

AGREEMENT FOR ARCHITECTURAL SERVICES

THIS AGREEMENT FOR ARCHITECTURAL SERVICES (hereinafter referred to as the "Agreement"), made this 2 day of May, 2019, by and between the Wheaton Park District, an Illinois unit of local government with its principal place of business at 102 E. Wesley Street, Wheaton, Illinois 60187 (the "Park District") and Nevin Hedlund Architects, Inc., an Illinois corporation, with its principal place of business at 7985 Lake St., River Forest, Illinois 60305 (the "Consultant"). Park District and the Consultant are hereinafter sometimes individually referred to as a "Party" or collectively as "Parties."

RECITALS

WHEREAS, the Park District desires the Consultant to perform certain services for the Park District in connection with the Park District's Arrowhead Golf Course Food Service Areas at 26W151 Butterfield Rd., Wheaton, IL (the "Project"), as detailed in the Consultant's Scope of Services dated March 27, 2019, attached hereto and incorporated herein as Exhibit A (the "Scope of Services"); and

WHEREAS, the Park District wishes to retain the Consultant and the Consultant wishes to provide the services to the Park District described hereunder based on the terms and conditions set forth in this Agreement.

WITNESSETH

NOW THEREFORE, in exchange for consideration, the receipt and sufficiency of which is hereby expressly acknowledged by the Parties, the Park District and the Consultant agree as follows:

1. Consulting Services. The Park District hereby hires Consultant and Consultant hereby agrees to provide Architectural services, upon the terms and conditions set forth in this Agreement and the Scope of Services (the "Services"). Consultant shall thoroughly review the Park District's program and other information furnished by the Park District and any other information which the Consultant deems necessary or advisable to determine the nature and extent of, and develop solutions to resolve, any technical or other difficulties or problems in implementing the Project and achieving successful Project completion consistent with the Park District's stated needs, goals and objectives and the Project requirements. As part of this process, the Consultant will visit the Project site and become thoroughly familiar with existing conditions, including activities and uses which will continue while the Project is in progress. The Consultant shall also review and ascertain governmental requirements applicable to the Consultant's Services and the design and construction of the Project including ascertaining timing considerations for submissions to and review by such entities. The Consultant shall

notify the Park District promptly in order not to adversely affect the proposed Project schedule, of (a) any inconsistencies discovered in the information and (b) any information or consulting services that may be reasonably needed for the Project.

Consultant's Services shall include Services made necessary by (a) failure of performance of a contractor under any contract for construction, when such defects or deficiencies in the work, or failure of performance resulted from Consultant's negligence or errors or omissions in the engineering plans which it provided for the Project, or (b) breach of the Consultant's duties or obligations under this Agreement.

2. Contract Documents. The Contract Documents consist of this Agreement between the Park District and the Consultant, the Scope of Services and addenda issued prior to the execution of this Agreement, if any, and any modifications made in writing and endorsed by the Parties after the execution of this Agreement. Except as provided herein, all of the terms, conditions and specifications contained in the Contract Documents are incorporated herein. The General Terms and Conditions included in Consultant's Proposal, and any references to the same in Consultant's Proposal, are hereby rejected and are not incorporated as part of this Agreement. Notwithstanding anything to the contrary, the Contract Documents, except the provisions of Consultant's Proposal which are expressly rejected in accordance with paragraph, constitutes the entire agreement between the Parties. In the event of conflict between or among the provisions of the foregoing documents relative to each phase of the Project, the provisions most favorable to the Park District shall control.

3. Term. Consultant shall complete all Services on or before December 31, 2019.

4. Performance of Work. The Consultant agrees to perform faithfully, industriously, and to the best of the Consultant's ability, experience, and talents, in accordance with generally accepted standards of professional skill and care among recognized industry experts engaged in similar services, all of the duties described in the Contract Documents or as otherwise required by the express and implicit terms of this Agreement, to the reasonable satisfaction of the Park District. The Consultant shall perform all of its duties hereunder according to the Park District's requirements and procedures and in compliance with all applicable federal, state and local laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. The Park District shall be the sole judge of whether the Consultant's duties are performed satisfactorily.

5. Evaluations of the Construction Work. Consultant shall visit the Project site during construction in accordance with Consultant's Proposal in order to ~~supervise~~ ^{OBSERVE} the progress and quality of the work, and to determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the engineering plans. However, the Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. After each site visit, the Consultant shall provide the Park District a written report about the progress and quality of the work, and report to the Park District (a) any deviations from the engineering plans and from the most

recent construction schedule submitted by the contractor, and (b) any defects and deficiencies in the work.

