



**WINNETKA PARK DISTRICT  
REVENUE FACILITIES COMMITTEE MEETING  
WEDNESDAY, MAY 18, 2016  
A.C. Nielsen Tennis Center - Lounge  
530 Hibbard Road  
5:45 P.M.**

**AGENDA**

1. Call to Order/Roll Call
2. Unfinished Business
  - a. Tennis Court Color Coating
3. New Business
  - a. Tennis Court Construction Proposal
4. Adjournment

**Committee Members**

John Thomas, Chair  
Mickey Archambault  
John Peterson  
John Muno, Staff

Persons with disabilities requiring reasonable accommodations to participate in meetings should contact John Shea, the Park District's ADA Compliance Coordinator, at the Park District's Administrative Office by mail at 540 Hibbard Rd, Winnetka, IL, by phone at 847-501-2040, Monday - Friday from 8:30 am to 5:00 pm, or by email to [jshea@winpark.org](mailto:jshea@winpark.org) at least 48 hours prior to the meeting. Requests for a qualified interpreter require five (5) working days advance notice.

## Winnetka Park District

### Board Summary

**Date:** May 13, 2016  
**To:** Revenue Facilities Committee  
**Subject:** Tennis Court Color Coat (Courts 1-7)  
**From:** Patrick Fragassi, Tennis Manager  
John Muno, Superintendent of Facilities  
**Through:** Robert Smith, Executive Director

#### Summary:

Tennis staff has received bids for color coating work on outdoor courts 1-7. There were two bidders who submitted bids for the project including U.S. Tennis Court Construction Company and Olson Brothers Recreational Surfaces, Inc.

<b>Bidder</b>	<b>Base Bid</b>	<b>Alternate #1</b>	<b>Total</b>
U.S. Tennis Court Construction Company	\$56,887.50	\$3,870.00	\$60,757.50
<b>Olson Brothers Recreational Surfaces, Inc.</b>	<b>\$56,229.50</b>	<b>\$3,655.00</b>	<b>\$59,884.50</b>

After reviewing the documentation submitted by both bidders' staff has identified Olson Brothers Recreational Surfaces, Inc. as the low responsible bidder. Olson submitted a base bid of \$56,229.50 which includes all aspects of the project with the exception of the new crack repair. As directed in the bid as Alternate #1 for 215 linear feet of new crack repair Olson submitted a price of \$3,655.00 for a combined bid price of \$59,884.50. Staff had budgeted \$60,000 for the purposed work on courts 1-7.

Staff's recommendation is to award Olson Brothers Recreational Surfaces, Inc. for the combined bid price of \$59,884.50. Due to the delay in the bidding process and the upcoming tennis tournament staff is also requesting to submit a letter of intent to the contractor to help expedite the very aggressive time table. By doing so will help ensure that the contractor will be able to complete the project prior the tournament, and allow additional time for the surfacing to dry before the bleachers are erected out on site.

#### Recommendation:

At this time staff is recommending to the park board to approve the bid submitted by Olson Brothers Recreational Surfaces Inc. located in Mundelein, Illinois for A.C. Nielsen Tennis Center Court Color Coating (Outdoor 1-7) Base Bid and Alternate #1 for 215 linear feet of new crack repair for the combined bid price of \$59,884.50 and issue a letter of intent to Olson

Brothers Recreational Surfaces Inc. allowing them to proceed with the project prior to the formal approval at the May 26, 2016 Park Board Meeting.

**END**

**Winnetka Park District**  
**Board Summary**

**Date:** May 12, 2016

**To:** Revenue Facilities Committee

**Subject:** Tennis Court Improvement to Outdoor Courts 8-12 Proposal

**From:** Patrick Fragassi, Tennis Manager  
John Muno, Superintendent of Facilities

**Through:** Robert Smith, Executive Director

**Summary:**

Last fall staff was approached by Tad Eckert in regards to partnering with the Winnetka Park District A.C. Nielsen Tennis Center to provide funding by way of the Theodore Eckert Foundation for any capitals that would help the tennis facility, New Trier, and the pro tournament. After further discussions with Tad, staff identified exterior courts 8-12 as a project which would help support all three initiatives.

