

RESOLUTION
R 54 **07**

**A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT RELATIVE TO THE
DEMOLITION SUPERVISION OF THE DUPAGE THEATER AND SITE WITH
RETENTION OF THE 2-STORY RETAIL/COMMERCIAL BUILDING DURING
THAT DEMOLITION OF THE DUPAGE THEATER**

WHEREAS, the Village of Lombard has received an Agreement between the Village of Lombard, Owner, and Daniel Coffey and Associates, Architect, as attached hereto and marked as Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such Agreement.

NOW, THEREFORE, Be It Resolved by the President and Board of Trustees of the Village of Lombard, Du Page County, Illinois, as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said Agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said agreement as attached hereto


Adopted this 2nd day of November, 2006.

Ayes: Trustees: Gron, Tross, O'Brien, Seby Florey & Soderstrom

Nays: None

Absent: None

Approved this 2nd, day of November, 2006.


William J. Mueller, Village President

ATTEST:


Brigitte O'Brien, Village Clerk

AIA[®] Document B155[™] – 1993

Standard Form of Agreement Between Owner and Architect for a Small Project

This **AGREEMENT** is made: July 15, 2006
(Date)

BETWEEN the Owner:

Village of Lombard
Village Hall
255 East Wilson Avenue
Lombard, Illinois 60148

and the Architect:

Daniel P. Coffey & Associates Ltd, an Illinois Professional Corporation
233 South Wacker Drive
Suite 5750
Chicago, Illinois 60606

for the following Project:

Demolition of the Dupage Theater Auditorium and site with retention of the 2 story retail/commercial building during that Demolition of the Dupage Theater in Lombard Illinois

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the project, including normal structural, design services. Services shall be performed in a manner consistent with professional skill and care.

§ 1.1 During the Design Phase, the Architect shall perform the following tasks:

- .1 describe the project requirements for the Owner's approval;
- .2 develop a design solution based on the approved project requirements;
- .3 upon the Owner's approval of the design solution, prepare Construction Documents indicating requirements for construction of the project;
- .4 assist the Owner in filing documents required for the approval of governmental authorities; and
- .5 assist the Owner in obtaining proposals and award contracts for construction.

§ 1.2 During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in this Agreement and in AIA Document A205, General Conditions of the Contract for Construction of a Small Project. Unless otherwise agreed, the Architect's services during construction include visiting the site, reviewing and certifying payments, reviewing the Contractor's submittals, rejecting nonconforming Work, and interpreting the Contract Documents.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the project, and shall establish a budget with reasonable contingencies that meets the project requirements. The Owner shall furnish surveying, geotechnical engineering and environmental testing services upon request by the Architect. The Owner shall employ a contractor to perform the construction Work and to provide cost-estimating services. The Owner shall furnish for the benefit of the project all legal, accounting and insurance counseling services.

ARTICLE 3 USE OF ARCHITECT'S DOCUMENTS

Documents prepared by the Architect are instruments of service for use solely with respect to this project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall not reuse or permit the reuse of the Architect's documents except by mutual agreement in writing.

ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the project, the Architect shall be equitably compensated for services performed. Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and is sufficient cause for the Architect to either suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the other party substantially fails to perform in accordance with the terms of this Agreement.

ARTICLE 5 MISCELLANEOUS PROVISIONS

§ 5.1 This Agreement shall be governed by the law of the location of the project.

§ 5.2 Terms in this Agreement shall have the same meaning as those in AIA Document A205, General Conditions of the Contract for Construction of a Small Project, current as of the date of this Agreement.

§ 5.3 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Agreement. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

§ 5.4 The Architect and Architect's consultants shall have no responsibility for the identification, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the project site.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Owner shall compensate the Architect as follows.

§ 6.1 The Architect's Compensation shall be:

(Indicate method of compensation.) compensated based on submissions of monthly invoices calculated using the hours expended each month times the normal rates of the Architect and its Engineers plus reimbursable expenses incurred to a maximum of \$19,750.00

of which an initial payment retainer of Zero Dollars and Zero Cents (\$ 0.00) shall be paid upon execution of this Agreement and shall be credited to the final payment.

§ 6.2 The Architect shall be reimbursed for expenses incurred in the interest of the project, plus an administrative fee of Ten percent (10%).
(List reimbursable items.)

reproduction and messenger

§ 6.3 If through no fault of the Architect the services covered by this Agreement have not been completed within Twelve (12,) months of the date hereof, compensation for the Architect's services beyond that time shall be appropriately adjusted.

§ 6.4 Payments are due and payable upon receipt of the Architect's invoice. Amounts unpaid 0 (Zero) days after invoice date shall bear interest from the date payment is due at the rate of One percent (1.00%) monthly , or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision.)

