



SiteLogIQ.com

80 South 8th Street, Suite 1850, Minneapolis, MN 55402

# **Bridgman Public Schools**

## **Professional Services Agreement**

**February 24, 2025**

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## Professional Services Agreement

This Professional Services Agreement (“Agreement”) is made and entered into as of February 24, 2025 (“Effective Date”) by and between SitelogIQ, Inc., a Delaware corporation (“SitelogIQ”), having its principal offices at 80 South 8th Street, Suite 1850, Minneapolis, MN 55402, SitelogIQ Design, LLC, a Delaware limited liability company, having its principal offices at 80 South 8th Street, Suite 1850, Minneapolis, MN 55403 (collectively hereinafter, “SitelogIQ”) and Bridgman Public Schools (“Owner”), having its principal offices at 9964 Gast Rd., Bridgman, MI 49106 for the purpose of providing certain Services as defined herein.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have each executed the Agreement, effective as of the date first above written.

Bridgman Public Schools

SitelogIQ, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

SitelogIQ Design, LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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**Article 1 – Services and Payments**

**Article 1.01 - Definitions**

Unless another intention clearly appears, words and phrases (including technical words and phrases and such others as have acquired special meaning) shall be construed according to rules of grammar.

Whenever the following terms, or pronouns in place of them, are used in this Agreement, the intent and meaning shall be interpreted as follows:

<u>Agreement:</u>	This Professional Services Agreement.
<u>Bidding Documents:</u>	The unexecuted contract between the Owner and Contractor, all exhibits to the unexecuted contract between the Owner and Contractor, the general conditions of the contract for construction, all drawings, specifications, addenda, the advertisement or invitation to bid, instruction to bidders, the bid form, and any other bidding forms, exhibits, or Contract Documents later identified.
<u>Bond Sale Period:</u>	A 90-day period of time beginning the date the Owner receives authority to sell a Financing Bond.
<u>Constituents of Concern:</u>	See Article 5.01(a).
<u>Change Order:</u>	A written agreement that change the scope or cost of the Work to be completed on a Project or modifying the contract time that is signed by the Owner, Architect/Engineer, and Contractor.
<u>Consultant:</u>	The individual, firm or corporation contracting for and undertaking prosecution of professional services on a Project arising out of this Agreement.
<u>Contractor:</u>	The individual, firm, or corporation contracting for and undertaking prosecution of Work on a Project arising out of this Agreement.
<u>Contract Documents:</u>	The documents comprising a Project, Project Services, and Work that shall be completed by the Contractor(s), and possibly Subcontractor(s).
<u>Dispute:</u>	Any dispute, controversy, or claim arising out of or relating to this Agreement or any breach thereof.
<u>Effective Date:</u>	February 24, 2025.
<u>Environmental Credits:</u>	Any and all credits, allowances, or other similar tangible or intangible property rights created by

or resulting from improvements in the emission or pollution characteristics of the Owner's facilities and operations caused by implementing SitelogIQ's products or Services provided under this Agreement.

Equipment:

All machinery, tools, and apparatus, together with the necessary supplies for upkeep and maintenance, necessary for the proper construction and acceptable completion of the Work within its intended scope, including machinery or apparatus that is left on the Premises.

Financing Bond:

Any and all bonds used by the Owner to finance the Project.

Long-Term Facilities Maintenance Plan:

A comprehensive overview of the systems that govern the Owner's facilities and the practices that ensure the long term operation of those facilities.

Materials:

Any substance specified for use in the performance of Work.

Owner:

Bridgman Public Schools.

Premise:

Bridgman High School - Aquatic Center, 9964 Cast Rd.. Bridgman, MI 49106 and any other location where Materials or Equipment may be stored or where the Owner directs Work or Services to be provided.

Program Construction Manager (PCM):

See Part C of Schedule A.

Program Manager:

The overall operational manager that oversees and coordinates all aspects of the design, engineering, construction administration, commissioning, acceptance of a Project, and the warranty correction period.

Project:

All of the repurposing, remodeling or expansion of the existing facilities and or grounds.

Project Services:

The Work to be completed on a Project.

Schedules:

The documents labeled as "Schedule" and identified in this Agreement.

SitelogIQ:

SitelogIQ, Inc. and SitelogIQ Design, LLC.

Services:

See Article 1.02 and Schedule A.

Subcontractor:

An individual, firm, or corporation contracting with the Contractor for and undertaking prosecution of a portion of the Contractor's Work on a Project arising out of this Agreement.

<u>System Inspector:</u>	See Part D of Schedule A.
<u>Work:</u>	The furnishing of all labor, Materials, Equipment, and other incidentals necessary or convenient to the successful completion of a Project and the performance of all duties and obligations imposed on the Contractor by its contract with the Owner.
<u>Work Change Directive:</u>	A written agreement between the Owner and SitelogIQ that changes the scope of Work or cost of the Work to be completed on a Project. Also referred to as Construction Change Directive.

## Article 1.02 - Scope of Services

SitelogIQ will provide the Owner with the Services identified in Parts A through D of Schedule A of this Agreement ("Services"). In the event that services included in Part E of Schedule A become necessary, the Parties agree to amend this Agreement in writing. The Owner agrees to utilize all Services provided by SitelogIQ unless amended by subsequent agreement. SitelogIQ is not the general contractor for the Project. All design professional Services contemplated herein including, without limitation, architectural and engineering Services, shall be performed by SitelogIQ Design, LLC, a professional firm registered to engage in the practice of architecture and engineering under Michigan law.