Since that time staff has been working with both The Lakota Group and GeWalt Hamilton Associates, Inc. on the design work for the court improvements for outdoor courts 8-12. After many discussions staff is looking to improve the surfacing and hardscape of the courts. Working within the donation of \$310,000.00 we are purposing to renovate the identified exterior courts which would include new asphalt, color coating, nets, fencing and drainage for the site.

Attached to this board summary is the proposal from GeWalt Hamilton Associates, Inc. which covers their scope of services. This includes planning, construction documents/permitting plans, permitting, specifications, and construction oversite and closeout. The proposed total cost for GeWalt's services is \$40,500.00. Our timeline for this project is to start construction fall 2016 and if weather allows complete prior to winter.

At this time staff seeking approval from the Park Board to engage the services from GeWalt Hamilton which would allow staff to continue planning the project and move into the bidding phase in July.

**Recommendation:**

Staff is recommending to the park board to approve the proposal from GeWalt Hamilton Associates, Inc. for the tennis court improvements to outdoor courts 8-12 for the proposed total service contract amount of \$40,500.00.

**END**

April 11, 2016  
Revised May 2, 2016

Mr. Costa Kutulas  
Superintendent of Parks  
Winnetka Park District  
1380 Willow Road  
Winnetka, IL 60093

Re: Professional Engineering Services  
A.C. Nielsen Tennis Center  
Tennis Court Improvements  
Winnetka Park District  
GHA Proposal No. 2016.SD040

Dear Mr. Kutulas:

Thank you for your consideration of Gewalt Hamilton Associates, Inc. (GHA) for the tennis court improvements at the A.C. Nielsen Tennis Center. Our proposal is based on your March 18<sup>th</sup> project scope and March 22<sup>nd</sup> project team meeting, our previous experience working on this site, as well as our experience on similar tennis court improvement projects.

We appreciate this opportunity to extend our services on this project and assist the Park District in fulfilling the envisioned improvements. After reviewing our proposal, please contact me should you have any questions or if you would like to consider any revisions.

Sincerely,  
Gewalt Hamilton Associates, Inc.



Walter E. Graft, P.E.  
Associate/Senior Engineer  
[wgraft@gha-engineers.com](mailto:wgraft@gha-engineers.com)

Encl.: GHA Proposal No. 2016.SD040

Professional Engineering Services  
A.C. Nielsen Tennis Center  
Tennis Court Improvements  
Winnetka Park District  
GHA Proposal No. 2016.SD040

Winnetka Park District (Client), 540 Hibbard Road, Winnetka, IL 60093, and Gewalt Hamilton Associates, Inc. (GHA), 625 Forest Edge Drive, Vernon Hills, IL 60061, agree and contract as follows:

## I. Project Understanding

The Park District would like to repair or replace courts 8-12 including new pavement, finish sand color coat, drainage, and fencing. Per discussions with the team, the courts appear to have potentially been built on a soft subgrade resulting in pavement settling and cracking over the years. The courts underwent heavy maintenance in 1995. Maintenance work included slip sheeting the existing court (stone and paving on top of existing pavement), new fencing and posts. During the team discussion it was recommended that one (1) soil boring to 10' be collected, as well as three (3) pavement cores through the surface pavement and through the second pavement below. The Park District is looking to coordinate collection of this information while looking for past design plans.

The Park District has a total budget of \$310,000 to complete the improvements. Therefore, construction scope shall be limited to this budget but will also consider future spectator patio and sidewalk improvements.

GHA has recently collected the existing conditions topographic survey of the surrounding outdoor tennis courts.

### A. Requested Services

It is our understanding that the Park District is looking for a civil engineering firm to assist in evaluating the tennis court pavement condition, provide pavement and drainage improvements, prepare construction plans for permitting and bidding, assist Park District staff with presentations to the Park District Board and Village Board, and provide construction coordination services.

### B. Exclusions

Per review of the project limits, it appears that this portion of the property is within the floodplain. Therefore any new improvements within the area would require a permit with MWRD. If the improvements are limited to within the tennis courts themselves then the improvements would be considered maintenance work and fall below the threshold for permitting requirements for the Metropolitan Water Reclamation District (MWRD), and an IEPA NPDES for erosion control. Therefore, GHA only anticipates a general permit through the Village of Winnetka.