6. Payment for Services.

a. The Park District agrees to compensate the Consultant for providing the Services in the amount of Eleven Thousand One Hundred Fifty and 00/100 Dollars (**\$11,150.00**) (the "Consultant's Fee"). The Consultant's Fee is based on the following amounts:

		Team Member
Existing Conditions	\$600.00	RTM
Meet with Code Officials	\$600.00	NHA
Project Management	\$2,500.00	NHA
Construction Documents	\$4,000.00	RTM
Bid/Permit	\$1,250.00	NHA
Construction Administration	\$800.00	NHA
Construction Administration	<u>\$1,000.00</u>	RTM
Subtotal	\$10,750.00	
Reimbursable Budget	\$400.00	
Total	\$11,150.00	

b. The Consultant shall invoice the Park District on a monthly basis for all Services provided by the Consultant to the Park District for the preceding month. Payment of said invoices, and any late payment penalties, shall be governed by the applicable provisions of the Local Government Prompt Payment Act (50 ILCS 505 *et seq.*).

c. Prior to final payment to Consultant, the following conditions shall be fulfilled by Consultant:

i. Consultant shall have made, or caused to have been made, all corrections and completion in the Consultant's Services which are required to remedy any defects therein or obtain compliance with this Agreement. Consultant shall, if required by the Park District, deliver a certificate to the Park District certifying such matters the Park District may reasonably require.

ii. Consultant will provide Park District releases and waivers of lien from Consultant and Consultant's consultants and sub-consultants for the performance of the Services.

iii. Consultant shall have delivered to the Park District all deliverables required by this Agreement.

7. Reimbursable Expenses. Consultant's reimbursable expenses shall not exceed Two Hundred and 00/100 Dollars (\$200.00) without prior written approval of the Park District.

8. Additional Services. Except for this Agreement, there shall be no other basis for compensation for services or reimbursement for expenses rendered on behalf of the Project by Consultant ("Additional Services") unless otherwise mutually agreed upon by the Parties. In the event any other Additional Services are required, Consultant shall notify the Park District regarding the nature and extent and cost of any said Additional Services. Consultant shall not perform any Additional Services unless approved in writing in advance by the Park District.

9. Park District Responsibilities. The Park District agrees to provide all materials and other information necessary to or requested by the Consultant reasonably necessary for the Consultant to complete the delivery of the Services by the Consultant in a timely manner.

10. Park District Right to Complete the Services. Consultant shall at its own cost promptly cure any breach of its obligations under this Agreement. Should Consultant refuse or neglect to cure such breach within a reasonable time, taking into consideration the nature of the breach and its impact on the progress or the cost of the work, after receiving reasonable notice requesting such cure from the Park District, then the Park District shall be entitled to cure such breach following additional notice of such intended action to Consultant, and recover the cost of such cure from Consultant. This commitment by Consultant is in addition to and not in substitution for, any other remedy which the Park District may have at law or in equity.

11. Designated Representatives. The Park District hereby designates Andy Bendy as the Park District's representative ("Park District's Representative") for all matters for the Park District under this Agreement and with respect to the administration of this Agreement. The Park District's Representative shall be available to the Consultant at all reasonable times for consultation with the Consultant. The Consultant shall confirm to the Park District in writing any decision made by the Park District's Representative. The Consultant hereby designates John R. Brown as the Consultant's Representative ("Consultant's Representative") for all matters for the Consultant under this Agreement and with respect to the Services to be performed by the Consultant for the Park District. The Consultant's Representative shall be available to the Park District at all reasonable times for consultation with the Park District's Representative. The Park District may conclusively rely on the decisions made by the Consultant's Representative, including those which modify this Agreement. Either Party may change its Representative under this Agreement by giving notice to the other Party as provided hereunder.

12. Ownership of Instruments of Service. Any and all documents, including but not limited to, any plans, notes, analysis, and any other documents prepared by the Consultant in the performance of its Services under this Agreement ("Instruments of Service") is work done for hire and ownership of such Instruments of Service vests in the Park District. The Park

District retains exclusive property rights including all common law, statutory, federal and other reserved rights in the Instruments of Services, including copyrights.

13. Other Consultants/Sub-Consultants. Park District reserves the right to let other contracts for professional services in connection with the Project. Consultant shall cooperate fully with any other consultants retained by Park District and shall properly coordinate the Services with those services provided by other consultants.

All agreements between Consultant and its consultants and sub-consultants shall be in writing and shall contain such provisions as shall ensure the performance of the Consultant's Services in accordance with this Agreement. Consultant shall timely pay all sums due to its consultants and sub-consultants in accordance therewith and shall not cause or permit any liens to be placed by any such consultants and sub-consultants against the property or funds of the Park District.

14. Termination. This Agreement may be terminated or suspended by the Park District, in whole or in part, for convenience and without cause upon five (5) days written notice. In the event of such termination, the Consultant will be paid for all approved Services rendered to the date of termination, and upon such payment, all obligations of the Park District to the Consultant under this Agreement shall cease. Furthermore, in the event of such termination, the Consultant shall promptly deliver to the Park District all Instruments of Service generated in the performance of its services under this Agreement up to and including the date of termination.