## Article 1.03 - Compensation for Services

- (a) The total price for SitelogIQ's Services under this Agreement shall be set forth in Schedule B of this Agreement. SitelogIQ shall prepare invoices in accordance with its standard invoicing practices and shall submit its invoices to the Owner on a monthly basis.
- (b) All Invoices, except those identified in Article 1.03(c), are due and payable within thirty (30) days of receipt. Payments due and unpaid under this Article 1.03(b) shall bear interest from the date payment is due at the maximum legal rate prevailing in the State in which SitelogIQ provides Services under this Agreement.
- (c) In the event the Owner must sell a Financing Bond to fund the Project, Owner must sell the Financing Bond within the Bond Sale Period. If Owner fails (1) to sell any Financing Bond by the end of the Bond Sale Period or (2) to make payment within ten (10) days after Owner's receipt of the Financing Bond proceeds, payments due and unpaid shall bear interest from the first day following the Bond Sale Period at the maximum legal rate prevailing in the State in which SitelogIQ provides Services under this Agreement.

## Article 1.04 - Schedule for Rendering Services

SitelogIQ shall begin rendering Services as of the Effective Date of the Agreement and shall complete the Services as follows:

- (a) SitelogIQ shall complete its obligations within a reasonable time. Specific periods of time for rendering Services will be established upon execution of this Agreement and set forth with specific dates by which Services are to be completed and deemed to be reasonable.
- (b) If, through no fault of SitelogIQ, such periods of time or dates are changed, or the orderly and continuous progress of SitelogIQ's Services is impaired, or SitelogIQ's Services are delayed or suspended, then the time for completion of SitelogIQ's Services, and the rates and amounts of SitelogIQ's compensation, shall be adjusted equitably.

- (c) If the Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of SitelogIQ's Services, and the rates and amounts of SitelogIQ's compensation, shall be adjusted equitably.
- (d) The Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay SitelogIQ's performance of Services.
- (e) Notwithstanding, all Services must be completed within two (2) years of the Effective Dates of this Agreement, unless changed by a subsequent amendment.

## Article 1.05 - Permits and Governmental Fees

SitelogIQ shall assist in obtaining all permits associated with the Services. SitelogIQ's Services include plan review fees. The Owner shall be responsible for payment of permit fees and for securing at the Owner's expense any necessary approvals, easements, assessments, or zoning changes and shall pay any real and personal property taxes where applicable. Unless stated elsewhere in this Agreement, the total cost associated with SitelogIQ's Services **DO NOT** include permits fees and costs associated with obtaining easements, assessments, zoning changes, or real property and personal property taxes.

## Article 2 – Standards and Documents

### Article 2.01 - Standards of Performance

SitelogIQ shall perform the Services under this Agreement with the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time in the same locality. Unless required by federal law or the laws of the State of Michigan, SitelogIQ MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH ITS SERVICES.

SitelogIQ EXPLICITLY WAIVES ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY WARRANTY FOR FITNESS FOR AN INTENDED OR PARTICULAR PURPOSE.

### Article 2.02 - Compliance with Law and Regulation

The parties hereto shall comply with the applicable federal, Michigan, and local laws and regulations and Owner-mandated standards that the Owner has provided to SitelogIQ in writing. This Agreement is based upon these requirements as of the Effective Date of this Agreement, with any changes after the date of this Agreement constituting the basis for modifications to the parties' responsibilities, SitelogIQ's Services, times of performance and compensation. All modifications or amendments to this Agreement shall be made in writing, signed by both parties.

### Article 2.03 - Documents and Supervision

SitelogIQ shall not be required to sign any documents (no matter by whom requested) that would require SitelogIQ to certify, guarantee or warrant the existence of conditions whose existence SitelogIQ cannot ascertain. The Owner agrees not to make resolution of any Dispute with SitelogIQ or payment of any amount due SitelogIQ contingent upon SitelogIQ signing such documents. Unless set forth by separate written agreement, SitelogIQ shall not at any time supervise, direct or have control over any Contractors or Subcontractors with respect to the Premises, nor shall SitelogIQ have any authority or responsibility for the means, methods, techniques, sequences or procedures of construction selected or used by such Contractors and Subcontractors, for site security, for safety precautions and programs incident to the Contractor's



Work and Subcontractor’s Work, nor any failure of a Contractor or Subcontractor on the Premises to comply with the laws and regulations applicable to the Contractor’s Work and Subcontractor’s Work. SitelogIQ neither guaranties the performance of any Contractor or Subcontractor nor assumes the responsibility for any Contractor’s (or Subcontractor’s) failure to furnish and perform its Work or Services in accordance with the underlying Contract Documents, except as specifically agreed herein or pursuant to a subsequent written agreement. The Owner shall indemnify, defend and hold SitelogIQ harmless from all damages, liabilities, costs, penalties and expenses, including reasonable attorney’s fees, resulting from the performance or non-performance, or any act or omission arising from or in connection with any Contractor or Subcontractor Work, Services, or activities on the Premises.

### Article 2.04 - Use of Documents

All design documents, plans, specifications, and Bidding Documents shall be owned by the Owner. The Owner shall not rely in any way on any such document unless it is in printed form, signed or sealed by SitelogIQ or one of its Consultants. The Owner shall not modify, amend, or use such documents for purposes other than a Project on the Premises without SitelogIQ’s prior written consent. The Owner shall indemnify, defend, and hold harmless SitelogIQ from any damages, claims, losses, actions, or penalties, including the costs of reasonable attorney’s fees resulting from such use or modification by the Owner, its subsidiaries, agents, or assigns.

