

DRAFT AIA® Document B104® - 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the 7TH day of AUGUST in the year 2023
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

TOWN OF WILTON
238 DANBURY ROAD
WILTON, CT 06897

and the Architect:
(Name, legal status, address and other information)

CARDINAL ENGINEERING ASSOCIATES, INC.
180 RESEARCH PARKWAY
MERIDEN, CT 06450

for the following Project:
(Name, location and detailed description)

SCRIBNER HILL ROAD EMBANKMENT REPAIR
SCRIBNER HILL ROAD, WILTON, CONNECTICUT

The Owner and Architect agree as follows.

SPECIAL NOTE: Cardinal Engineering Associates, Inc. is a civil engineering firm, not an architectural firm. Accordingly, wherever in this Agreement, the word "Architect" appears, it shall be deemed automatically to be deleted and replaced with the word "Engineer".

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

CIVIL ENGINEERING SERVICES FOR THE REPAIR OF THE EMBANKMENT AT SCRIBNER HILL ROAD AND TO PREVENT FUTURE SLOPE FAILURES.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by CIVIL ENGINEERS practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

« »

.2 Automobile Liability

« »

.3 Workers' Compensation

« »

.4 Professional Liability

« »

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

§ 3.2 Design Phase Services

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

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

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

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

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

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

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

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

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations

from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

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

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

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

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. *(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)*

SEE PARAGRAPH J ON PAGE 5 OF EXHIBIT A.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services « » (« ») visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 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.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish 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. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until

final completion. 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 furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 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 require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 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.

§ 5.6 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.

§ 5.7 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.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 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.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or 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 shall 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, and 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 recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. 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 requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner 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 current 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 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. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, 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.

§ 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 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 under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. 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 suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, 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 authors 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.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and 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 A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. 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 9.6.

§ 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 Mediation, 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 this Agreement. 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.

§ 8.2.3 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.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, 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.

§ 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 the Agreement.

§ 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.

§ 8.4 The provisions of this Article 8 shall survive the termination of 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 Owner shall pay the Architect 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, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

« »

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

« »

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. 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 A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 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, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

§ 10.6 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. However, the Architect's materials shall not include

information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

ONE HUNDRED FIVE THOUSAND AND 00/100 DOLLARS (\$105,000.00) AS ITEMIZED ON PAGES 5 AND 6 OF THE ENGINEER'S PROPOSAL (EXHIBIT A).

- .2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other
(Describe the method of compensation)

THE STIPULATED SUM DOES NOT INCLUDE PRINTING AND MILEAGE, ESTIMATED AT \$1,000.00.

§ 11.2 For Supplemental Services identified 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.)

TO BE DETERMINED BY MUTUAL AGREEMENT.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

TO BE DETERMINED BY MUTUAL AGREEMENT.

§ 11.4 Compensation for Supplemental and 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 FIVE percent (5 %), or as follows:

« »

§ 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:

Design Phase	« »	percent (« »	%)
Construction Documents Phase	« »	percent (« »	%)
Construction Phase	« »	percent (« »	%)

Total Basic Compensation _____ one hundred percent (_____ 100 %)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis 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. 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
----------------------	------

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, 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 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and 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, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and 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 ZERO percent (0 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of ZERO DOLLARS (\$ 0) 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.

§ 11.9.2 Progress Payments

§ 11.9.2.1 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 « » (« ») 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.)

« » % « »

§ 11.9.2.2 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.

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

« »

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 the Owner and Architect.

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

- .1 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this agreement.)

« »

- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

EXHIBIT A – ENGINEER’S PROPOSAL (FIVE PAGES)

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

RIDER TO AIA DOCUMENT B104

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

OWNER (Signature)

**LYNNE VANDERSLICE, FIRST
SELECTWOMAN**

(Printed name and title)

ARCHITECT (Signature)

(Printed name, title, and license number, if required)



**PROPOSAL FOR
CIVIL ENGINEERING DESIGN SERVICES FOR
SCRIBNER HILL ROAD SLOPE STABILIZATION
TOWN OF WILTON, CT**

PROJECT DESCRIPTION

The project area is located on Scribner Hill Road approximately 850 feet north of Blue Ridge Road and is approximately 250 feet in length. The slope failure occurred along the eastern downhill embankment. A section of roadway has failed as well.