GHA services do not include detention improvements or electrical redesign work.

## II. Scope of Services

### A. Due Diligence

GHA will conduct a site visit to evaluate existing tennis court pavement, surrounding drainage and sidewalk conditions, and collect site photos. We will provide the following additional services:

1. Attend one (1) team kickoff meeting to discuss the project scope and design considerations.
2. Coordinate with Client to establish pavement core and soil boring location and requirements.
3. Prepare preliminary pavement improvement estimated opinion of probable costs to assist with determining the magnitude of the site improvements. Provide possible alternates to assist with staying within budget.
4. Attend one (1) team meeting to discuss the findings of our preliminary improvements and opinion of probable costs. Remaining consultation with the Client will be via telephone, e-mail, fax, and hard copy documentation.

### B. Construction/Permit Plans

1. Incorporate team review comments from the due diligence phase into the construction plan set.
2. GHA will prepare site geometrics, pavement marking, grading, storm sewer, fencing, and erosion control design to adequately address the proposed improvements.
3. The civil plan set will include a Title Page, Demolition Plan, Geometry Plan, Utility / Grading Plan, General Notes, and Details for respective improvements.
4. Soil Erosion and Sediment Control Measures (SE/SC) and Notes will be prepared and included with the bid documents. Due to the size of the project, an IEPA – NPDES Construction Site Activities Notice of Intent (NOI) permit will not be required.
5. Specifications will be included within the General Notes and Detail sheets. The sand color coat system specification will be included within the Bid Manual as a special provision. Preparation of front-end bid documentation is not included in this portion of the work.
6. Attend two (2) team meetings during this phase. Meetings are anticipated at 50% and 90% completion. Remaining consultation with the Client will be via telephone, e-mail, fax, and hard copy documentation.
7. Incorporate team review comments from 50% and 90% submittals.
8. Near the conclusion of the final design, GHA will prepare an Engineer's Opinion of Probable Cost for the civil improvements.

### C. Village Permitting

1. Assist with completion of Building Permit application.
2. Submit plans and supporting calculations to the Village.
3. Communication with the Village via phone or email.
4. Provide plan and permit revisions in response to Village review comments.

D. Park District Meetings

GHA has budgeted up to two (2) meetings for attendance at public meetings. No exhibit preparation included.

1. Initial Park District Board Meeting.
2. Second Park District Board Meeting.

E. Bidding/Negotiation Phase

Upon authorization to proceed with this phase of the project, GHA will provide the following services as needed:

1. Prepare Bid form for a lump sum project with alternate and supplemental unit prices.
2. Prepare Bid Manual using Park District provided front-end documents. GHA is not an Architectural firm and does not provide contracts using AIA forms. If AIA forms are required, these documents will need to be outsourced.
3. Provide special provisions for paving, sand color coat system, and fencing.
4. Provide addenda and clarification related to civil site improvements, as needed.
5. Evaluate bidder proposed civil related substitutions for basic quality and applicability, when requested.
6. Attend bid opening and summarize bid results.
7. Review bid results and prepare a recommendation letter for submittal to the Board.
8. Prepare the contract award letter and supporting documents for the selected contractor.

F. Construction Observation Services

GHA anticipates that Winnetka Park District will provide the day-to-day coordination and communication with the contractor. Therefore, GHA observation services will be limited to the following:

1. One (1) pre-construction meeting.
2. Review shop drawings pertaining to civil site improvements (8 hours).
3. Provide consulting services to the Client throughout the construction process. This work will include preparing change orders, clarifying questions, and resolving problems encountered during the work (12 hours estimated).
4. GHA will provide eight (8) site visits during construction. We anticipate one (1) site visit during each of the following activities: demolition of fence posts and top pavement surface, utility installation, concrete work, fence installation, pavement, color coat installation, tennis court flood test, and restoration. GHA will be present on site for up to 2-3 hours, excluding travel time. The quantity of site visits may be increased or reduced based on the thoroughness of the lowest responsible bidder. If required, additional site visits will be provided on a time-and-materials (T&M) basis at the rates identified in *Section VI: Compensation for Services*.