The Park District shall have the right to terminate this Agreement immediately and without notice upon the Consultant's default of its obligations hereunder or its violation of any federal or state laws, or local regulations or ordinances. Upon termination due to the Consultant's breach of this Agreement, the Consultant shall pay the Park District all reasonable costs incurred by the Park District due to said breach, including the cost of obtaining replacement services. In the event of such termination, payment to the Consultant of any sums earned to the date of such termination shall be in full satisfaction of any and all claims by the Consultant against the Park District under this Agreement, and acceptance of sums paid by the Consultant shall constitute a waiver of any and all claims that may be asserted by the Consultant against the Park District. Furthermore, in the event of such termination, the Consultant shall promptly deliver to the Park District all Instruments of Service generated in the performance of their Services under this Agreement up to and including the date of termination.

If the Consultant is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Consultant's insolvency, or if any provision of the bankruptcy law is invoked by or against the Consultant, then notwithstanding any other rights or remedies granted the Park District, the Park District may, without prejudice to any other right or remedy, (a) terminate the employment of the Consultant and/or (b) finish the Services by whatever method the Park District may deem expedient. In such case, the Consultant shall not be entitled to receive any further payment until the Services are finished

and the Park District may be entitled to recover and deduct from any remaining amounts due Consultant all damages allowed by law.

15. Insurance. The Consultant shall obtain insurance of the types and in the amounts listed below.

A. Commercial General and Umbrella Liability Insurance. The Consultant shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 for each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured Agreement (including the tort liability of another assumed in a business Agreement). The Park District shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Park District. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

B. Professional Liability Insurance. The Consultant shall maintain professional liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 for each wrongful act arising out of the performance or failure to perform professional services and \$2,000,000 aggregate.

C. Business Auto and Umbrella Liability Insurance. The Consultant shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 for each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

D. Workers Compensation Insurance. The Consultant shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 for each accident for bodily injury by accident or for each employee for bodily injury by disease. If the Park District has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Agreement, the Consultant waives all rights against the Park District and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Consultant's work.

E. General Insurance Provisions

(1) Evidence of Insurance. Prior to beginning work, the Consultant shall furnish the Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. All certificates shall provide for 30 days' written notice to the Park District prior to the cancellation or material change of any insurance referred to therein. Written notice to the Park District shall be by certified mail, return receipt requested. Failure of the Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Park District to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Consultant's obligation to maintain such insurance. The Park District shall have the right, but not the obligation, of prohibiting the Consultant from entering the project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Park District. Failure to maintain the required insurance may result in termination of this Agreement at the Park District's option. The Consultant shall provide certified copies of all insurance policies required above within 10 days of the Park District's written request for said copies.

(2) Acceptability of Insurers. For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Park District has the right to reject insurance written by an insurer it deems unacceptable.

(3) Cross-Liability Coverage. If the Consultant's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

(4) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to the Park District. At the option of the Park District, the Consultant may be asked to eliminate such deductibles or self-insured retentions as respects the Park District, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

(5) Sub-consultant. The Consultant shall cause each sub-consultant employed by Consultant to purchase and maintain insurance of the type specified above. When requested by the Park District, Consultant shall furnish copies of certificates of insurance evidencing coverage for each sub-consultant.

16. Indemnification. To the fullest extent permitted by law, the Consultant, its officers, directors, employees, volunteers and agents shall indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, suits, damages, causes of action, judgment, losses, costs and expenses, including but not limited to reasonable legal fees (attorney's and paralegals' fees and court costs), arising from or in connection with the Services performed by the Consultant, its officers, directors, employees, volunteers and agents under this Agreement, including but not limited to any accident, injury, damage, property loss or theft, except to the extent caused by the negligence or omission of the Park District, or arising from or in any way connected with any act, omission, wrongful act or negligence of the Consultant, its officers, director, employees, volunteers and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to the Park District. The Consultant shall similarly protect, indemnify and hold and save harmless the Park District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to reasonable legal fees, incurred by reason of the Consultant's breach of any of its obligations under, or the Consultant's default of, any provision of this Agreement.

17. No Liability. The Park District shall not be responsible or liable for any injury, damages, loss or costs sustained or incurred by any person including, without limitation the Consultant's employees, or for any damage to, destruction, theft or misappropriation of any property, relating in any way, directly or indirectly, to the Consultant's Services and obligations under this Agreement. The Park District shall not be liable for acts or omissions of the Consultant or any of the Consultant's employees, subcontractor's, agents or other persons purporting to act at the direction or request, on behalf, or with the implied or actual consent, of the Consultant.

18. Independent Contractor. The relationship between the Consultant and the Park District is that of an independent contractor. The Consultant shall supply all personnel, equipment, materials, and supplies at its own expense, except as specifically set forth herein. The Consultant shall not be deemed to be, nor shall it represent itself as, employees, partners, or joint venturers of the Park District. The Consultant is not entitled to workers' compensation benefits or other employee benefits from the Park District and is obligated to directly pay federal and state income tax on money earned under this Agreement.