### Article 2.05 - Electronic Documents

Design documents, plans, specifications, or Bidding Documents in electronic media format that are provided by SitelogIQ are furnished for convenience only and not reliance by the receiving party. Because data stored in electronic format can deteriorate or be modified inadvertently or otherwise without the authorization of the data’s creator, the Owner agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the Owner shall be deemed to have accepted the data transferred. When transferring documents in electronic format, SitelogIQ makes no representations as to the long-term compatibility, usability or readability of such documents resulting from the use of software application packages, operating systems or other hardware differing from documents used by the creator.

## Article 3 – The Owner’s Responsibilities

### Article 3.01 - Provision of Information

The Owner shall provide SitelogIQ with all criteria and information as to the Owner’s requirements for the Project, Project Services, and Services on the Premises, including design objections and constraints, space, capacity and performance requirements, flexibility, and any budgetary limitations; and furnish copies of all design and construction standards which the Owner will require to be included in the plans, drawings, specifications compromising the Project Services, and furnish to SitelogIQ and other available information pertinent to the Project Services, Services and Premises including reports and data relative to previous designs (structural, mechanical, electrical, chemical, environmental, inspections and reports required by law or the contract requirements) or investigation at or adjacent to the Premises. The Owner shall provide the services of geotechnical engineers when such services are required by the scope of the Project and as requested by SitelogIQ. Such services may include, but not limited to test boring, determination of soil bearing values, and evaluation of hazardous materials. All geotechnical engineer services provided by the Owner shall include reports and professional recommendations. SitelogIQ shall not be liable for any tasks completed by any geotechnical

engineer provided by the Owner. Following SitelogIQ's initial assessment of the available information regarding the Services, Project Services and Premises, the Owner shall furnish or otherwise make available such additional Premises-related information and data as is reasonably requested to enable SitelogIQ to complete its Services. If such additionally requested Premises-related information and data is not available to the Owner, the Owner shall promptly inform SitelogIQ. The Owner shall also give written notice to SitelogIQ, within seven (7) days, when the Owner becomes aware of any problem, defect or development that materially affects the scope or performance of SitelogIQ's Services hereunder.

### **Article 3.02 - Assistance and Information Regarding Other Services**

The Owner shall examine all alternate solutions, studies, reports, drawings specifications and other documents presented by SitelogIQ and render timely decisions pertaining thereto. The Owner shall additionally provide reviews, approvals and permits from all governmental authorities having jurisdiction to approve all phases of the Services designed or specified by SitelogIQ. The Owner shall provide, as required for the Services and Premises, accounting and financial advisory, independent cost estimating and insurance counseling services; legal services with regard to issues pertaining to the Premises as the Owner requires, the underlying Contractors raise, or SitelogIQ reasonably requests; auditing/accounting services as the Owner requires to ascertain how or for what purpose Contractors have used monies paid for the Project; and placement and payment for advertisement for bids for appropriate publications.

The Owner is responsible for removing all non-fixtured items, including but not limited to desks, chairs, tables, and items hanging from the ceiling, wall, windows, or any other surface, from the areas where Work will be performed.

### **Article 3.03 - Meetings**

The Owner shall designate a representative authorized to act on behalf of the Owner with respect to the Project. This representative shall attend any pre-bid conferences, bid openings, pre-construction conferences, construction progress and other job-relating meetings, as well as substantial completion and final payment inspections. The Owner, or such authorized representative, shall provide decisions in a timely manner in order to avoid unreasonable delays in the progress of SitelogIQ's Services and Project(s) timelines.

### **Article 3.04 - Representations and Warranties of Owner**

The Owner hereby warrants and represents to SitelogIQ that:

- (a) The Owner has provided SitelogIQ with all records heretofore requested by SitelogIQ, and the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Agreement will be, true and accurate in all material respects, except as may be disclosed by Owner in writing attached to this Agreement;
- (b) The Owner presently intends to continue to use, and agrees to use, for a period at least equal to the duration of this Agreement, the Premises in a manner similar to its present use, except as may have been disclosed by the Owner in writing and attached hereto and made a part thereof. If a material change in the use of any of the Premises occurs, in the operating conditions at the Premises or in the use of the Owner's Equipment at the Premises, an equitable adjustment shall be made;
- (c) The Owner is a school Owner of the State of Michigan, duly organized, existing, and operating under the constitution and laws of the State of Michigan;

- (d) The Owner shall provide SitelogIQ with any other documents reasonably requested to consummate this Agreement or any schedule or attachment hereto as reasonably required under this Agreement;
- (e) No approval, consent or authorization is required from any governmental authority with respect to the execution, delivery, or performance of this Agreement, or if such approval, consent, or authorization is required, it has been obtained; and
- (f) There are no suits, actions or proceedings threatened or pending against the Owner which would adversely affect the Owner's ability to perform its obligations under this Agreement.

Any default by the Owner of the aforementioned responsibilities will be resolved through the remedies identified in Article 8.01, Remedies Upon Default by the Owner.

### Article 3.05 - Breach of Obligations

Each of the following events or conditions shall constitute a breach by the Owner and shall give SitelogIQ the right to, without an election of remedies: (a) proceed pursuant to Article 8; and (b) terminate this Agreement by delivery of written notice declaring termination, upon which event the Owner shall be liable to SitelogIQ for all Services furnished to date and any damages sustained by SitelogIQ:

- (a) Any failure by the Owner to pay amounts due more than sixty (60) days after receipt of the invoice;
- (b) Any representation or warranty furnished by the Owner in this Agreement that is false or misleading in any material respect when made; or
- (c) Any failure by the Owner to perform or comply with any material term or condition of this Agreement, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after written notice to the Owner demanding that such failure be cured or, if cure cannot be effected in such thirty (30) days, the Owner fails to begin to cure and proceed to completion thereof as quickly as is reasonable.