The project involves providing civil engineering design services to provide a repair of the embankment and to prevent future failures.

SCOPE OF SERVICES

Work includes preparation of construction plans and specifications, determination of bid items, quantity computations and development of engineer's cost estimate. Any required permits will be obtained by the Town.

A. Survey

The conceptual plans indicated that the extent of the proposed masonry wall is required to extend beyond the area surveyed in the Conceptual Design Phase. This task includes providing the additional survey required to complete the design of the wall and associated grading. The area of the survey is approximately 150 ft x 150 ft.

1. Perform all field topographic survey necessary for preparation of conceptual plans for repairs to the slope, including locating the existing roadway, curbing, drainage structures and piping, sanitary sewers, water, gas and all other utilities, significant vegetation, utility poles and overhead utilities, signs, fences, guiderail, walls, mailboxes, visible iron pins and merestones along street line and property corners and all other features necessary for design.
2. Plot existing utility sizes, inverts and type, if necessary, for design based on available as-built utility plans. Obtain invert elevations of storm drains, if necessary, to supplement as-
3. Plot approximate street line based on the Town GIS mapping. No deed research or field survey to set property lines/street rights-of-way will be performed.

B. Geotechnical Engineering Report

1. Perform site visit to confirm site conditions have remained stable since the conceptual engineering report was prepared. Document any visible changes to the site.
2. Review soil and boring data, conceptual engineering report and conceptual design plans and details.
3. Provide recommendations for changes to the design of the wall based on current conditions.

C. Preliminary Design (35%)

Preliminary design will culminate in the submittal of a 35% design package consisting of 1" = 20' scale preliminary design site and roadway plan and 1" = 20' scale structure design drawings, outlining the

layout and general conditions for the proposed structure. The 350% design package will be submitted to the Town for review and comment. The 35% plans will also be submitted to the utility companies to verify that all existing utilities have been properly depicted on the plans and any conflicts or required relocations have been identified. It is assumed that any required utility relocations will be performed by the respective utility companies.

1. Attend kick-off meeting with the Town of Wilton.
2. Provide preliminary (35%) design drawings at a scale of 1" = 20'.

Plans will include the following:

Title Sheet
Existing Conditions Plan
Site Plan
Wall Layout Plan
Critical Cross Sections
Wall Details

3. Contact utility companies and coordinate proposed work with each utility.
4. Perform stormwater analysis to determine existing and proposed design peak runoff flows for the design of the proposed stormwater collection system. The 25-year storm event will be analyzed for the existing and post construction conditions. The storm drainage system will be designed to carry the runoff during the 25-year storm.

It is assumed that detention / retention will not be required. It is also assumed that measures to improve water quality will not be required.

Drainage analysis and design of any facilities beyond project area including Town or State facilities will not be required.

5. Identify potential property takings and easements.
6. Identify and prepare list of Special Provisions
7. Prepare Preliminary Design Cost Estimate.
8. Identify permits that may be required for the construction of the Project.
9. Attend one meeting with Town of Wilton staff during the Preliminary Design Phase.
10. Submit one set of design drawings and cost estimate and provide documents in digital (PDF) format.

D. Permits

When the plans are approximately 35% complete, Cardinal Engineering Associates will prepare the permit and provide one set of plans for the Town of Wilton to submit the application to the Inland Wetland Commission. Cardinal will attend one (1) IWC meeting. Any concerns brought up by the Commission will be addressed and incorporated into the design as necessary.

1. Assist the Town of Wilton in preparing application to the Town of Wilton Inland Wetlands and Watercourse Commission (IWWC).
2. Attend one (1) IWWC public hearing.

E. Public Information Meeting

Cardinal Engineering will prepare visual aids and will make a presentation of the project at one Public Information Meeting which will address the proposed construction of Scribner Hill Road slope stabilization. At the meeting, details of the proposed improvements and the expected project schedule will be described. Any comments or suggestions from the public will be evaluated and considered throughout the completion of all design phases.