19. No Third Party Beneficiary. This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and/or entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party. Nothing herein shall be construed as an express and/or implied waiver of any common law and/or statutory immunities, defenses and/or privileges of the Park District and/or the Consultant, and/or any of their respective officials, officers and/or employees.

20. Laws, Permits, Approvals and Licenses. The Consultant shall comply with all applicable codes, laws, ordinances and regulations of the Park District, the City of Wheaton, DuPage County, the State of Illinois, and the Federal Government. Except as specified in Consultant's Proposal, Consultant shall, at its sole cost and obligation, be responsible for obtaining all permits and licenses required to perform its duties under this Agreement. Consultant shall be responsible to the Park District for any claims, damages, losses and expenses arising from the Consultant's failure to follow applicable laws, codes and regulations in execution of all of Consultant's Services pursuant to this Agreement.

21. Choice of Law and Venue. This Agreement is governed by the laws of the State of Illinois. Any suit or action arising under this Agreement shall be commenced in the Circuit Court of DuPage County, Illinois. In any suit or action arising under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs of litigation.

22. No Waiver. Waiver of any of the terms of this Agreement shall not be valid unless it is in writing and signed by all Parties. The failure of claimant to enforce the provisions of this Agreement, or require performance by opponent of any of the provisions, shall not be construed as a waiver of such provisions or affect the right of claimant to thereafter enforce the provisions of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of the Agreement.

Consultant's duties as set forth herein shall at no time be in any way diminished by reason of any approval by the Park District of the engineering plans authored by Consultant or its consultants and sub-consultants, nor shall anything contained in this Agreement be construed as a limitation on, or a waiver of, any remedies which the Park District may have at law or in equity for damages sustained or expense incurred because of, or arising out of, Consultant's errors, omissions, or failure to perform its duties or covenants in accordance with this Agreement. The grant of various rights to the Park District under this Agreement, and/or the failure of the Park District to exercise those rights do not and shall not create any responsibility or liability in the Park District for any error or omission of the Consultant in the provision of its Services.

23. Non-Assignment. This Agreement is non-assignable in whole or in part by the Consultant, and any assignment shall be void without prior written consent of the Park District.

24. Entire Agreement. This Agreement contains the entire agreement between the Parties and no statement, promise or inducement made by either Party to the agency of either Party that is not contained in this written Agreement shall be valid or binding.

25. Amendment. No amendment or modification shall be made to this Agreement unless it is in writing and signed by both Parties.

26. Headings. The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

27. Notice. All notices, demands, requests, exercises and other communications required or permitted to be given by either Party under this Agreement shall be in writing and shall be deemed given when such notice has been personally delivered, sent by facsimile or deposited in the United States mail, with postage thereon prepaid, addressed to each Party at the following addresses:

If to Consultant: Nevin Hedlund Architects, Inc.
7985 Lake St.
River Forest, Illinois 60305
Fax: 708-771-7124

If to the Park District: Executive Director
Wheaton Park District
102 E. Wesley
Wheaton, Illinois 60187
Fax: 630-665-8946

28. Severability. The invalidity of any section, paragraph or subparagraph of this Agreement shall not impair the validity of any other section, paragraph or subparagraph. If any provision of this Agreement is determined to be unenforceable, such provision shall be deemed severable and the Agreement may be enforced with such provision severed or as modified by such court.

IN WITNESS WHERE OF the Parties hereto have set their respective hands and seals the day and year first above written.

WHEATON PARK DISTRICT

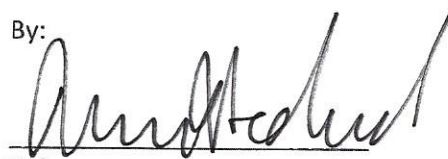
By:



Executive Director/ Secretary
Board of Park Commissioners

NEVIN HEDLUND ARCHITECTS, INC.

By:



Title:

EXHIBIT A

NEVIN HEDLUND ARCHITECTS, INC.

7985 Lake Street, River Forest, Illinois 60305
Telephone: 708.771.7117 Facsimile: 708.771.7124
Website: www.HedlundArchitects.com

March 27, 2019

Robert M. Sperl
CPRP, MPA
Director of Parks and Planning
Wheaton Park District
1000 Manchester Road
Wheaton, IL 60187

Re: Arrowhead Golf Club
Commercial Dishwasher Replacement
Design Services Proposal

Dear Mr. Sperl:

We are pleased to submit the following proposal for the commercial dishwasher replacement project. Following is our understanding of the project:

PROJECT DESCRIPTION

The project includes a replacement of two commercial dishwashers in the food service area as described in the PFF drawings dated 3/21/19.

Each dishwasher will be installed at a separate time to limit down time of dishwashing capacity.