### Article 3.06 - Risk of Performance

The Owner accepts the performance risks of the Work performed upon the Owner's Premises. The Owner shall indemnify, defend, and hold SitelogIQ harmless from and against any and all claims, actions, expenses, costs, penalties, damages, expenses and liabilities, including the cost of reasonable attorney's fees, of any kind or nature arising out of or as a result of The Owner's obligations within this Article.

## Article 4 – Insurance

### Article 4.01 - Insurance

SitelogIQ and the Owner agree to the following insurance provisions:

- (a) SitelogIQ shall procure and maintain the following insurance limits:
  - ◆ Workers' Compensation Insurance. SitelogIQ shall procure and maintain in effect, during the term of this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Michigan and federal law which adequately protects all labor employed by SitelogIQ during the term of this Agreement.

- ◆ Comprehensive General Liability Insurance. SitelogIQ shall procure and maintain in effect during the term of this Agreement, Comprehensive General Liability Insurance, or the equivalent, in an amount not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury Liability and \$1,000,000 for Property Damage Liability. Underwriters will waive all rights of recovery against SitelogIQ or the Owner.
  - ◆ Automobile Liability. SitelogIQ shall carry a combined single limit of \$1,000,000, any automobile.
  - ◆ Professional Liability. SitelogIQ shall procure and maintain in effect during the term of this Agreement, Professional Liability Insurance in an amount not less than \$1,000,000 per claim and \$1,000,000 aggregate.
  - ◆ Certificate of Insurance. SitelogIQ will provide a memorandum of insurance to the Owner, if requested, as evidence of the coverages required herein. Such policies shall not be canceled without endeavoring to provide thirty (30) days' prior written notification to the Owner.
- (b) The Owner shall also procure and maintain general liability, automobile, and worker's compensation insurance. The Owner shall cause SitelogIQ and SitelogIQ's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by the Owner which are applicable to the Project.
- (c) The Owner shall require Contractors to purchase and maintain general liability and establish other insurance requirements and to cause SitelogIQ and SitelogIQ's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractors for the Project.
- (d) The Owner and SitelogIQ shall each deliver to the other evidence of the insurance coverages indicated above. Such evidence shall be furnished prior to commencement of SitelogIQ's Services and at renewals thereafter during the duration of the Agreement.
- (e) All policies of property insurance relating to the Project shall contain provisions to the effect that SitelogIQ's and SitelogIQ's Consultants' interests are protected, shall include a builder's risk endorsement and will provide a waiver of subrogation so that in the event of payment of any loss or damage the insurers will have no rights of recovery against SitelogIQ or its Consultants, or any insureds or additional insureds thereunder.
- (f) At any time, the Owner may request that SitelogIQ or its Consultants, at the Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those currently required. If such additional insurance coverage is requested by the Owner and commercially available, SitelogIQ shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by the Owner.

## Article 5 – Environmental Condition of Site

### Article 5.01 - Environmental Condition of Site

- (a) The Owner has disclosed to SitelogIQ in writing the existence of all known and suspected asbestos, polychlorinated biphenyls (PCBs), petroleum, hazardous waste, radioactive material, mold, hazardous substances, and other Constituents of Concern located at or near the Premises, including type, quantity, and location (collectively referred to as "Constituents of Concern").

- (b) The Owner represents to SitelogIQ that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to SitelogIQ, exist at the Premises.
- (c) If SitelogIQ encounters an undisclosed Constituent of Concern, then SitelogIQ shall notify (1) the Owner and (2) appropriate governmental officials if SitelogIQ reasonably concludes that doing so is required by applicable laws or regulations.
- (d) It is acknowledged by both parties that SitelogIQ's scope of Services does not include any Services related to Constituents of Concern. If SitelogIQ or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then SitelogIQ shall, without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until the Owner: (1) retains appropriate specialist Consultant(s) or Contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) the abatement specialist consultant(s) or contractor(s) warrant the Premises is in full compliance with applicable Laws and Regulations. During the term of this Agreement, Owner shall cause its asbestos abatement contractor(s) to provide SitelogIQ proof of the compliance with 2021 MR 325.51301.
- (e) If the presence at the Premises of undisclosed Constituents of Concern adversely affects the performance of SitelogIQ's Services under this Agreement, then SitelogIQ shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on thirty (30) days' notice.
- (f) The Owner acknowledges that SitelogIQ is performing professional services for the Owner and that SitelogIQ is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of Constituents of Concern or hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (or corresponding Michigan law), as amended, which are or may be encountered at or near the Premises in connection with SitelogIQ's activities under this Agreement.
- (g) In furtherance of the foregoing the Owner agrees to release, indemnify, defend and hold harmless SitelogIQ, its directors, Consultants, Contractors, and officers, agents, assignees and employees of and from all costs, claims, damages and liability arising out of or relating to any Constituents of Concern, including any acts, negligence, or omissions of SitelogIQ or third parties relating thereto, or injury caused thereby, except only as such costs, claims, damages or liability directly result of any gross negligence or willful misconduct of SitelogIQ.
- (h) Upon disposition of Constituents of Concern by the Owner, the Owner shall provide to SitelogIQ copies of all manifests or other evidence or confirmation of removal of such Constituents of Concern showing that SitelogIQ is not a generator of such Constituents of Concern.

