

## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT between the parties dated the 24<sup>th</sup> day of JUNE, 2022 (the "Agreement") is hereby entered into between **Antinozzi Associates, P.C.**, a professional corporation organized and existing under the laws of the State of Connecticut, with offices at 271 Fairfield Avenue, Bridgeport, CT 06604 (the "**Consultant**") and **the City of Bridgeport**, acting through its Library Board, located at 925 Broad Street, Bridgeport, Connecticut 06604 (the "**City**") on the following terms and conditions:

WHEREAS, the City issued a Request For Qualifications and Sealed Price Proposal dated October 20, 2021, which is incorporated by reference as if fully set forth herein (the "**RFQ**") seeking architectural design services for the expansion of the Lower East Side Branch Library at 1174 East Main Street, Bridgeport, CT (the "**Premises**") related to renovating the basement, first and second floors thereof;

WHEREAS, the Consultant responded to the RFQ by submitting its qualifications and fee proposal dated December 7, 2021, which is incorporated by reference as if fully set forth herein (the "**Proposal**");

WHEREAS, the Consultant agrees to commence its services and perform the same in accordance with this Agreement and as specifically directed by the City.

NOW, THEREFORE, for good and valuable consideration, the parties mutually agree as follows:

The above recitals are incorporated by reference as if fully set forth in the body of this Agreement with full legal force and effect.

1. General Undertaking. The parties are entering into this Agreement for the purposing of engaging the Consultant to design the renovations to the Premises as requested in the RFQ and more fully set forth in the Proposal (the "**Services**").

2. Term of Engagement. This Agreement shall commence within five (5) business days of the date last below written or on a date set forth in a notice to proceed to the Consultant and shall continue in full force and effect until the Services are completed according to this Agreement, until the earlier termination of this Agreement as provided herein, or on December 31, 2023, whichever occurs first ("**Term**"). Termination shall have no effect on the City's obligation to pay for Services rendered through such earlier termination for work that has been completed in accordance with the terms of this Agreement and which has been accepted in due course by the City.

3. Record of Activities. The Consultant shall, if requested, maintain contemporaneous daily records of tasks performed in sufficient detail requested by the

City, which records shall be submitted to the City at requested intervals during the Term. Unless otherwise stated, all work schedules shall be considered a material part of this Agreement.

4. Source of Funds Requirements; Price; Payment.

(a) Source of Funds Requirements. If the funding source for the Service has specific requirements, such requirements are set forth in **Exhibit A** attached hereto and made a part hereof.

(b) Price. Consultant shall provide its Services for the fee ("Fee") set forth in **Exhibit B** attached hereto and made a part hereof.

(c) Payment. The Consultant shall submit invoices for portions of its Fee with all backup documentation, including hours and activities if applicable, reimbursable expenses with receipts, and the like, to the City on a monthly basis for the prior month's Services rendered, and the City shall pay such invoices within 45 days after receipt of a complete invoice.

5. Acceptability of Information and Reports Supplied by the Consultant. Any and all information and reports, whether supplied orally or in writing by the Consultant, shall be based upon consistent and reliable data-gathering methods and the City may rely upon such information and reports.

6. Proprietary Rights. The City does not anticipate that the Consultant will develop or deliver anything other than Services and certain written reports or recommendations. The Consultant shall not use or violate the proprietary information of others without a license therefor. Nevertheless, the Consultant shall take the necessary steps to ensure that the City shall own all right, title and interest in such the Consultant's work under this Agreement and to the extent such work provides analyses, findings, or recommendations uniquely related to the Services to be rendered. The Consultant expressly acknowledges and agrees that its work constitutes "work made for hire" under Federal copyright laws (17 U.S.C. Sec. 101) and is owned exclusively by the City and, alternatively, the Consultant hereby irrevocably assigns to the City all right, title and interest in and irrevocably waives all other rights (including moral rights) it might have in its work under this Agreement. The Consultant shall, at any time upon request, execute any documentation required by the City to vest exclusive ownership of such work in the City (or its designee). The Consultant retains full ownership of any underlying techniques, methods, processes, skills or know-how used in developing its Services under this Agreement and is free to use such knowledge in future projects.

7. Confidential Information.

(a) Acknowledgment of Confidentiality. Each party hereby acknowledges that it may be exposed to confidential and proprietary information belonging to the other party or relating to its affairs, including materials expressly designated or marked as confidential

("Confidential Information"). Confidential Information does not include (i) information already known or independently developed by the recipient; (ii) information in the public domain through no wrongful act of the party, (iii) information received by a party from a third party who was free to disclose it or (iv) information required to be disclosed under the Connecticut Freedom of Information Act.

