

**NOVEMBER 29, 2022**

Mr. Mark Higgins  
**D'Angelo Real Estate LLC**  
323 Manley Street  
West Bridgewater MA. 02379

**RE: ARCHITECTURAL AND ENGINEERING SERVICES PROPOSAL / LETTER OF AGREEMENT**  
Metro Mattress Tenant Fit-up, Bayberry Plaza, 150 Highland Ave. Seekonk MA

Dear Mark

Thank you for the opportunity to provide you with our Proposal and Letter of Agreement for Architectural and MEP/FP Engineering services for the Landlord fit-up of Metro Mattress in Seekonk MA. Our scope assumes no structural work is required and re-use of existing RTU's. Here follows an outline of the scope of A/E services required with fixed fee by phase for your review and approval.

**PROJECT DESCRIPTION**

BKA will produce Architectural and MEP/FP Engineering documents for permit submission and perform Construction Administration services for the Landlords portion of the Metro Mattress Tenant space fit-up work as documented in drawing A101 provided by Sutton Architecture PLLC dated 10/25/22 with code required bathroom modifications. Our work will update the proposed store bathroom layout as required by the 248 CMR Plumbing code and then based on that approved plan. BKA and our consulting engineer will develop Contract Documents for Permit and provide Construction Administration services to satisfy the Controlled Construction requirements of 780 CMR.

**SCOPE OF ARCHITECTURAL & ENGINEERING SERVICES**

Based on our current understanding of the project, here follows the scope of the architectural services required outlined by phase.

**PREDESIGN (PHASE 010)**

- Review and Analyze Applicable Codes
- Develop revised concept tenant floor plan based on code review for tenant approval
- Field review existing MEP/FP conditions to coordinate with final documents

**CONTRACT DOCUMENTS (PHASE 040)**

- Provide Architectural Contract Documents Suitable for Permit Submission. These drawings shall include:
  - Cover page with notes
  - Building Code Summary
  - Demolition plan and notes
  - Floor plans with details and notes
  - ✱ • Reflected ceiling plan with notes
  - Interior bathroom Elevation with notes
  - Wall Partition types with detail and notes
  - Project specifications on the drawings
- Provide MEP/FP Engineered Contract Documents for permit
- Provide Initial Controlled Construction Affidavit each discipline

**CONTRACT ADMINISTRATION (PHASE 060)**

- This phase assumes a project duration of 3 months
- Perform two Field Visit & Prepare Reports each discipline
- Respond to Requests for Information
- Review and Process Shop Drawings and Samples
- Provide one final site review with Final Controlled Construction Affidavit each discipline

**SERVICES BEYOND THE DEFINED SCOPE**

Based on our current understanding of the project, the Architectural Services identified below are beyond the scope of work for this project as defined in this Proposal. You may request a proposal for one or more of these additional services at any time. Alternately, when authorized either verbally or in writing, BKA will perform these additional services on an hourly basis in accordance with the attached Hourly Rate Schedule. The following additional services are available at your convenience and discretion:

- Architectural existing conditions site verification. Our scope assumes documents as provided are adequate for the work to be performed.
- Value Engineering design revisions.
- Final As-Built or Record Drawings
- Owner Drawing Verification Services
- Third Party Project Review and related Coordination
- Creating Record Drawing Incorporating Significant Change Orders
- Demolition Survey or Documentation
- Phasing or Sequencing of Documents
- Permit Expeditor for Third Party Plan Review
- Progress and Pricing Documentation
- Renderings for Marketing Materials
- Assist with Re-Bidding the Project
- Graphic Design Services and Consultation
- LEED Certification
- Prototype Management and Manufactures design and approval coordination
- Preparing/Presenting Variances for Unforeseen Circumstances

**SERVICES AVAILABLE VIA THIRD PARTIES**

The services listed here may be arranged and coordinated from third parties by BKA Architects upon your written request. After consultation with you, BKA Architects will request that each professional service provider and/or consultant provide you with a written proposal outlining the scope of work and proposed fee. You (the client) shall engage and pay these professional service providers and/or consultants directly.

- Site/Civil Engineering
- Site Survey and Documentation
- Zoning Review and Analysis
- Structural Engineering
- Geotechnical Engineering
- Testing on site and laboratory reports for soil compaction/density, concrete, steel, masonry and asphalt
- Material and Systems Testing
- Demolition Survey or Documentation



- Structural Tests and Inspections per 780 CMR Chapter 17
- Systems Testing
- Landscape Architecture
- Environmental / Hazardous Materials Engineering
- Hazardous Materials Investigation, Coordination, and Remediation
- Tele-data Design
- Acoustical Consultants
- Lighting Consultants
- Photometrics
- Equipment Layout
- Commissioning Services
- Professional Cost Estimating Services
- Graphic Design Services and Consultation
- Security/Burglar System Design

#### **FEE FOR ARCHITECTURAL SERVICES**

The following fixed fees are applicable for each phase based on our current understanding of the scope of work. These fees may change should the scope of work change.