SCOPE OF WORK

The scope of work is as follows:

1. Confirm existing conditions and prepare base drawings.
2. Meet with local code officials (Unincorporated DuPage County and the DuPage County Health Department) and confirm requirements. Document requirements and issue to owner.
3. Prepare permit and construction documents for owner review.
4. Incorporate owner comments and issue for bid and permit.
5. Respond to permit comments.
6. Review bids and make recommendations to the owner.
7. Provide Construction Administrative services including periodic site visits, responding to requests for information, shop drawing review, contractor pay request review and prepare punch lists.

NEVIN HEDLUND ARCHITECTS, INC.

7985 Lake Street, River Forest, Illinois 60305
Telephone: 708.771.7117 Facsimile: 708.771.7124
Website: www.HedlundArchitects.com

FEE AND SCHEDULE

Our project team includes RTM Engineering Consultants, LLC. Based on the scope of work above, we propose the following fee for design services:

		Team Member
Existing Conditions	\$600.00	RTM
Meet with Code Officials	\$600.00	NHA
Project Management	\$2,500.00	NHA
Construction Documents	\$4,000.00	RTM
Bid/Permit	\$1,250.00	NHA
Construction Administration	\$800.00	NHA
Construction Administration	\$1,000.00	RTM
Subtotal	\$10,750.00	
Reimbursable Budget	\$400.00	
Total	\$11,150.00	

For additional site visits and/or construction meetings beyond the base scope, RTM has a fee of \$500.00. See attached RTM proposal dated 3/27/19. Reimbursables include mileage, parking, printing, and UPS and will be billed at direct cost.

Please reply with any questions or comments. Thank you for your consideration.

Sincerely,
Nevin Hedlund Architects, Inc.

Nevin Hedlund, AIA
Principal

Cc: File



March 27, 2019

Nevin Hedlund
Nevin Hedlund Architects, Inc.
7985 Lake St.
River Forest, IL 60305

Proposal

Confidential

RE: Agreement for MEP Engineering Services
Arrowhead Gold Club
26W151 Butterfield Rd
Wheaton, IL 60189
19.NHA.003[1]

Dear Nevin,

We are pleased to provide you with a proposal for engineering services. We understand the basic scope of work to include engineering and design of the MEP systems for the replacement of two commercial dishwashers in the food service area as described in the email and shown in the pdf, "Arrowhead GC Kitchen-SET" sent 3/27/19.

Founded in 1981, RTM Engineering Consultants, LLC, is a 170-person engineering consulting firm that is well equipped and highly qualified to serve as engineers, designers, project managers, and expert consultants for your design and planning needs. RTM has assembled a team of talented and experienced professionals ready and able to bring creativity, enthusiasm, and accountability to the project.

We are pleased to present our qualifications and welcome the opportunity to provide exceptional engineering services to achieve project goals. We believe that our expertise in engineering design combined with our proactive team-oriented approach will surpass your expectations and result in a successful project delivery.

Best regards,

A handwritten signature in black ink, appearing to read "David Piluski".

David Piluski
RTM Engineering Consultants, LLC

Section I - Scope of Work

1. GENERAL

We intend to provide the engineering services for the following scope of work:

- Survey site for existing MEP conditions
- Research MEP content code requirements
- MEP project kick-off meeting or teleconference to coordinate
- Incorporate Owner/Architect review comments into final documents
- Prepare and submit permit and construction documents
- Respond to permit comments
- Respond to contractor requests for information (RFI's)
- Provide equipment submittal and shop drawing review as submitted to RTM
- Provide construction administration as stated below

1.1.SCOPE OF CONSTRUCTION DOCUMENTS

In general, construction documents will include drawings and specifications of:

- Mechanical HVAC drawings including:
 - *HVAC equipment calculations, sizing, selection, and schedules*
 - *Coordination of new dishwasher hoods/venting to include ductwork modifications and new exhaust fans as required*
 - *Mechanical materials specifications*
- Plumbing drawings including:
 - *Rough-in of existing domestic hot and cold water to new dishwashers and related fixtures including temperature mixing devices*
 - *Rough-in of existing sanitary and vent piping systems to new dishwashers and related fixtures*
 - *Riser diagrams*
 - *Plumbing materials specifications*
 - *Equipment sizing, equipment selection and location*
- Electrical drawings including:
 - *Power feeds from existing service and panels to new dishwashers, related equipment, and new exhaust fans/controls*
 - *Panel board breaker allocation, feeder sizing, and schedules*
 - *General and specialty receptacle location and circuiting*
- Specifications:
 - Plan specifications

1.2. CONSTRUCTION ADMINISTRATION

- Review of equipment submittals - provided on an "as needed" basis. No fee deduction will be afforded if submittals are not submitted.
- Review of shop drawings - provided on an "as needed" basis. No fee deduction will be afforded if shop drawings are not submitted.
- Review and response to RFIs - provided on an "as needed" basis. No fee deduction will be afforded if RFI's are not received. (We do not add to our fee to provide this service.)
- (1) Punch list with report
- Site meetings or observation with report during construction – Refer to compensation.