## Article 6 – Indemnification and Limitation of Liability

### Article 6.01 - Indemnification

To the fullest extent permitted by law, SitelogIQ and the Owner shall each defend, indemnify, and hold the other harmless from any and all claims, actions, costs, expenses, damages, and liabilities, including reasonable attorney's fees, resulting from death or bodily injury or damage to property of the other or third parties, to the extent caused by the sole negligence or willful misconduct of their respective employees or other authorized agents in connection with their activities with the scope of this Agreement. Neither party shall indemnify the other against



claims, damages, expenses, or liabilities to the extent attributable to the negligence, gross negligence, or intentional misconduct of the other party. If the parties are both at fault, then the obligation to indemnify shall be proportional to their relative fault as determined by (a) agreement of the parties, (b) a jury or court, (c) a third party neutral, or (d) any other mutual agreed upon process. The duty to indemnify and defend will continue in full force and effect, notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions which occurred prior to expiration or termination. Notwithstanding any provision to the contrary herein, neither party shall be liable to the other for any special, indirect, consequential, or punitive damages.

## Article 6.02 - Limits of Liability

- (a) SitelogIQ's total liability to the Owner for damages or injury to persons or property that may be caused by or arise through performing any obligation under this Agreement shall be limited only to losses proximately caused by SitelogIQ's negligence and only to the extent of the compensation received by SitelogIQ under this Agreement. Neither party will be liable to the other for any indirect or consequential damages, whether in contract or tort, including negligence.
- (b) NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY, NOR ITS OFFICERS, EMPLOYEES, AGENTS, OR AFFILIATES SHALL BE LIABLE TO THE OTHER PARTY, ITS OFFICERS, EMPLOYEES, AGENTS, PARTNERS, AFFILIATES OR CONTRACTORS, FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF ANTICIPATED PROFITS (EXCEPT AS DERIVED FROM PAYMENT OR OTHER COMPENSATION DUE FOR PERFORMANCE HEREUNDER), LOSS OF USE OR REVENUE, LOSSES BY REASON OF COST OF CAPITAL CONNECTED WITH OR RESULTING FROM ANY PERFORMANCE OR LACK OF PERFORMANCE HEREUNDER REGARDLESS WHETHER A CLAIM IS BASED ON THIS AGREEMENT, TORT (INCLUDING NEGLIGENCE AND EXCLUDING INTENTIONAL ACTS, GROSS NEGLIGENCE, AND WANTON MISCONDUCT) OR A THEORY OF STRICT LIABILITY; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION IS NOT INTENDED TO APPLY TO, AND SHALL NOT BE CONSTRUED TO LIMIT OR EXCLUDE, THE OWNER'S OBLIGATIONS UNDER THIS AGREEMENT. NEITHER PARTY SHALL HAVE ANY REMEDY AT LAW OR IN EQUITY WHICH IS INCONSISTENT WITH ANY PROVISION OF THIS AGREEMENT, AND NEITHER PARTY SHALL HAVE A RIGHT TO TERMINATE THIS AGREEMENT EXCEPT AS SPECIFICALLY AND EXPLICITLY SET FORTH HEREIN.

## Article 7 – Default

### Article 7.01 - Default by the Owner

Events which shall be deemed irrefutably a default by the Owner include:

- (a) Any failure by the Owner to pay SitelogIQ, or its assigns any sum due, within thirty (30) days after written notice by SitelogIQ to the Owner of any such failure.
- (b) Any failure by the Owner to perform or comply with the terms and conditions of this Agreement and its Schedules, provided that such failure shall not be a default if it is corrected or cured within thirty (30) days after SitelogIQ provides written notice to the Owner demanding that such failure to perform be cured, and SitelogIQ is compensated for any loss suffered by reason of said failure.

**Article 7.02 - Default by SitelogIQ**

Events that shall be deemed irrefutably a default by SitelogIQ include the failure by SitelogIQ to materially perform or comply with the terms and conditions of this Agreement and its Schedules, except where the additional insurance requested by the Owner in Article 4(f) is not commercially available. However, such events triggering default shall not be deemed a default if said events triggering default are corrected or cured within thirty (30) days after the Owner provides written notice to SitelogIQ demanding that such failure to perform be cured.

Such events triggering default shall be deemed cured upon payment to the Owner of any loss suffered by reason of such failure. The Owner shall provide all documentation to support its claimed loss resulting from the event triggering default. If no such loss exists, the event shall be deemed cured upon completion of corrective action by SitelogIQ.

**Article 8 – Remedies Upon Default**

**Article 8.01 - Remedies Upon Default by the Owner**

In the event the Owner defaults, SitelogIQ may, without a waiver of any other remedies that exist in law or equity, exercise any and all remedies at law or equity, or institute other proceedings including, without limitation, bringing an action or actions for specific performance, and for the recovery of amounts due and unpaid and for damages. The prevailing party in any such proceeding shall be entitled to recover all costs and expenses reasonably incurred including attorney’s fees. SitelogIQ may, after the pertinent notice period and the Owner’s failure to cure, suspend Services under this Agreement until the Owner has paid in full all amounts due for the Services. The Owner waives and releases any claims against SitelogIQ for such suspension of Services as a result of the Owner’s breach. To the extent such a suspension of Services occurs, the time for SitelogIQ to complete its Services shall be extended by, at least, the number of days its Services were suspended.

**Article 8.02 - Remedies Upon Default by SitelogIQ**

In the event of default by SitelogIQ with respect to SitelogIQ’s performance pursuant to this Agreement, the Owner shall have the choice of terminating this Agreement or exercising any and all remedies at law including its right to institute other proceedings including, without limitation, bringing an action or actions from time to time for specific performance, or for the recovery of amounts due and unpaid or for damages.