1. Prepare presentation boards.
2. Attend one (1) public information meeting.

F. CTDOT Coordination

Based on the conceptual design plans, it is anticipated that grading will be required on the adjacent property owned by the State of Connecticut (Department of Transportation – “Super 7” ROW). The preparation of taking, easement or additional mapping is not included.

1. Submit Preliminary Design Phase drawings to CTDOT for review.
2. Attend one (1) meeting the Town and CTDOT staff to review comments.
3. Incorporate CTDOT review comments.

G. Final Design (90%)

1. Attend one (1) Preliminary Design Review Meeting with the Town.
2. Provide final (90%) design drawings at a scale of 1” = 20’. Drawings will incorporate Town review comments and address issues that had arisen from the Public Information meeting, review comments and identified through the permitting process.

Final design Phase drawings will include those prepared during the Preliminary Design Phase and the addition of the following:

General Construction Notes
Cross Sections at 50 ft. intervals
Boring Logs
Erosion and Sediment Control Notes and Details
Project Details
Standard Detail Sheets

3. Address Preliminary Design review comments.
4. Prepare Project Manual, including “Front End: bidding and contract documents based on Town of Wilton standard boiler plate.
5. Prepare Notices to Contractor, Special Provisions and Technical Specifications based on Town of Wilton standard contract documents and CTDOT Form 818.
6. Prepare Final Design Cost Estimate.
7. Attend one meeting with Town of Wilton staff during the design phase.
8. Submit one set of design drawings, contract documents and cost estimate and provide documents in digital (PDF) format.

H. Construction Documents (100%)

1. Attend Final Design Review meeting with Town. Address Final Design review comments.
2. Finalize Project Manual, Contract Documents and Technical Specifications.
3. Prepare Construction Documents cost estimate.
4. Submit one set of design drawings, contract documents and cost estimate and provide documents in digital (PDF) format.

I. Bidding and Award Services

1. Attend pre-bid meeting.
2. Respond to bidders' Requests for Information and Questions; Prepare addenda as required.
3. Attend bid opening.
4. Review bid proposals and provide bid tabulation. Verify references. Provide recommendation of apparent low bidder.

J. Additional Services

If authorized in writing by the Town, the Engineer shall furnish additional services of the following types which are not to be considered part of the basic services and for which compensation will be paid as set forth under Compensation:

1. Design revisions due to significant changes in the general scope of the project including, but not limited to, changes in size, complexity, or completion schedule.
2. Utility Test Pits, including test pit stakeout, observation and survey, if required
3. Design of utility relocations, if required.
4. Attendance at meetings in addition to the meetings listed above.
5. Environmental impact statements, environmental surveys and/or studies or the design or specification of measures to mitigation environmental impacts.
6. Additional soil borings or rock cores.

COMPENSATION

Cardinal Engineering's fee will be on a lump sum basis. The total fee for the above referenced work is \$27,500, not including direct costs. The estimated fee for direct costs is \$1,000. The following is an approximate breakdown of the cost for major items:

A. Survey

For all services under this task, the Lump Sum of \$ 5,000

B. Geotechnical Engineering Report

For all services under this task, the Lump Sum of \$ 10,000

C. Preliminary Design (35%)

For all services under this task, the Lump Sum of \$ 20,000

D. Permits

For all services under this task, the Lump Sum of \$ 10,000

E. Public Information Meeting	
For all services under this task, the Lump Sum of	\$ 3,000
F. CTDOT Coordination	
For all services under this task, the Lump Sum of	\$ 10,000
G. Final Design (90%)	
For all services under this task, the Lump Sum of	\$ 30,000
H. Construction Documents (100%)	
For all services under this task, the Lump Sum of	\$ 12,000
I. Bidding and Award Services	
For all services under this task, the Lump Sum of	\$ 5,000
TOTAL	\$ 105,000
J. Additional Services	
Payment for additional services, when required, will be based on actual payroll cost times 3.00 and/or actual invoice cost plus 10 % for outside services.	TBD
K. Direct Costs* (Estimated)	
Printing and mileage	\$ 1,000

*Direct Costs will be invoiced as incurred plus 10 percent.