(b) Covenant Not to Disclose. Each party hereby agrees that during the Term and at all times thereafter it shall not use, commercialize or disclose the other party's Confidential Information to any person or entity, except to its own employees who have a "need to know," to such other recipients as the other party may approve in writing in advance of disclosure, or as otherwise required by court order, statute or regulation. Each party shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event shall a party use less than reasonable care and due diligence. Neither party shall alter or remove from any software, documentation or other Confidential Information of the other party (or any third party) any proprietary, copyright, trademark or trade secret legend.

(c) Injunctive Relief. The parties acknowledge that violation by one party of the provisions of this Agreement relating to violation of the other party's Proprietary Rights or Confidential Information rights would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that preliminary and permanent injunctive relief may be sought without the necessity of the moving party posting bond to prevent any actual or threatened violation of such provisions.

#### 8. Representations and Warranties.

The Consultant represents and warrants, as of the date hereof and throughout the Term of this Agreement, as follows:

(a) The Consultant represents that it has the requisite experience to undertake and complete the Services pursuant to the requirements of this Agreement and has in its employ or will hire qualified and trained personnel to perform the Services required.

(b) The Consultant represents that it can commence the Services promptly within five (5) days of the receipt of a notice to proceed and will complete the Services in a timely manner on a schedule to be approved by the City.

(c) The Consultant represents that it is financially stable and has adequate resources and personnel to commence and complete the Services required in a timely fashion.

(d) The Consultant's performance of the Services described herein, and its representation of the City, will not result in a conflict of interest, will not violate any laws

or contractual obligations with third parties, and is an enforceable obligation of the Consultant.

(e) The Consultant will not subcontract any of the work to third parties without prior written notice to the City and receipt of the City's prior written consent.

(f) The Consultant represents that neither it, nor any of its officers, directors, owners, employees or permitted subcontractors, have committed a criminal violation of or are under indictment of a federal or state law arising directly or indirectly from its business operations or reflects on its business integrity or honesty that resulted or may result in the imposition of a monetary fine, injunction, criminal conviction or other penal sanction, and further represents that the Consultant, its officers, directors, owners, employees, agents and subcontractors shall comply with the requirements of all laws, rules and regulations applicable to the conduct of its business or the performance of the Services under this Agreement.

(g) The Consultant represents that it will perform the Services in a good and workmanlike manner and will diligently pursue the completion of same in accordance with the terms of this Agreement.

(h) The Consultant represents that it possesses all licenses and permits that may be required to perform the Services required by this Agreement.

(i) The Consultant represents and warrants that the performance of the Services will not infringe upon or misappropriate any United States copyright, trademark, patent, or the trade secrets or other proprietary material of any third persons. Upon being notified of such a claim, the Consultant shall (i) defend through litigation or obtain through negotiation the right of the City to continue using the Services of the Consultant; (ii) rework the Services to be rendered so as to make them non-infringing while preserving the original functionality, or (iii) replace the Services with the functional equivalent. If the City determines that none of the foregoing alternatives provide an adequate remedy, the City may terminate all or any part of this Agreement and, in addition to other relief, recover the amounts previously paid to the Consultant hereunder.

#### 9. Remedies & Liabilities.

(a) Remedies. In addition to other remedies expressly acknowledged hereunder and except as expressly limited herein, the City shall have the full benefit of all remedies generally available to a purchaser of goods under the Uniform Commercial Code.

(b) Liabilities. THE CITY SHALL NOT BE LIABLE TO THE CONSULTANT FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT IN AN AMOUNT EXCEEDING THE TOTAL CONTRACT PRICE FOR THE DELIVERABLE AT ISSUE. EXCEPT FOR VIOLATIONS BY THE CONSULTANT OF SECTION 6 ("PROPRIETARY RIGHTS") OR SECTION 7 ("CONFIDENTIAL INFORMATION"), NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY OR

CONSEQUENTIAL DAMAGES (INCLUDING LOST SAVINGS OR PROFIT) SUSTAINED BY THE OTHER PARTY OR ANY OTHER INDIVIDUAL OR ENTITY FOR ANY MATTER ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT. THE PARTIES HEREBY EXPRESSLY ACKNOWLEDGE THAT THE FOREGOING LIMITATION HAS BEEN NEGOTIATED BY THE PARTIES AND REFLECTS A FAIR ALLOCATION OF RISK.