**Article 9 – Suspension and Termination**

**Article 9.01 - Suspension**

Upon the occurrence of a default as referenced in Article 7, the non-defaulting party may suspend further Services on the Premises upon seven (7) days written notice following the termination of the cure period referenced in Article 7. In addition, if SitelogIQ’s Services are substantially delayed through no fault of SitelogIQ, SitelogIQ may, after providing seven (7) days written notice to the Owner, suspend Services under this Agreement.

### Article 9.02 - Termination

The parties' respective obligations to provide further Services under this Agreement may be terminated for cause: (1) by either party upon completion of the thirty (30) day cure period as set forth in Article 8, effective upon the date of written notice forwarded to the defaulting party; (2) by SitelogIQ upon the appropriate notice period set forth in Article 7 in the event the Owner demands SitelogIQ furnish or perform Services contrary to SitelogIQ's responsibilities as a licensed professional, or if SitelogIQ's Services for the Premises are delayed or suspended for more than ninety (90) days for reasons beyond SitelogIQ's control. In the event of termination by SitelogIQ under such conditions, SitelogIQ shall have no liability to the Owner on account of such termination.

### Article 9.03 - Effective Date of Termination

The terminating party under this Article may set the effective date of termination at a time of up to thirty (30) days later than otherwise provided to allow SitelogIQ to demobilize personnel and Equipment from the Premises to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble the Premises, Equipment, and Materials in orderly files. In the event of any termination under this Article, SitelogIQ will be entitled to invoice the Owner and to receive full payment for all Services performed or furnished and all reimbursable expenses incurred through the effective date of termination. In the event of termination by SitelogIQ for cause, SitelogIQ shall be entitled to invoice the Owner and to payment of a reasonable amount of Services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with SitelogIQ's Consultants, and other related close-out costs using methods and rates set forth in Schedule B herein.

## Article 10 – General Provisions

### Article 10.01 - Dispute Resolution

To the extent allowable by Michigan law, upon the request of either party, any Dispute shall first be submitted to mediation. Said mediation shall commence no later than thirty (30) days after the submission of the Dispute and shall be conducted in the locality where the Premises are situated and in accordance with the then prevailing rules of the Construction Industry Mediation Rules of the American Arbitration Association. Such time for mediation may be extended in the event that a mediator is not able to hold a mediation within the thirty (30) days after the submission of the Dispute. In the event that the Dispute is not resolved by the mediation, either party may proceed to initiate a legal action in a court of competent jurisdiction as indicated in Article 10.06.

### Article 10.02 - Conditions beyond Control of Parties

Except as otherwise provided herein, if either party shall be unable to carry out any material obligation under this Agreement due to events beyond its control, such as acts of God, governmental or judicial authority, insurrections, riots, labor disputes, labor or material shortages, fires, explosions, or floods, this Agreement shall, at the election of either party, (i) remain in effect but the affected party's obligations shall be suspended until the uncontrollable event terminates; or (ii) be terminated upon seven (7) calendar days' notice to the other party, in which event, the Owner shall pay SitelogIQ for Services furnished to the date of termination.



SitelogIQ is not responsible for unforeseen increases in costs resulting from acts beyond its control, including but not limited to governmental acts, inflation, labor or material shortages, labor disputes, and supply chain issues.

### Article 10.03 - Notice and Changes of Address

All notices to be given by either party to the other shall be in writing and must be either delivered, emailed, or mailed by registered or certified mail, return receipt requested, addressed as follows:

**If to SitelogIQ:**

SitelogIQ, Inc.  
 80 South 8th Street, Suite 1850  
 Minneapolis, MN 55402  
 Attention: John Bendt  
[john.bendt@sitelogiq.com](mailto:john.bendt@sitelogiq.com)  
 cc: [legal@sitelogiq.com](mailto:legal@sitelogiq.com)

**If to the Owner:**

Bridgman Public Schools  
 9964 Gast Rd.  
 Bridgman, MI 49106  
 Attention: Shane Peters  
[speters@bridgmanschools.com](mailto:speters@bridgmanschools.com)

or such other addresses as either party may hereinafter designate by notice to the other. Notices are deemed delivered or given and become effective upon mailing if mailed as aforesaid or upon actual receipt if otherwise delivered or emailed.

### Article 10.04 - Assignment

Neither SitelogIQ nor the Owner may assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the other party. Written consent may not be unreasonably withheld by SitelogIQ or the Owner.

### Article 10.05 – Environmental Credits and Tax Deductions

Any and all credits, allowances, or other similar tangible or intangible property rights created by or resulting from improvements in the emission or pollution characteristics of the Owner's facilities and operations caused by implementing SitelogIQ's products or Services provided under this Agreement shall be the sole property of SitelogIQ, and the Owner agrees to execute any and all certifications, assignments, or other documents reasonably required by SitelogIQ to create, convey, or perfect SitelogIQ's rights in such Environmental Credits. SitelogIQ shall have the right to trade, sell, or use these Environmental Credits in its sole discretion and without the approval of the Owner.

The Owner and SitelogIQ recognize that the designer under this Project may be eligible for a tax deduction for energy efficient commercial buildings under Internal Revenue Code §179D. The Owner and SitelogIQ agree and recognize that SitelogIQ will be the designer of this Project for purposes of the §179D deduction. The Owner will cooperate with SitelogIQ in completing the paperwork and certifications necessary to allow SitelogIQ to claim any §179D or other energy efficient commercial buildings tax deduction.