The fee for any additional services, meetings, site visits during construction, additional sets of plans or any item beyond the scope identified above will be negotiated with the Town of Wilton.

If this proposal is acceptable, please sign below and return one copy to this office.

APPROVED: TOWN OF WILTON

By: _____ **Date:** _____

RIDER TO
AIA DOCUMENT B104-2017 STANDARD ABBREVIATED FORM OF AGREEMENT
BETWEEN
TOWN OF WILTON (OWNER)
AND
CARDINAL ENGINEERING ASSOCIATES, INC. (ENGINEER)
DATED AUGUST 7, 2023
PROJECT: SCRIBNER HILL ROAD EMBANKMENT REPAIR

The following provisions are incorporated into the above-referenced Agreement. Except as specifically indicated below, all capitalized words and phrases shall have the meanings ascribed to them in the Agreement.

1. ***Section 2.2*** is deleted in its entirety and replaced with the following: The Engineer shall, at its own expense and cost, obtain and keep in force during the entire duration of the Agreement the following insurance coverages covering the Engineer and all of its agents, employees, consultants and other providers of all or part of the Services and shall name the Owner as Additional Insured on a primary and non-contributory basis to the Engineer's Commercial General Liability insurance policy. All insurance coverages shall be purchased from a company or companies with an A.M./Best rating of A-(VII) or better. Minimum limits and requirements are as follows.
 1. Workers' Compensation:
 - a. Statutory Coverage.
 - b. Employer's Liability.
 - c. \$500,000 each accident/\$500,000 disease-policy limit/\$100,000 disease each employee.
 2. Commercial General Liability:
 - a. Including Premises & Operations, Products and Completed Operations, Personal and Advertising Injury, Contractual Liability and Independent Contractors.
 - b. Limits of Liability for Bodily Injury and Building Damage

- i. Each Occurrence \$1,000,000.
 - ii. Aggregate \$2,000,000 (The Aggregate Limit shall apply separately to each Project).
 - c. A Waiver of Subrogation shall be provided.
 - 3. Automobile Insurance:
 - a. Including all owned, hired, borrowed and non-owned vehicles.
 - b. Limit of Liability for Bodily Injury and Building Damage:
 - i. Per Accident \$1,000,000.
 - 4. Umbrella Liability:
 - a. Umbrella or excess liability policy in excess (without restriction or limitation) of those limits and coverages for commercial general liability and automobile insurance described above. Such policy shall contain limits of liability in the amount of \$2,000,000 each occurrence and \$2,000,000 in the aggregate.
 - 5. Errors and Omissions Liability or Professional Services Liability:
 - a. Provide Errors and Omissions Liability or Professional Services Liability Policy for a minimum Limit of Liability \$2,000,000 each occurrence or per claim.
 - b. The Engineer agrees to maintain continuous professional liability coverage for the entire duration of this Project and for seven (7) years beyond substantial completion of the Project. If the Engineer does not maintain continuous coverage, the Engineer shall provide for an Extended Reporting Period in which to report claims for seven (7) years following the conclusion of the Project.
2. *The following is inserted as new **Section 2.3**: The insurance policies described in Section 2.2 are referred to herein as the “Policies”. Each of the Policies shall be underwritten by an insurance company licensed in the State of Connecticut to underwrite that particular form of insurance. Upon execution of this Agreement and, upon request of the Owner, at every date for renewal of the Policies, the Engineer shall cause a Certificate of Insurance to be issued by an insurance agent licensed in the State of Connecticut. The Commercial General Liability and Automobile Insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal or reduction in limits of the Policy.*
3. *The following is inserted as new **Section 2.4**: Except to the extent otherwise specifically authorized by the Owner in writing, the Engineer shall ensure that all consultants engaged or employed by the Engineer shall carry and maintain insurance in form and coverage amount consistent with the Policies. With respect to the insurance maintained by the Engineer’s consultants, upon execution of this Agreement and, upon request of the Owner, at every date for renewal of the Policies, the Engineer shall cause a Certificate of Insurance to be issued by an insurance agent licensed in the State of Connecticut. The*

certificates will show the Owner as an additional insured. The Commercial General Liability and Automobile Insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal or reduction in limits of the Policy.