5. Issue instructions to the contractor on behalf of the Client and prepare routine change orders for the Client's approval. GHA will not authorize any increase to the contract amounts without the expressed prior authorization of the Client.
6. Review all construction draws as they relate to the work performed to date, and issue opinions stating whether or not the work was performed in general conformance with the plans and specifications and is at the percentage of completion indicated in the subject draw (5 hours estimated).
7. Upon completion of construction, we will coordinate a final inspection of the work with the Park District, prepare a site punchlist of civil related items, and issue a final opinion for the work. GHA anticipates two (2) total punchlist site visits. (8 hours total estimated).

### III. Services not Included

The following are *not* included in the Scope of Services:

1. Multiple design or computation revisions due to site plan revisions made by the Park District.
2. Boundary or ALTA/NSPS Land Title Survey, obtaining a Title Commitment, preparation of easement documents or other plats, topographic survey, or other surveying services.
3. Tree inventory.
4. Design of dry utilities, irrigation systems, electrical systems, offsite improvements, or other items not specifically identified in *Section II: Scope of Services*.
5. Traffic studies and/or traffic engineering services.
6. Permit fees.
7. Construction layout or construction materials testing.
8. Geotechnical investigation (soil borings), agronomy tests, or clean construction demolition debris (CCDD<sup>1</sup>) testing or reporting.
9. Environmental studies.
10. Meetings beyond those specifically identified within *Section II: Scope of Services*.

### IV. Proposed Schedule

GHA understands the District would like to construct the project this year. The project will require approval by Park District Board and potentially the Village Board. We will work with the Park District in developing a design and schedule to meet a late-summer construction schedule. *Note: GHA is not responsible delays caused by review agencies.*

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<sup>1</sup> CCDD testing may be required during construction, depending on the disposition of hauling earthwork. This service is most efficiently done through a geotechnical subconsultant.

## V. Key Personnel

Mr. Walter E. Graft, P.E will serve as the Project Manager and will be the primary contact for the Park District. Additional professional and technical staff will provide support as needed.

## VI. Compensation for Services

Our lump sum fee for the above mentioned work is as follows:

<u>Service</u>	<u>Cost</u>
Due Diligence	\$4,600.00
Construction/Permit Plans	\$9,800.00
Local Agency Permitting	\$2,100.00
Meetings (2 total)	\$1,000.00
Specification/Bidding/Negotiation	\$7,100.00
Construction Observation Services	\$14,700.00
<b>Lump Sum Fee</b>	<b>\$39,300.00</b>
Estimated Reimbursable Expenses	\$1,200.00
<b>Total Lump Sum + Reimbursables</b>	<b>\$40,500.00</b>

For any additional services beyond those outlined in *Section II: Scope of Services*, the Client shall pay GHA in accordance with the following hourly rates:

### GHA 2016 Hourly Billing Rates

Principal Engineer	\$196/hr
Senior Engineer	\$166/hr
Senior Environmental Consultant	\$166/hr
Professional Engineer	\$138/hr
Registered Land Surveyor	\$120/hr
GIS Professional	\$120/hr
Staff Engineer	\$116/hr
Senior Engineering Technician	\$114/hr
Environmental Consultant	\$112/hr
Engineering Technician II	\$98/hr
Engineering Technician I	\$72/hr
Clerical	\$60/hr

Reimbursable expenses, including items such as printing, messenger service, mileage etc., will be billed to the Client without markup.

Invoices will be submitted on a monthly basis, and will detail services performed. This permits the client to review the status of the work in progress and the charges made.

**VII. General Conditions**

The delineated services provided by Gewalt Hamilton Associates, Inc., (GHA) under this Agreement will be performed as reasonably required in accordance with the generally accepted standards for civil engineering and surveying services as reflected in the contract for this project at the time when and the place where the services are performed.

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 Client or GHA. GHA's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against GHA because of this Agreement or the performance or nonperformance of services hereunder. In no event shall GHA be liable for any loss of profit or any consequential damages.