### Article 10.06 - Applicable Law; Severability; Venue; Interpretation

This Agreement is made and shall be interpreted and enforced in accordance with the laws of the State of Michigan. To the extent of any inconsistency between the language of this Agreement and that of the aforesaid applicable Michigan law, the language contained in this Agreement shall control and prevail, to the fullest extent permitted by Michigan law. If a court of competent jurisdiction adjudicates any provision of this Agreement to be invalid or unenforceable, the remaining provisions of this Agreement shall nevertheless continue in full

force and effect. The court of competent jurisdiction shall be the Courts of the State of Michigan. The parties hereby waive all rights to bring a claim in Federal Court. Any clause that may be interpreted as a covenant, promise to agree, or agreement to agree, shall be interpreted as a condition precedent to performance of the parties to this Agreement.

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#### **Article 10.07 - No Waiver**

The failure of SitelogIQ or the Owner to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in accordance with this Agreement in the event of a continuing or subsequent default on the part of SitelogIQ or the Owner. Any waiver, permit, consent, or approval on the part of one party of any breach or default of the other party under this Agreement, any Agreement document or any provision or condition thereof, must be in writing specifically set forth herein.

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#### **Article 10.08 - Complete Agreement**

This Agreement, together with any documents incorporated herein by reference, shall constitute the entire Agreement between both parties and this Agreement may not be amended, modified, or terminated except by a writing signed by the parties hereto. In the event this Agreement is not fully executed by both parties and SitelogIQ has commenced Services at the Owner's written authorization, Owner's written authorization of Services constitute consent to the terms of this Agreement and shall have the same binding effect as if signed by the parties to the fullest extent permitted by law.

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#### **Article 10.09 - Further Documents**

The parties shall timely execute and deliver all documents and perform all acts that may be reasonably necessary to effectuate the provisions of this Agreement.

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#### **Article 10.10 - Schedules**

The following Schedules are attached hereto and incorporated herein by this reference:

- Schedule A: Scope of Services
- Schedule B: Compensation for Services
- Schedule C: Project Scope of Work

## Schedule A – Scope of Services

Article 1.02 of the Agreement is supplemented to include the following agreement of the parties. SitelogIQ shall provide Services as set forth below.

### Part A – Program Management Services

The primary role of the Program Manager is to act as the overall operational manager to oversee and coordinate all aspects of the design, engineering, construction administration, commissioning, acceptance of the Project, and the warranty correction period. These Program Management Services ensure that the final product is of sufficient quality and that there is primary point of contact throughout the Project.

#### General Services

SitelogIQ shall:

- Provide support for all aspects of the Long-Term Facilities Maintenance Plan.
- Conduct an initial comprehensive facility assessment of the Owner's facilities which will identify deferred maintenance and facility improvements that will comprise the Owner's initial Long-Term Facilities Maintenance Plan.
- With the information gathered initially develop and implement a dynamic cloud-based database that will prioritize all of the identified Projects by facility, by system and by proposed year to address. This database will be updated annually removing projects implemented and adding newly identified projects to the data base.
- Provide lead point of contact in assisting the Owner with all correspondence and supporting documentation required with the applicable state agencies. This will include assisting the Owner with the required project tracking of each of the individual projects that make up the complete a Project.
- Provide support for reporting/presentation to the relevant stakeholders including, but not limited to, administration, board of directors, staff, and community.
- Develop and maintain master construction plan for all aspects of the Project. Communicate master construction to relevant stakeholders as required.
- Provide any required engineering analysis of the new and original systems and contrast operating costs of the new systems versus the original building mechanical systems. Provide the same engineering analysis of any competitive new system options (difference in Equipment efficiencies and technologies).
- Assist in the rebate processing of application to take advantage of the custom rebate opportunities that may exist with utility companies.
- Provide life-cycle costing including maintenance analysis of facility improvement recommendations and options. Meet with the Owner maintenance staff to solicit input on key system operating and maintenance preferences. This will be an important resource of information for the Owner to use in evaluating improvement options including the long-term financial impact of performing the upgrades.

## Comprehensive Facility Management Planning

- Comprehensive Facility Management Planning Services to be provided by SitelogIQ include:
  - ◆ Provide overall program management overseeing all Services including facility assessments, pre-design/engineering, final design/engineering, construction management, and commissioning.
  - ◆ Consult with the Owner to define and clarify the Owner's long-term needs and use of facilities.
  - ◆ Develop an understanding of current facility condition, staffing levels and capabilities, the Owner's long-term funding parameters and future expansion plans.
  - ◆ Develop a long-term goal for the Owner's facilities and alternate strategies for attaining that long-term goal.
  - ◆ Consult with the Owner on a wide range of financial options available and model cash flow scenarios depicting the potential budget impact.
  - ◆ Discuss possible funding mechanisms, tax incentives and other programs that could apply to the Owner; Any advice provided by SitelogIQ with respect to municipal financial products or issuance of municipal securities should be discussed with the Owner's registered municipal advisor before the Owner acts.
- Clarifications on Comprehensive Facility Management Planning Services:
  - ◆ SitelogIQ will not provide advice that implicates 5 U.S.C. et. seq (Securities and Exchange Act of 1936).
  - ◆ SitelogIQ will not serve as a financial advisor regarding the funding of this Project.
  - ◆ SitelogIQ does not engage in financial products and services.
  - ◆ The Owner, at its discretion, may authorize SitelogIQ to directly contact its municipal advisor.
  - ◆ SitelogIQ is not a municipal advisor of any kind, including under the definition provided in Securities and Exchange Rule 15Ba1-1 (17 C.F.R § 240.15Ba1); SitelogIQ is not subject to the fiduciary duty required of municipal advisors when providing advice on municipal financial products or issuance of municipal securities.