1.3. EXCLUSIONS

The following services are not included in the scope of work:

- Additional site meetings or visits beyond listed in base scope
- Kitchen design by kitchen equipment contractor (hoods and utility rough-ins included)
- MEP cost estimates
- Value engineering after issuance of construction documents

*Services that are excluded can be provided for an additional fee at the request of the client.

To remain competitive with our fee, we have assumed that all services and utilities are of sufficient capacity and adequate condition for the continued re-use of the space. Any services requiring upgrade and/or equipment requiring replacement will require an additional fee.



Section II - Compensation

2. COMPENSATION

For the work outlined above in this proposal, our engineering fees are as follows:

MEP Site Survey of Existing Conditions	\$ 600.00
MEP Permit/Construction Documents (Base Fee)	\$4,000.00
MEP Construction Administration (Base Fee)	\$1,000.00
MEP Site Visit and/or Construction Meeting (Optional Service)	\$ 500.00

Minor variations are expected to occur in the Scope of the Project that should not alter the above estimate. In the event that the physical scope of the project, time of completion, or the services required are materially changed or the projections of the program are radically modified, thereafter; appropriate adjustments will be made to the fixed fee to compensate for any reduction or addition to the basic services. Adjustments to the lump sum fee will be made at the rate shown in the 'Hourly Rate Schedule' of this proposal.

2.1. HOURLY RATE SCHEDULE

Time and material expenses shall be billed at the rates shown below.

<u>CATEGORY</u>	<u>HOURLY RATES</u>
Principal	\$265.00/Hr.
Associate	\$175.00/Hr.
Senior Design Engineer	\$160.00/Hr.
Design Engineer	\$145.00/Hr.
CAD Technician	\$95.00/Hr.
Clerical	\$70.00/Hr.
Travel & Lodging Expenses:	Actual expense
Printing & Cad plots:	Actual expense

2.2. PROJECT RELATED EXPENSES

1. All expenses will be billed at cost with 0% mark-up



2.3. SCHEDULE OF PAYMENTS

For the basic services described in this proposal, we request that the following terms of payments:

1. Payment of invoices to RTM Engineering Consultants, LLC, shall be within a maximum of thirty (30) days net after issue of invoices.
2. We will submit monthly invoices for the services rendered.
3. Any additional service not covered in this Proposal will be billed at the rates shown in 'Hourly Rate Schedule.'

Section III – General Provisions

1. GENERAL PROVISIONS

Our ability to carry out the required work is heavily dependent upon our past experience. We will preserve the confidential nature of any information received from you, or developed during the work in accordance with our established professional standards.

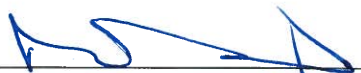
Neither party will use the name of the other for advertising or promotional purposes without prior permission in writing.

Technical data, documents, drawings, specifications or memoranda resulting from this assignment, are not to be reproduced in whole or in part for use outside our organization without prior written approval.

Any statement of probable construction costs, prepared as a part of our services, represents our best judgment based on familiarity with the construction industry. It is recognized, however, that we have no control over the cost of labor, materials or equipment, or the contractor's methods of determining bid prices and cost of services. Accordingly, we do not warrant that estimates or prices may not vary from the project budget prepared by us.

We will devote our best efforts to carrying out the work required. The results obtained from our recommendations and documents will be in our judgment based upon the information available to us. In any event, our liability shall not be greater than the amount paid to us for the services rendered.

ACCEPTED BY:

By: 

Printed Name: M. Bernard

Company: Wharton Park SH

Date: 5/2/15

SUBMITTED BY:



David Piluski

RTM Engineering Consultants, LLC



RTM Engineering Consultants, LLC Standard Terms and Conditions

These Standard Terms and Conditions are incorporated by reference into and made a part of the proposal and agreements between RTM and Client. In the event of a conflict between these Standard Terms and Conditions and any proposal or agreement between RTM and Client, these Standard Terms and Conditions shall govern.

1. **Parties.** "Client" shall be the party identified as such in the proposal or agreement, or, if none is defined, shall be the party to whom the proposal or agreement is addressed. "RTM" shall mean RTM Engineering Consultants, LLC.

2. **Client and Project Information.** Client shall provide accurate information regarding the Project, as applicable and as are available, including surveys, as-built drawings, all known site conditions, restrictions, permit requirements, easements and legal requirements applicable to the property, a program, setting forth objectives, schedule, constraints, a budget with reasonable contingencies, and criteria for rendition of services by RTM. RTM shall be entitled to rely on the accuracy and completeness of all information and services provided by Client.

3. **Scope of Services.** RTM's scope of services shall include only those services identified in the proposal or agreement. The duties, responsibilities and limitations of authority of RTM shall not be restricted, modified or extended without a signed, written agreement between Client and RTM. Neither Client nor RTM shall make changes to the other's instruments of service.