GHA shall not have control of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for job site safety measures. Such control is the sole responsibility of the Client's contractor.

The Client, and not GHA, is responsible for ensuring that the contractor implements the Storm Water Pollution Prevention Plan (SWPPP), including maintenance and/or repair of soil erosion and sediment control measures for compliance with the General NPDES Permit for Storm Water Discharges from Construction Site Activities. GHA assumes no liability for any actions by the Illinois Environmental Protection Agency (IEPA) resulting from the contractor's failure to comply with SWPPP or the requirements of the General Permit.

The Client and GHA agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation in Chicago, Illinois unless the parties mutually agree otherwise.

This Agreement, including all subparts and Attachment A, which is attached hereto and incorporated herein as the General Provisions of this Agreement, constitute the entire integrated agreement between the parties which may not be modified without all parties consenting thereto in writing.

By signing below you indicate your acceptance of this Agreement in its entirety.

Gewalt Hamilton Associates, Inc.



Walter E. Graft, P.E.  
Associate/Senior Engineer

Winnetka Park District

Robert Smith  
Executive Director

Date: \_\_\_\_\_

Encl.: Attachment A

**ATTACHMENT A TO GEWALT HAMILTON ASSOCIATES, INC.  
PROFESSIONAL SERVICES AGREEMENT**

**1. Standard of Care.** The services provided by Gewalt Hamilton Associates, Inc., (GHA) under this Agreement will be reasonably performed consistent with the generally accepted standard of care for the Scope of Basic Services called for herein at the time when and the place where the services are provided.

**2. Duration of Proposal.** The terms of this Agreement are subject to renegotiation if not accepted within 60 calendar days of the date indicated on this Agreement. Requests for extension beyond 60 calendar days shall be made in writing prior to the expiration date. The fees and terms of this Agreement shall remain in full force and effect for one year from the date of acceptance of this Agreement, and shall be subject to revision at that time, or any time thereafter if GHA gives written notice to the other party at least 60 calendar days prior to the requested date of revision. In the event that the parties fail to agree on the new rates or other revisions, either party may terminate this Agreement as provided for herein.

**3. Client Information.** Client shall provide GHA will all project criteria and full information for its Scope of Basic Services. GHA may rely, without liability, on the accuracy and completeness of the information Client provides, including that of its other consultants, contractors and subcontractors, without independently verifying that information.

**4. Payment.** Payments are due within 30 calendar days after a statement is rendered. Statements not paid within 60 calendar days of the end of the calendar month when the statement is rendered will bear interest at the rate of one percent (1.0%) per month until paid. The provision for the payment of interest shall not be construed as authorization to pay late. Failure of the Client to make payments when due shall, in GHA's sole discretion, be cause for suspension of services without breach or termination of this agreement. Upon notification by GHA of suspension of services, Client shall pay in full all outstanding invoices within 7 calendar days. Client's failure to make such payment to GHA shall constitute a material breach of the Agreement and shall be cause for termination by GHA. GHA shall be entitled to reimbursement of all costs actually incurred by GHA in collecting overdue accounts under this Agreement, including, without limitations, attorney's fees and costs. GHA shall have no liability for any claims or damages arising from either suspension or termination of this Agreement due to Client's breach. The Client's obligation to pay for GHA's services is in no way dependent upon the Client's ability to obtain financing, rezoning, payment from a third party, approval of governmental or regulatory agencies or the Client's completion of the project.