Pre-Design	Phase 010	\$	1,500
Contract Documents	Phase 040	\$	9,700
Contract Administration	Phase 060	\$	2,500
<b>TOTAL ARCHITECTURAL FEE</b>		<b>\$</b>	<b>13,700</b>

#### **FEE FOR ENGINEERING SERVICES**

The following fixed fees for engineering services are applicable for this project. The scope of work to be provided is documented in the Scope of A/E Services.

MEP/FP Engineering	Phases 010-040-060	\$	9,500
<b>TOTAL ENGINEERING FEE</b>		<b>\$</b>	<b>9,500</b>

#### **FEE FOR ARCHITECTURAL & MEP/FP ENGINEERING SERVICES**

The total fee for the Architectural and Engineering services to be provided is **Twenty-Three Thousand – Two Hundred Dollars (\$23,200)**.

#### **CONSTRUCTION ADMINISTRATION (PHASE 060) \* MASSACHUSETTS ONLY**

BKA is required by the MA State Building Code 780 CMR section 107.6.2 and MGL to perform construction control services as the (RDP) Registered Design Professional in the form of periodic reviews of the construction including reports back to the Authority Having Jurisdiction. These Construction Control requirements include, but are not limited to:

- Review, for conformance to 780 CMR and the design concept, shop drawings, samples and other submittals by the contractor in accordance with the requirements of the construction documents.
- Perform the duties for registered design professionals in 780 CMR 17.00: Special Inspections and Tests.
- Be present at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the work and to determine if the work is being performed in a manner consistent with the construction documents and 780 CMR.

BKA requires a site meeting to review the work performed a designated periods throughout the duration of construction. 2 Site visits each discipline during construction have been provided. If Jurisdiction requires more than what has been provided that will be billed on a Time and Material basis per the attached rates

Per the requirements of Construction Control, BKA requires shop drawing submittals on every project regardless of size, and scope. These submittals as they apply to the project must include, but are not limited to:

- Division 03 – Concrete
- Division 05 – Metals
- Division 06 – Woods Plastics and Composites
- Division 07 – Thermal and moisture protection
- Division 09 – Finishes
- Division 11 – Equipment
- Division 21 – Fire suppression
- Division 22 – Plumbing
- Division 23 – Heating Ventilating and Air Conditioning (HVAC)
- Division 26 - Electrical

Above and beyond what is required and provided, the owner is entitled to request additional Construction Administration. Additional Construction Control / Administration could consist of additional meetings on site, reviews of products and samples, and other assistance to the owner not outlined above.

#### **REIMBURSABLE EXPENSES**

Reimbursable expenses such as, but not limited to those listed below, are not included in the proposal and will be billed at rate of 1.1 times cost:

- Printing and Reproductions
- Delivery
- Travel

#### **ADDITIONAL SERVICES**

BKA, when authorized either verbally or in writing, may perform services that are outside the scope of services as defined in this proposal. These services will be invoiced on an hourly basis in accordance with the attached Hourly Rate Schedule.

#### **BILLING AND PAYMENT**

Fee payments will be billed monthly as determined by BKA Architects. Unless otherwise specified by contract, **payment is due no more than thirty (30) days from the date of the invoice.** Amounts unpaid for more than thirty (30) days are considered overdue. A project for which a substantial balance is seriously overdue (over sixty (60) days) is subject to being placed "On Hold" until the balance is received. If, at any point, the project is put on hold or is terminated, the project will be billed to that point of partial completion. Payment in full of the outstanding balance will be required prior to BKA's resuming work on projects that have been placed "On Hold".

**MARKETING**

BKA has the right to include representations of the project, including photographs of the exterior and interior, in promotional and professional materials.

**CONDITIONS**

It is recognized that there are instances that work on a project be put on hold at the request of a client. Should the period between the request to stop and the request to proceed exceed a period of twelve (12) months, BKA Architects reserves the right to revise the fee as stated in this proposal in order to bring it into line with any fee increases that may have taken place during this period.

**VALIDITY**

This proposal is valid for thirty (30) days from the date first written above.

**ACCEPTANCE**

Please indicate your acceptance of the terms and conditions outlined within this Proposal/Letter of Agreement by signing, initialing, and returning one complete copy to us. **A signed copy of this Proposal/Letter of Agreement is required to commence work on the project.**

Thank you again for the opportunity to be of service. Please call me at your convenience to discuss the level of service incorporated into this proposal as well as any questions you may have.