4. **Additional Services.** Services requested, authorized or confirmed in writing, signed or initiated by Client and not described above, including any other services not otherwise expressly included in the proposal or agreement, or not customarily furnished as basic services in a generally accepted consulting engineer practice, shall constitute additional services compensable as mutually agreed or as provided herein ("Additional Services"). If no agreement is reached in advance, time spent by RTM providing Additional Services shall be billed at the rates set forth in the Hourly Fee Schedule.

5. **Schedule, Budget and Standard of Care.** RTM shall perform its services as expeditiously as is consistent with reasonable skill and care. RTM agrees to perform its services in a manner that is consistent with the degree of care and skill ordinarily exercised by members of the same profession under similar circumstances. In providing services under this agreement under this standard of care, however, RTM makes no express or implied warranties or guarantees. RTM's opinions or evaluations of the Project's budget and estimates of construction cost prepared by RTM represent RTM's reasonable judgment as a design professional familiar with the industry. Client understands neither Client nor RTM can control the costs of labor, materials or prices under market conditions existing at the time of bidding. RTM's estimate of quantities is provided only as a guide for opinions of costs purposes. The client agrees and understands that the contractor shall be responsible for the final determination of all quantities. As such, RTM cannot and does not warrant or guarantee that the bids or final construction cost will not exceed any estimates given by RTM. If Client has retained or intends to retain separate contractors, consultants and other professionals in connection with the Project, RTM shall not be responsible for the work, services, acts, errors or omissions of such separate contractors, consultants and other professionals.

6. **Construction Administration.** If RTM's services include construction phase administration of the work in progress, RTM's responsibilities during construction administration may consist of the following duties only as specifically included in RTM's scope of services:

- a. Act as a representative, but not an agent, of Client at the site of the Project, with authority only as provided herein. RTM shall (i) have the authority but not the duty to reject work that does not conform to RTM's Contract Documents; (ii) have the authority but not the duty to request additional inspections or testing of the work whenever, in RTM's reasonable opinion, same is necessary or advisable for the implementation of the intent of RTM's Contract Documents; (iii) have the authority to review and comment or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples required by RTM's Contract Documents, but only for the limited purpose of checking for conformance with Contract Documents (except for dimension, quantities and installation capability, which are the responsibilities of the Contractor and/or its subcontractors) and other information given and the design concept expressed in the Contract Documents, provided however, RTM's review of a specific item

shall not indicate approval of an assembly of which the item is a component; and (iv) with prior written approval from Client, prepare and recommend that Client issue Change Orders and Construction Change Directives, along with supporting documentation and data;

b. Advise and consult with Client during construction on the Project until the final payment to the Contractor is due and, as an Additional Service, during any period thereafter in which changes are to be made by the Contractor;

c. Visit the site of the Project to observe the Work in order to become generally familiar with the progress and quality of the Work included in RTM's Contract Documents and completed to date and to determine whether, in general, the Work included in RTM's Contract Documents is being performed by the Contractor in a manner consistent with the requirements of RTM's Contract Documents: (i) at intervals which are appropriate, in RTM's reasonable discretion, to the stage of construction; or (ii) as otherwise agreed to by Client and RTM in writing, provided however, that in no event shall RTM be required to make exhaustive or continuous on-site inspections in order to check the quality or quantity of the Work, nor shall RTM be responsible for or review for any of Contractor's means, methods, techniques, sequence or procedures, or for safety precautions in connection with the Work, since these are solely the responsibility of the Contractor. Based upon said observations, RTM shall keep Client reasonably informed of the progress and quality of Work to the extent reasonable under the circumstances and in the exercise of the standard of care provided herein;

d. If included in RTM's scope of services, review and clarify amounts due to the Contractor based on RTM's observations at the site and evaluation of the Contractor's applications for payment. RTM's certification for payment constitutes a representation to Client, based upon RTM's observations at the site and on the data contained in the Contractor's application for payment, that the Work represented therein, to the best of RTM's knowledge, information and belief, has progressed to the point indicated thereon, and that the quality of the Work is in general accordance with all the Contract Documents, provided however, that the issuance of such a certification for payment is not a representation that RTM has: (i) made an exhaustive or continuous on-site inspection to check the quality or quantity of the Work done by the Contractor; (ii) reviewed the construction means, methods, techniques, sequences or procedures used by the Contractor; (iii) reviewed copies of requisitions received from Subcontractors or material suppliers; or (iv) ascertained how or for what purpose the Contractor has used money previously paid under the terms hereof;

e. Conduct observations to determine conformity with the dates of Substantial Completion and Final Completion and to issue a final Certificate of Payment.

f. Upon written request of Client or the Contractor, interpret and decide matters concerning performance thereof under the requirements of the Contract Documents. RTM's response to such requests shall be made with reasonable promptness. When making such interpretations and decisions, RTM shall not be liable for results of interpretations or decisions rendered in good faith and in accordance with the standard of care.