§ 6.5 Architectural Services not covered by this Agreement include, among others, revisions due to changes in the scope, quality or budget. The Architect shall be paid additional fees for these services based on the Architect's hourly rates when the services are performed.

ARTICLE 7 OTHER PROVISIONS

(Insert descriptions of other services and modifications to the terms of this Agreement.)

Interest levied from date of invoice if unpaid more than 45 days

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

Valid for 60 days

OWNER

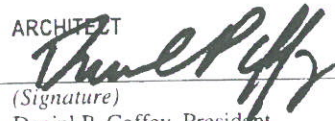


(Signature)

William J. Mueller, Village President

(Printed name and title)

ARCHITECT



(Signature)

Daniel P. Coffey, President

(Printed name and title)

**RIDER TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER (VILLAGE OF LOMBARD) AND ARCHITECT (DANIEL P.
COFFEY & ASSOCIATES)**

This Rider modifies the terms of the Standard Form of Agreement Between Owner and Architect, AIA Document B155, 1993 Edition (the "Agreement") entered into on or about _____, 2006 and in the event of conflict between the Agreement and this Rider, this Rider shall control. The modifications, deletions or additions made in this Rider to the paragraphs in the Agreement as they are shown below shall become a part of and have the same force and effect as the unaltered portions of the Agreement.

1. On page 1, following the phrase "for the following Project:" Delete the existing insertion and replace it with the following: "Demolition of certain structures or portions of structures existing on the site of the DuPage Theatre, Lombard, Illinois while retaining the two-story retail/commercial building and certain other structures or portions of structures as designated by the Director of Community Development."

2. On Page 2, in Article 2, at the end of the second sentence add the following: "if Owner deems such testing is necessary." In the third sentence, after the phrase "The Owner shall employ" add the following: "entities necessary to perform the Work required" and delete the remainder of the sentence. Add the following at the end of the last sentence: "that the Owner may deem necessary."

3. On Page 2, in Article 5, in paragraph 5.1, after the words "law of the," insert the following "State of Illinois and venue for legal disputes shall be DuPage County, Illinois" and delete the remainder of the sentence.

4. On Page 3, in Article 6, delete paragraph 6.4 in its entirety and substitute the following: "Invoices shall be paid, and interest on late payments shall be charged, pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*)"

5. On Page 3, in Article 7, delete the sentence "Interest levied from date of invoice if unpaid more than 45 days" and insert the following new paragraphs:

"7.1 Architect represents and warrants that it carries Architect's Errors and Omissions insurance in the amount of \$1,000,000 with a company acceptable to the Owner. Architect further warrants that it will continue such insurance in effect for the duration of this Agreement and three (3) years thereafter or will maintain such insurance with an insurance company with the same or a higher Best's insurance company rating. Architect shall supply Certificates of Insurance evidencing the required coverage that state that the policy shall not be canceled, non-renewed or modified without thirty (30) days prior written notice to the Owner.

"7.2 The Owner agrees to indemnify and hold harmless the Architect including its officers, employees and agents in their individual capacities, from any loss, including but not

limited to, attorneys' fees and expenses of litigation, arising out of and to the extent of, the Owner's errors, negligent acts and omissions or acts or willful misconduct in the performance of this Agreement.


The Architect agrees to indemnify and hold harmless the Owner including its officers, employees and agents in their individual capacities, from any loss, including but not limited to, attorneys' fees and expenses of litigation, arising out of and to the extent of, the Architect's errors, negligent acts and omissions or acts or willful misconduct in the performance of this Agreement.


These paragraphs shall not be interpreted to preclude the Architect or Owner from bringing a breach of contract actions pursuant to this Agreement.

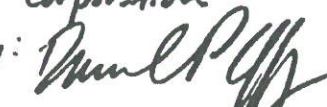
"7.3 The Architect shall inform the Contractor, the Owner and the Owner's designated parties, of any failure by Contractor in carrying out the Work in accordance with the requirements of the Director of Community Development immediately upon receiving notice of such failure as a result of Architect's inspection or otherwise.

"7.4 The Owner requires for each Application for Payment, a properly completed Contractor's Affidavit setting out, under oath, the name, address and amount due or to become due, of each subcontractor, vendor or party included in the payment. For every party listed, the Contractor shall also provide a full or partial waiver of lien, as appropriate, before a payment will be made to the Contractor. The Contractor's partial or final waiver of lien must be included. Payment certificates shall not be issued by the Architect without such mechanics' lien waivers and Contractors' sworn statements unless they are conditioned upon receipt of such waivers and statements.

"7.5 This Agreement is subject to the Rider attached hereto and made a part hereof."

For the OWNER

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

For the ARCHITECT
Daniel P. Coffey & Associates, Ltd
~~President~~
an Illinois Professional Service
Corporation
by: 
Daniel P. Coffey, Its President