Sincerely,



John R. Scanlon AIA  
Project Architect

**PROPOSAL/LETTER OF AGREEMENT ACCEPTANCE**

I hereby accept the terms and conditions as stated.

Accepted By:

Keith J. McLoughlin

Print Name:

Keith J. McLoughlin

Date:

12-5-2022



**BKA ARCHITECTS, INC.**  
**SCHEDULE OF HOURLY RATES**

Sr. Principal	\$260/hour
Principal	\$240/hour
Associate	\$175/hour
Senior Architect	\$150/hour
Senior Project Manager	\$130/hour
Project Architect	\$120/hour
Project Manager	\$110/hour
Job Captain	\$95/hour
Production Staff	\$85/hour
Administrative	\$75/hour



## ARCHITECT CONTRACT PROVISIONS

1. **CONTRACT** – These Contract Provisions and the accompanying Proposal constitute the full and complete Agreement between the parties and may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Contract Provisions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Contract Provisions shall govern.
2. **RIGHT OF ENTRY** – When entry to property is required for the ARCHITECT to perform its services, the Client agrees to obtain legal right-of-entry on the property.
3. **DOCUMENTS** – All reports, notes, drawings, specifications, data, calculations, and other documents, including those in electronic form, prepared by ARCHITECT are instruments of ARCHITECT's service that shall remain ARCHITECT's property. The Client agrees not to use ARCHITECT-generated documents for marketing purposes, for projects other than the project for which the documents were prepared by ARCHITECT, or for future modifications to this project, without ARCHITECT's express written permission.  
Any reuse or distribution to third parties without such express written permission or project-specific adaptation by ARCHITECT will be at the Client's sole risk and without liability to ARCHITECT or its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors. Client shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless ARCHITECT from and against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized reuse or distribution.
4. **HAZARDOUS MATERIALS** – The scope of ARCHITECT's services for this Agreement does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations.
5. **CONSTRUCTION PHASE SERVICES** – If ARCHITECT performs any services during the construction phase of the project, ARCHITECT shall not supervise, direct, or have control over Contractor's work. ARCHITECT shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. ARCHITECT does not guarantee the performance of the construction contract by the Contractor and does not assume responsibility for the Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
6. **STANDARD OF CARE** – ARCHITECT and its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors will exercise that degree of care and skill ordinarily practiced under similar circumstances by design professionals providing similar services. Client agrees that services provided will be rendered without any warranty, express or implied.  
ARCHITECT shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.
7. **OPINION OF PROBABLE COSTS** – When required as part of its work, ARCHITECT will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by ARCHITECT hereunder will be made on the basis of ARCHITECT's experience and qualifications and will represent ARCHITECT's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that ARCHITECT does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the work.

## CLIENT: D'ANGELO REAL ESTATE

8. **SUSPENSION OF WORK** – The Client may, at any time, by written notice, suspend further work by ARCHITECT. The Client shall remain liable for, and shall promptly pay ARCHITECT for all services rendered to the date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on Client's behalf.  
Client shall pay ARCHITECT pursuant to the rates and charges set forth in the Proposal. ARCHITECT will submit monthly invoices to client for services rendered and expenses incurred. If Client does not pay invoices within sixty (60) days of submission of invoice, ARCHITECT may, upon written notice to the Client, suspend further work until payments are brought current. The Client agrees to indemnify and hold ARCHITECT harmless from any claim or liability resulting from such suspension.
9. **LIABILITY** – To the fullest extent permitted by law, the total liability, in the aggregate, of ARCHITECT and ARCHITECT's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to ARCHITECT's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by ARCHITECT under this Agreement.

### 10. MISCELLANEOUS

**Governing Law:** The laws of the state in which the ARCHITECT office executing this Agreement is located shall govern the validity and interpretation of this Agreement.

**Invalid Terms:** In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provision will be stricken. Striking such a Contract Provision shall have no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable Contract Provision were never included in the Agreement.

**Mediation:** The Client and ARCHITECT agree to submit all claims and disputes arising out of this Agreement to non-binding mediation prior to the initiation of legal proceedings. This provision shall survive completion or termination of this Agreement; however, neither party shall seek mediation of any claim or dispute arising out of this Agreement beyond the period of time that would bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law.

**ARCHITECT Reliance:** ARCHITECT shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.

**Certifications:** ARCHITECT shall not be required to sign any documents, no matter by whom requested, that would result in ARCHITECT's having to certify, guaranty, or warrant the existence of conditions that ARCHITECT cannot ascertain.

**Third Parties:** 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 ARCHITECT. ARCHITECT's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against ARCHITECT because of this Agreement or ARCHITECT's performance of services hereunder.

**Consequential Damages:** Neither the Client nor the ARCHITECT shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

CLIENT INITIALS:

*XJM*