7. **Payment.** Client agrees to pay RTM within 30 days of receipt of RTM's invoice and any supporting documentation reasonably requested by Client. Invoices unpaid after 30 days shall accrue interest at the rate of one percent per month. Should Client fail to pay any amounts due hereunder or for any other services under any other agreements between Client and RTM, and such non-payment exceeds 45 days, RTM may, without prejudice to any other rights and remedies, suspend services on all agreements between Client and RTM until all amounts due are paid in full. In addition, at RTM's option, Client may be required to provide reasonable evidence of financial ability to perform Client's obligations under this Agreement. In the event of such suspension of services by RTM, should Client continue to fail to pay all amounts due in full by the close of business on the thirtieth (30th) day following suspension by RTM, then RTM may, without prejudice to any other rights and remedies, terminate the agreement or agreements between Client and RTM and recover damages. In the event of any suspension of services or termination by RTM for Client's failure to timely pay RTM, or in the event that RTM must enforce the terms of the agreement between Client and RTM, RTM shall have no liability for delays in the progress of the Work and RTM shall be entitled to recover its costs of early suspension or termination, remobilization and reasonable attorneys' fees, costs and expenses. If Client is another design professional to which RTM is a subconsultant on the Project, the time periods identified in this Section 7 shall be extended by 15 days.

8. **Dispute Resolution.** Any proposals or agreements between Client and RTM shall be governed by the laws of the state in which the project is located without regard to its conflict of law rules. If mutually agreed, the parties may submit any disputes between Client and RTM to mediation, which shall be located in a mutually agreeable location in the greater Chicago, Illinois metropolitan area. All costs for such mediation shall be shared equally by the parties.

9. **Electronically Transmitted Data.** Data, design information, specifications, CAD files or other information transmitted electronically are provided for Client's convenience but are "as-is" without warranty of media, content or compatibility with Client's systems. Client acknowledges and accepts the risk and responsibility for damages to Client's hardware or software related to the use or transfer of RTM's electronic data. Client understands that RTM cannot be responsible for unauthorized changes in electronic data and that differences may exist between electronically delivered or transmitted data and the paper, hard copy of instruments of service. In the event of any conflict between RTM's electronically delivered or transmitted data and paper, hard copies of RTM's instruments of service, the paper, hard copies of RTM's instruments of service shall govern. Under no circumstances will RTM's delivery or transmission of electronic data be deemed a sale. With respect to electronically delivered or transmitted data, RTM makes no warranties, either express or implied, of merchantability, compatibility, or fitness for any particular purpose.

10. **Limitation of Liability.** The parties hereby waive, as against each other, any claims for incidental, special, exemplary or consequential damages. In addition, Client understands and acknowledges the design and construction process for this Project poses certain risks to both RTM and Client. Client further understands and acknowledges the amount of risk that RTM will accept is tied, in part, to the amount of compensation received for services rendered. RTM's fee for the services offered is based on Client's agreement to limit RTM's liability as described below. Client further acknowledges that were it not for this promise to limit RTM's liability, RTM's compensation would be greater to address the risks posed by this Project. Client, therefore, acknowledges its right to discuss this provision with legal counsel and voluntarily agrees that, to the fullest extent permitted by law, RTM's total liability to Client for any and all injuries, claims, liabilities, losses, costs, expenses, or damages whatsoever arising out of or in any way related to the Project, the proposal or Agreement from any cause or causes including, but not limited to, RTM's negligence, errors, omissions, breach of contract or any other legal theory, shall not exceed the greater of (i) total compensation received by RTM under this agreement or (ii) proceeds from available insurance coverage.

11. **Copyrights and Licenses.** RTM shall be considered the author of the drawings, specifications and other documents prepared by it for the Project ("Instruments of Service") and RTM shall at all times hold the copyright therein. Upon payment to RTM for all services rendered under the terms of this Agreement, RTM grants to Client a non-exclusive license to use the Instruments of Service in connection with the design, construction, use, maintenance and occupancy of the Project. If this Agreement is terminated for any reason prior to completion of the Project, Client may use the Instruments of Service in whole or in part in connection with the completion of the Project, so long as RTM has been compensated for all services rendered through the date of termination and Client does not use the Instruments of Service for any other project without obtaining RTM's consent to such use. RTM shall not be responsible for any changes to the Instruments of Service made by anyone other than RTM or for any failure of shop drawings or other submissions to comply with the Instruments of Service if such shop drawing or other submission has not been approved by RTM.

12. **Insurance.** RTM shall maintain customary insurance with limits and exclusions as reasonably determined by RTM.

13. **Legal Fees.** In the event of a dispute, the non-prevailing party shall be responsible for the legal fees and costs incurred by the prevailing party.

14. **Successors and Assigns.** Neither party shall assign this Agreement or any right or cause of action arising out of this Agreement or the performance of obligations hereunder without the written consent of the other.

15. **Entire Agreement.** This Agreement represents the entire and integrated agreement between Client and RTM and supersedes all prior negotiations, representations, or agreements.

Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any third parties.