10. Notices. Notices sent to either party shall be effective on the date delivered in person by hand or by overnight mail service or on the date received when sent by certified mail, return receipt requested, to the other party or such other address as a party may give notice of in a similar fashion. The addresses of the parties are as follows:

If to the City:

City Librarian  
City of Bridgeport Public Library  
925 Broad Street  
Bridgeport, Connecticut 06604

with a copy to:

City Attorney  
Office of the City Attorney  
City of Bridgeport  
999 Broad Street, Second Floor  
Bridgeport, Connecticut 06604

If to the Consultant:

At the address specified above.

With a copy to:

11. Termination For Default; Termination For Convenience.

(a) This Agreement shall terminate upon expiration of the Term or upon the earlier termination by one of the parties in accordance with the terms hereof. In addition to other relief, either party may terminate this Agreement if the other party breaches any material provision hereof and fails after receipt of written notice of default to advise the other party in writing within five (5) business days of its intentions with respect to such default and in any event corrects or cures such default within ten (10) business days of the receipt of

notice of default. If such default cannot be cured or corrected within such 10-day period and the defaulting party details in writing to the other the reasons why such default cannot be so corrected or cured, the other party shall give an additional thirty (30) day period to correct or cure such default and the defaulting party shall with best efforts and due diligence promptly commence and consistently pursue corrective or curative action reasonably acceptable to the aggrieved party to completion. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, or if a receiver is appointed or a petition in bankruptcy is filed with respect to the party and is not dismissed within thirty (30) days. Termination shall have no effect on the parties' respective rights or obligations under Section 7 ("Confidential Information"), Section 9 ("Injunctive Relief") or Section 10 ("Warranties").

(b) The Consultant may not terminate for convenience. The City may terminate for convenience upon giving written notice of termination.

12. Resolution of Disputes and Choice of Law.

The parties agree that all disputes between them arising under this Agreement or involving its interpretation, if they cannot be first resolved by mutual agreement, shall be resolved in a court of competent jurisdiction over the parties located in Fairfield County, Connecticut.

13. Independent Consultant Status. The Consultant and its approved subcontractors are independent contractors in relation to the City with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association or employment relationship between the parties. The Consultant shall remain responsible, and shall indemnify and hold harmless the City, from and against all liability for the withholding and payment of all Federal, state and local personal income, wage, earnings, occupation, social security, worker's compensation, unemployment, sickness and disability insurance taxes, payroll levies or employee benefit requirements (under ERISA, state law or otherwise) now existing or hereafter enacted and attributable to the Consultant, its subcontractors and their respective employees. THE CONSULTANT REPRESENTS THAT IT RETAINS WIDE DISCRETION IN THE TIME, MANNER AND DETAILS OF PERFORMANCE, IS NOT UNDER THE CITY'S DIRECT SUPERVISION OR CONTROL, HAS THE SKILLS AND TOOLS TO PERFORM THE WORK, HOLDS ITSELF OUT GENERALLY AS AN INDEPENDENT CONSULTANT AND HAS OTHER SUBSTANTIAL SOURCES OF INCOME.

14. Security, No Conflicts. Each party agrees to inform the other of any information made available to the other party that is classified or restricted data, agrees to comply with the security requirements imposed by any state or local government, or by the United States Government, and shall return all such material upon request. Each party warrants that its participation in this Agreement does not conflict with any contractual or other obligation of the party or create any conflict of interest prohibited by the U.S. Government or any other government and shall promptly notify the other party if any such conflict arises during the Term.

15. Indemnification; Insurance.

(a) Indemnification. The Consultant agrees to defend, indemnify and hold harmless the City, its elected officials, officers, department heads, employees and agents from and against any and all claims, liabilities, obligations, causes of action for damages arising out of the Consultant's negligence or misconduct, including direct damage to the City's property, and costs of every kind and description arising from Consultant's work or activities under this agreement and alleging bodily injury, personal injury, property damage regardless of cause, except that the Consultant shall not be responsible or obligated for claims arising out of the sole proximate cause of the City, its elected officials, officers, department heads, employees or agents.