4. *The following is inserted as new **Section 2.5***: The Engineer shall designate a professional licensed in Connecticut to perform the Basic Services as Engineer's designated representative for the Project. The professional so appointed shall be Owner's primary point of contact with respect to the Project. Engineer's designated representative will not be changed without the Owner's written consent, which consent shall not be unreasonably withheld. If the Engineer engages the services of any consultant with the Owner's approval, the Engineer shall not change or replace the consultant without the Owner's written consent, which consent shall not be unreasonably withheld.
5. *The following is inserted as new **Section 3.4.7***: If requested by the Owner, within two (2) months after the date of Substantial Completion, the Engineer shall deliver to the Owner a complete set of As-Built Plans for the Project.
6. ***Section 4.2.2** is deleted in its entirety.*
7. *In the first sentence of **Section 7.3**, the words "renovating" and "repairing" are added to the list of permitted purposes.*
8. ***Section 7.3.1** is deleted in its entirety and replaced with the following*: If the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Engineer and the Engineer's consultant(s) from all claims and causes of action arising from such uses except for claims and causes of action based on the Engineer's negligence in preparing the Instruments of Service. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.
9. *The third sentence of **Section 7.4** is deleted in its entirety and replaced with the following*: Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Engineer and the Engineer's consultants except for claims and causes of action based on the negligence of the Engineer or the Engineer's consultants in preparing the Instruments of Service.
10. *The following is inserted as new **Section 8.1.4***: To the fullest extent permitted by law, the Engineer shall indemnify and hold harmless the Owner, its elected and appointed officials and employees from and against claims, damages, losses and expenses, including, without limitation, attorneys' fees, expert witness fees and court costs, arising out of or resulting from the performance of the Engineer's services, including, without limitation, the failure to comply with applicable statutes, codes and regulations in the preparation of the Design Documents and Construction Documents, to the extent caused in whole or in part by negligent acts or omissions of the Engineer, a consultant hired or retained by the Engineer or anyone directly or indirectly employed by them.

11. *The following is inserted at the end of **Section 11.8.2**: Except for the items indicated under the heading DIRECT COST ITEMS on Page 3 of the Engineer’s Proposal (the “Direct Cost Items”), the total of Reimbursable Expenses shall not exceed \$500.00 without the prior written approval of the Owner. For the avoidance of doubt, the Direct Cost Items will be in addition to (not included in) the Stipulated Sum indicated in **Section 11.1.1**.*
12. *The third sentence of **Section 11.9.2.1** is deleted in its entirety and replaced with the following: Amounts unpaid thirty (30) days after presentation to the Owner’s Finance Department with all required approvals shall bear interest at the Prime Rate, as published in the Wall Street Journal.*
13. *The following is inserted as **Section 12.1: Counterparts and Electronic Signatures**. This Agreement and the Rider may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of the Agreement and Rider and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of the Agreement and Rider as to the parties and may be used in lieu of the original Agreement and Rider for all purposes.*
14. *The following is inserted as new **Section 13.3**: The documents listed in **Section 13.2** (the “**Component Documents**”) are complimentary, and what is required by one shall be as binding as if required by all; performance by Engineer shall be required only to the extent consistent with the Component Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of conflicts or discrepancies among the Component Documents, interpretations will be based on the following priorities:
 1. Rider to AIA Document B104.
 2. Agreement.
 3. Exhibit A - Engineer’s Proposal (five pages).*

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OWNER
TOWN OF WILTON

ENGINEER
CARDINAL ENGINEERING ASSOCIATES, INC.

(Signature)

(Signature)

(Printed Name and Title)

(Printed Name and Title)

{Signature page to Rider to AIA Document B104}