**5. Instruments of Service.** The Client acknowledges GHA's plans and specifications, including field data, notes, calculations, and all documents or electronic data, are instruments of service. GHA shall retain ownership rights over all original documents and instruments of service. All instruments of service provided by GHA shall be reviewed by Client within 10 calendar days of receipt. Any deficiencies, errors, or omissions the Client discovers during this period will be reported to GHA and will be corrected as part of GHA's Basic Services. Failure to provide such notice shall constitute a waiver. The Client shall not reuse or make, or permit to be made any modifications to the instruments of service without the prior written authorization of GHA. The Client waives all claims against GHA arising from any reuse or modification of the instruments of service not authorized by GHA. The Client agrees, to the fullest extent permitted by law, to defend and indemnify and hold GHA harmless from any liability, damage, or cost, including attorneys' fees, arising from the unauthorized reuse or modification of the instruments of service by any person or entity. The parties agree that if elements of the Scope of Basic Services identified in this Agreement are reduced and/or eliminated by Client, then Client waives, releases and holds GHA harmless from all claims and damages arising from those reduced and/or eliminated services. If GHA's Scope of Basic Services does not include construction administration phase services, Client assumes responsibility for interpretation of the instruments of service and construction observation, and waives all claims against GHA for any act, omission or event connected thereto. Unless included in GHA's Scope of Basic Services, GHA shall not be liable for coordination with of the services of Client's other design professionals.

**6. Electronic Files.** The Client acknowledges that differences may exist between the electronic files delivered and the printed instruments of service. In the event of a conflict between the signed / sealed printed instruments of service prepared by GHA and the electronic files, the signed / sealed instruments of service shall control. GHA's electronic files shall be prepared in the current software GHA uses and will follow GHA's standard formatting unless the Scope of Basic Services requires otherwise. Client accepts that GHA makes no warranty that its software will be compatible with other systems or software.

**7. Applicable Codes.** The Client acknowledges that applicable laws, codes and regulations may be subject to various, and possibly contradictory, interpretations. Client accepts that GHA does not warrant or guarantee that the Client's project will comply with interpretations of applicable laws, codes, and regulations as they may be interpreted to the project. Client agrees that GHA shall not be responsible for added project costs, delay damages, or schedule changes arising from unreasonable or unexpected interpretations of the laws, codes, or regulations applied to the project, nor for changes required by the permitting authorities due to changes in the law that became effective after completion of GHA's instruments of service. Client shall compensate GHA for additional fees required to revise the instruments of service to comply with such interpretations. Client shall also compensate GHA for additional fees required to revise the instruments of service if Client changes the project scope after GHA's completes its instruments of service.

**8. Utilities and Soils.** When the instruments of service include information pertaining to the location of underground utility facilities or soils, such information represents only the opinion of the engineer as to the possible locations. This information may be obtained from visible surface evidence, utility company records or soil borings performed by others, and is not represented to be the exact location or nature of these utilities or soils in the field. Client agrees that GHA may reasonably rely on the accuracy and completeness of information furnished by third parties respecting utilities, underground conditions and soils without performing any independent verification. Contractor is solely responsible for utility locations, their markings in the field and their placement on the plans based on information they provided. Client agrees GHA is not liable for damages resulting from utility conflicts, mistaken utility locates, unfavorable soils, and concealed or unforeseen conditions, including but not limited to added construction costs and/or project delays. If the Client wishes to obtain the services of a contractor to provide test holes and exact utility locations, GHA may incorporate that information into the design and reasonably rely upon it. If not included in the Scope of Basic Services, such work will be compensated as additional services.

**9. Opinion of Probable Construction Costs.** GHA's Scope of Basic Services may include the preparation of an opinion of probable construction costs. Client acknowledges that GHA has no control over the costs of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions. Opinions of probable costs, shall be made on the basis of experience and qualifications applied to the project scope contemplated by this Agreement as well as information provided by Client (the accuracy and completeness of which GHA may rely upon), and represent GHA's reasonable judgment. Client accepts that GHA does not guarantee or warrant that proposals, bids, or the actual construction costs will not vary from opinions of probable cost prepared for the Client. GHA shall not be liable for cost differentials between the bid and/or actual costs and GHA's opinion of probable construction costs. Client agrees it shall employ an independent cost estimator if, based on its sole determination, it wants more certainty respecting construction costs,