A. Insurance requirements: (1) The following insurance coverage is required of the Consultant who shall ensure that the City is named as additional insured **by policy endorsement** with notice of cancellation by policy endorsement in the same manner. The Consultant shall procure, present to the City, and maintain in effect for the Term without interruption the insurance coverages identified below with insurers licensed to conduct business in the State of Connecticut and having a minimum Best's A + 15 financial rating or rating otherwise acceptable to the City.

Errors and Omissions insurance (claims made from) with minimum limits of \$1,000,000, or as otherwise required by the City.

Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations conducted under this agreement. Coverage shall be broad enough to include premises and operations, contingent liability, contractual liability, completed operations (24 months), broad form property damage, care, custody and control, with limitations of a minimum \$1,000,000 per occurrence and \$300,000 property damage.

Business Automobile insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of \$1,000,000 combined primary and excess coverage for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

Workers' Compensation insuring in accordance with statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment. Liability for employee suits shall not be less than \$500,000 per claim.

(b) General requirements. All policies shall include the following provisions:

Cancellation notice—The City shall be entitled to receive from the insurance carriers **by policy endorsement** not less than 30 days' written notice of cancellation, non-renewal or reduction in coverage to be given to the City at: Purchasing Agent, City of Bridgeport, Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604.

Certificates of Insurance—All policies will be evidenced by an original certificate of insurance delivered to the City and authorized and executed by the insurer or a properly-authorized agent or representative reflecting all coverage required, such certificate required to be delivered to the City prior to any work or other activity commencing under this agreement.

Additional insured—The Consultant will arrange with its insurance agents or brokers to name the City, its elected officials, officers, department heads, employees and agents on all liability policies of primary and excess insurance coverages as additional insured parties **by policy endorsement** and as loss payee with respect to any damage to property of the City, as its interest may appear. The undersigned shall submit to the City upon commencement of this agreement and periodically thereafter, but in no event less than once during each year of this agreement, evidence of the existence of such insurance coverages in the form of original Certificates of Insurance. Such certificates shall designate the City in the following form and manner:

“The City of Bridgeport Public Library, its appointed officials, officers, department heads, employees, agents, servants, successors and assigns  
ATIMA  
Attention: City Librarian  
925 Broad Street  
Bridgeport, Connecticut 06604”

16. Non-discrimination. The Consultant agrees not to discriminate, nor permit discrimination, against any person in its employment practices, in any of its contractual arrangements, in all services and accommodations it offers the public, and in any of its other business operations on the grounds of race, color, national origin, religion, sex, disability or veteran status, marital status, mental retardation or physical disability, unless it can be shown that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut, and further agrees to provide the Commissioner of Human Rights and Opportunities with information which may be requested from time to time by the Commission concerning the employment practices and procedures of both parties as they relate to the provisions of Section 4-114a of the Connecticut General Statutes and any amendments thereto. This agreement is subject to the provisions of the Governor's Executive Order No. 3 promulgated June 16, 1971, and, as such, this Agreement may be canceled, terminated, or suspended by the State Labor Commission for violation of, or noncompliance with, Executive Order No. 3, or any State or Federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this agreement. The parties



to this agreement, as part of the consideration hereof, agree that Executive Order No. 3 is incorporated herein and made a part hereof. The parties agree to abide by Executive Order No. 3 and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to performance in regard to nondiscrimination, until the agreement is completed or terminated prior to completion. The parties agree as part of the consideration hereof that this agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. 3 and that they will not discriminate in employment practices or policies, will file reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

17. Communications. All communications shall be made orally or in writing to the City's project manager who, at the inception of this agreement is the City Librarian (the "**Project Manager**") or his/her respective designee. Any written report prepared by or requested from the Consultant shall be sent in draft form to the City Attorney for review prior to finalization.

18. Miscellaneous.

(a) Entire Agreement. This document and the identified exhibits, schedules and attachments made a part hereof or incorporated herein, constitute the entire and exclusive agreement between the parties with respect to the subject matter hereof and supersede all other communications, whether written or oral.

(b) Modifications. This Agreement may be modified or amended only by a writing signed by the party against whom enforcement is sought.

(c) Prohibition Against Assignment. Except as specifically permitted herein, neither this Agreement nor any rights or obligations hereunder may be transferred, assigned or subcontracted by the Consultant without the City's prior written consent and any attempt to the contrary shall be void.

