the Architect's responsibility in this regard, and having done so the Architect shall be entitled to compensation for all services performed in accordance with this Agreement.

#### **ARTICLE 4** **DIRECT PERSONNEL EXPENSE**

4.1 Direct Personnel Expense is defined as the direct salaries of all the Architect's personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

#### **ARTICLE 5** **REIMBURSABLE EXPENSES**

5.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project (to the extent they are reimbursable by the City for the expenses listed in the following Subparagraphs; provided that Architect shall not be reimbursed for expenses unless prior written approval therefore has been obtained from City.

5.1.1 Expense of transportation in connection with the Project; living expenses in connection with out-of-town travel; long distance communications; and fees paid for securing approvals of authorities having jurisdiction over the Project.

5.1.2 Expense of reproductions, postage and handling of Drawings, Specifications and other

documents, excluding reproductions for the office use of the Architect, the City and the City's consultants.

5.1.3 Expense of data processing and photographic production techniques when used in connection with Additional Services.

5.1.4 If authorized in advance by the City, expense of overtime work requiring higher than regular rates.

5.1.5 Expense of renderings, models and mock-ups requested by the City.

## **ARTICLE 6** **PAYMENTS TO THE ARCHITECT**

### **6.1 PAYMENTS ON ACCOUNT OF SERVICES**

6.1.1 Payments for Basic Services, Additional Services and Reimbursable Expenses shall be made on the basis set forth in the Agreement.

6.1.2 The City shall disclose to the Architect, prior to the execution of this Agreement, any contingent or other special provisions relative to compensation.

6.1.3 The Architect shall submit, in timely fashion, invoices for Basic Services, Additional Services and Reimbursable Expenses. The City shall review such invoices and, if they are considered incorrect or untimely, the City shall review the matter with the Architect and confirm, in writing to the Architect within ten days from receipt of the Architect's billing, the City's understanding of the disposition of the issue.

6.1.4 If and to the extent that the Contract Time initially established in the Contract for Construction is exceeded or extended through no fault of the Architect, compensation for any Basic Services required for such extended period of Administration of the Construction Contract shall be computed as set forth in the Agreement.

## **ARTICLE 7** **ARCHITECT'S ACCOUNTING RECORDS**

7.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the City or the City's authorized representative at mutually convenient times.

## **ARTICLE 8**

## **OWNERSHIP AND USE OF DOCUMENTS**

8.1 Except for reference and coordination purposes in connection with future additions or alterations to the Work. Drawings and Specifications prepared by the Architect in instruments of service are and shall be the property of the City whether the Project for which they are made is executed or not. The Architect shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for such information and reference. The Drawings and Specifications may be used by the City on other projects, or for completion of this Project by others.

8.2 The Architect shall maintain on file, and make available to the City, design calculations for This Part of the Project, and shall furnish copies thereof to the City on request.

8.3 Submission or distribution to meet official regulatory requirements, or for other purposes in connection with the Project, is not to be construed as publication in derogation of the City's or the Architect's rights.

JPW-9/23/21-M:\city\cityatty\arch\agc-981.doc