**10. Contractor's Work.** Client agrees that GHA does not have control or charge of and is not responsible for construction means, methods, techniques, sequences or procedures, or for site or worker safety measures and programs including enforcement of Federal, State and local safety requirements, in connection with construction work performed by the Client or the Client's construction contractors. GHA is not responsible for the supervision and coordination of Client's construction contractors, subcontractors, materialmen, fabricators, erectors, operators, suppliers, or any of their employees, agents and representatives of such workers, or responsible for any machinery, construction equipment, or tools used and employed by contractors and subcontractors. GHA has no authority or right to stop the work. GHA may not direct or instruct the construction work in any regard. In no event shall GHA be liable for the acts or omissions of Client's construction contractors, subcontractors, materialmen, fabricators, erectors, operators or suppliers, or any persons or entities performing any of the work, or for failure of any of them to carry out their work as called for by the Construction Documents. The Client agrees that the Contractor is solely responsible for jobsite and worker safety, and warrants that this intent shall be included in the Client's agreement with all prime contractors. The Client agrees that GHA and GHA's personnel and consultants (if any) shall be defended/indemnified by the Contractor for all claims asserted against GHA which arise out of the Contractor's or its subcontractors' negligence, errors or omissions in the performance of their work, and shall also be named as an additional insured on the Contractor's and subcontractors' general liability insurance policy. Client warrants that this intent shall be included in the Client's agreement with all prime contractors. If the responsible prime contractor's agreement fails to comply with the Client's intent, then the Client agrees to assume the duty to defend and indemnify GHA for claims arising out of the Contractor's or subcontractors' negligence, errors or omissions in the performance of their work.

**11. Contractor Submittals.** Shop drawing and submittal reviews by GHA shall apply only to the items in the submissions that concern GHA's scope of Basic Services and only for the purpose of assessing if, upon successful incorporation in the project, they are generally consistent with the GHA's Instruments of Service. Client agrees that the Contractor is solely responsible for the submissions and for compliance with the Instruments of Service. Owner agrees that GHA's review and action in relation to the submissions does not constitute the provision of means, methods, techniques, sequencing or procedures of construction or extend to jobsite or worker safety. GHA's consideration of a component does not constitute acceptance of an assembled item.

**12. Hazardous Materials.** Client agrees that GHA has no responsibility or liability for any hazardous or toxic materials, contaminants or pollutants.

**13. Record Drawings.** If required by the Scope of Basic Services, record drawings will be prepared which may include unverified information compiled and furnished by others, the accuracy and completeness of which GHA may reasonably rely upon. Client accepts that GHA shall not verify the information provided to it and agrees GHA will not be responsible for any errors or omissions in the record drawings due to incorrect or incomplete information furnished by others to GHA.

**14. Disputes.** Client agrees to limit GHA's total aggregate liability to the Client for GHA's alleged acts, errors or omissions to \$50,000 or the amount of GHA's paid fees for its services on the project, whichever is greater. GHA makes no guarantees or warranties, either expressed or implied, including any warranty of habitability or fitness for a particular purpose. The parties agree to waive all claims against the other for any and all consequential damages, including attorneys' fees. The parties agree to waive against each other all rights and claims otherwise covered by property insurance, by builder's risk insurance or by all risk insurance, including but not limited to subrogation rights regardless of whether the claims arise during or post-construction and regardless of final payment to GHA.

All disputes arising out of or relating to this Agreement shall first be negotiated between the parties. If unresolved, the dispute shall be submitted to mediation as a condition precedent to litigation. Mediation shall take place in Chicago, Illinois unless the Client and GHA mutually agree otherwise. The fees and costs of the mediator shall be apportioned equally between the parties. If mediation is unsuccessful, litigation shall be the form of dispute resolution and shall be filed in the jurisdiction where the project was pending. The controlling law shall be the law of the jurisdiction where the project was located. Client agrees that all causes of action under this Agreement shall be deemed to have accrued and all statutory limitations periods shall commence no later than the date of GHA's services being substantially completed. Client agrees that any claim against GHA arising out of this Agreement shall be asserted only against the entity and not against GHA's owners, officers, directors, shareholders, or employees, none of whom shall bear any liability and may not be subject to any claim.

**15. Miscellaneous.** Either Client or GHA may terminate this Agreement without penalty at any time with or without cause by giving the other party ten (10) calendar days prior written notice. The Client shall, within thirty (30) calendar days of termination pay GHA for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions of this Agreement. Client shall not assign this Agreement without GHA's prior written consent. There are no third-party beneficiaries to this Agreement.