(d) Excusable Delay. The parties hereto, respectively, shall not be in default of this Agreement if either is unable to fulfill, or is delayed in fulfilling, any of its respective obligations hereunder, or is prevented or delayed from fulfilling its obligations, in spite of its employment of best efforts and due diligence, as a result of extreme weather conditions, natural disasters, catastrophic events, casualties to persons or properties, war, governmental preemption in a national emergency, enactment of law, rule or regulation or change in existing laws, rules or regulations which prevent any party's ability to perform its respective obligations under this agreement, or actions by other persons beyond the exclusive control of the party claiming hindrance or delay. If a party believes that a hindrance or delay has occurred, it shall give prompt written notice to the other party of the nature of such hindrance or delay, its effect upon such party's performance under this agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such party's performance. Notwithstanding notification of a claim of hindrance or delay by one party, such request shall not affect, impair or excuse the other party hereto

from the performance of its obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the party claiming delay or hindrance. The occurrence of such a hindrance or delay may constitute a change in the scope or timing of service, and may result in the need to adjust the contract price or contract time in accordance with the terms of this Agreement.

(e) Partial Invalidity. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be deleted and the balance of the Agreement shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect.

(f) Partial Waiver. The waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

(g) Headings. Headings are for reference purposes only and have no substantive effect.

(h) Survival. All representations, warranties and indemnifications contained herein shall survive the performance of this Agreement or its earlier termination.

(i) Precedence of Documents. In the event there is any conflict between this agreement or its interpretation and any exhibit, schedule or attachment, this Agreement shall control and take precedence.



(j) Property Access. The parties understand that it is the City's obligation to obtain legal access to City property where the Consultant's Services are to be performed. The Consultant shall not be held liable for any unlawful entry onto any property where such entry has been ordered, requested or directed by the City in writing.

**IN WITNESS WHEREOF**, for adequate consideration and intending to be legally bound, the parties hereto have caused this agreement to be executed by their duly-authorized representatives.

**CITY OF BRIDGEPORT LIBRARY BOARD**

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

  
\_\_\_\_\_  
MICHAEL LOSASSO  
  
\_\_\_\_\_  
MANNY MARCHISO

CONSULTANT


By:   
Name: F. MICHAEL HAYES  
Title: PRINCIPAL  
duly-authorized 6/24/22

Exhibit A

Funding Source Requirements

Exhibit B

Fee Proposal

ATTACHED

## FEE PROPOSAL SUMMARY

For 65 years, Antinozzi Associates has worked with many public clients across Connecticut to design and manage municipal projects. For small, complex projects such as the Bridgeport Public Library (BPL) Lower East Side Branch Expansion Project, developing a “fixed fee” for design services can be challenging due to ‘unknowns’ that typically arise during the design process.

We can assure the City of Bridgeport, BPL Board, and Library Building Committee that the Antinozzi Associates team has developed our fee proposal for this project based upon our site visit on October 29, 2021, Addendum 1-3 posted on BidSync, and the required scope and tasks indicated in RFQ #LBX03322B dated October 20, 2021.

### Scope of Work Understanding

The following project parameters are understood per the RFP and Addenda posted by the City of Bridgeport:

- a) The overall total budget is \$2.4M which includes all costs to complete the project.
- b) Project completion is anticipated by May 2023; however, December 2022 is the preferred completion date.
- c) M/E/P improvements are not required for the first floor, but will need to remain operational.

### Fee Proposal

As clarified in Addendum #3 of the RFP, the fee form would allow for a breakdown of phases/services. How-

ever, we did see a form included/posted. Therefore, we have developed the following fixed fee for design services. This fee proposal includes Architectural, Interior Design, FF&E Design, M/E/P/FP, Structural (limited), Civil/Landscape (limited), Cost Estimating (DD phase only), and Technology Design.

Schematic Design:	\$ 19,900
Design Development:	\$ 33,200
Construction Documents:	\$ 39,900
Bid/Negotiation:	\$ 6,700
<u>Construction Administration:</u>	<u>\$ 33,500</u>
<b>TOTAL DESIGN FEE:</b>	<b>\$133,200</b>

Please note: should the construction budget exceed \$2.4M due to scope/program or schedule changes, or other reasons not caused by our team, Antinozzi Associates has the right to request additional design services based on the level of services required.

### Fee Exclusions

- Environmental/HazMat Investigation/Documents (budget \$6,000); M/E/P or Building Commissioning; As-Built Drawings

### Reimbursables

Out-of-state travel, AHJ fees, bulk printing/plotting, professional renderings, physical models, or design mock-ups.