## Pre-Construction Services

### SitelogIQ shall:

- Coordinate the overall design team in the development, documentation, and progress throughout the design phases.
- Advise on the division of the Project into individual contracts for various bid packages of Work, including the method used for selecting Contractors and awarding the contracts.
- If multiple bid packages are to be bid, SitelogIQ will review the construction documents and ensure that the Work of the Contractors are coordinated, all requirements of the various trades have been assigned to the appropriate bid package, the likelihood of jurisdictional disputes has been reduced to a minimum, and proper coordination has been accounted for within phased portions of the Work.

- Develop cash flow reports and forecasts for the Project and advise the Owner of the variances between the actual and estimated costs.

### Construction Services

#### SitelogIQ shall:

- Review and take appropriate action in respect to shop drawings and samples and other data which Contractor is required to submit, but only for conformance with the general intent of information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Distribute submittals in parallel to the various reviewing representatives to expedite this process versus a long sequential process. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto, and do not relieve the Contractors or Subcontractors of their duty to comply with the Contract Documents.
- Act as an assistant to the various trades to remedy daily installation questions and obstacles directly with the specific portion of the design team. This will allow the various trade foremen to keep the trades working while the Program Manager resolves the issues and reports back to them.
- Coordinate the sequence of construction and assignment of space in areas where the Contractors and Subcontractors are performing Work.
- Coordinate the field verification process of the installation through the field installation verification reporting system. This shall include the visual inspection of the installation as well as the consolidation of the startup process.
- Ensure that copies of various start-up report and manufacturer's recommended start-up procedures are completed and forwarded to the architect/engineer for review and inclusion in the final operation & maintenance manuals.
- Ensure that the various Contractors and Subcontractors have completed all architect/engineering punch list items to date and have all discrepancies completed before the testing and balancing Contractor begins its Work.
- Communicate with the Equipment manufacturers to determine their specific requirements for installation and start-up operation.
- Assist in clarifying the operation and control of tested Equipment in areas where the specifications, control drawings, or Equipment documentation is not sufficient for writing detailed testing procedures.
- Ensure that all Contractors and Subcontractors complete their system inspection responsibilities according to the Contract Documents in a timely fashion.
- Ensure that commissioning activities are being scheduled into the master schedule.
- Review the commissioning progress. Coordinate Contractor and Subcontractor efforts to correct deficiencies noted by the architect/engineer in a timely manner.
- Coordinate the resolution of non-compliance and design deficiencies identified in the installation phase by the architect/engineer.
- Assist the Contractors and Subcontractors in the coordination of training of Owner personnel.

## Post-Construction Services

### SitelogIQ shall:

- Coordinate the resolution of non-compliance and design deficiencies identified in the Functional Performance Test (FPT) phase by the architect/engineer.
- Coordinate Contractor efforts to correct deficiencies in a timely manner.

## **Part B – Architect/Design/Engineering Services**

## Assessment Phase

### SitelogIQ shall:

- Consult with the Owner to define and clarify the Owner's requirements for the Project and available data.
- Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by SitelogIQ.
- Provide any further survey and assessment of existing conditions to allow design to proceed.

## Preliminary Design Phase

- Upon the Owner's selection of the recommended solutions and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by the Owner, consisting of two subphases schematic design and design development:
  - ◆ **Schematic Design Phase**
    - Prepare any required schematic design phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
    - Advise the Owner of additional reports, data, information, or services of the types described in Article 3 are necessary and assist the Owner in obtaining such reports, data, information, or services.
    - SitelogIQ shall, in good faith, design a Project within the Owner's budget.
    - Furnish review copies of the schematic design phase documents and any other deliverables to the Owner and review them with the Owner. The Owner shall submit to SitelogIQ any comments regarding the schematic design phase documents and any other deliverables.
  - ◆ **Design Development**
    - Revise the schematic design documents and any other deliverables in response to the Owner's comments, as appropriate, and furnish to the Owner revised development design phase documents and any other deliverables.
- SitelogIQ's services under the Preliminary Design Phase will be considered complete on the date when the revised Preliminary Design Phase documents and any other deliverables have been delivered to the Owner.

- At the conclusion of the individual subphases of the Preliminary Design Phase, the Owner shall sign a design sign-off document indicating the Owner understands, approves, and agrees that the documents provided during the subphase satisfy SitelogIQ's scope of Services under each subphase and includes all scopes of Work the Owner seeks to include in the Project.

### Final Design/Construction Document Phase

- Upon the Owner's approval of the Preliminary Design Phase documents as determined in the Preliminary Design Phase, and any other deliverables subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from the Owner, SitelogIQ shall begin the Final Design/Construction Document Phase:
  - ◆ Prepare final drawings and specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor (construction document). If appropriate, Specifications shall conform to the 52-division format of the Construction Specifications Institute.
  - ◆ Provide technical criteria, written descriptions, and design data for the Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist the Owner in consultations with such authorities; and revise the drawings and specifications in response to directives from such authorities.
  - ◆ Advise the Owner of any adjustments to the probable construction cost known to SitelogIQ.
  - ◆ Prepare and furnish Bidding Documents for review by the Owner. The Owner shall submit to SitelogIQ any comments and instructions for revisions.
  - ◆ Revise the Bidding Documents in accordance with comments and instructions from the Owner and any other deliverables to the Owner.
- SitelogIQ's Services under the Final Design/Construction Document Phase will be considered complete on the date when the submittals required have been delivered to the Owner.
- At the conclusion of the Final Design/Construction Document Phase, the Owner shall sign a design sign-off document indicating the Owner understands, approves, and agrees that the documents provided during the Final Design/Construction Document Phase satisfies SitelogIQ's scope of Services under the Final Design/Construction Document Phase and includes all scopes of Work the Owner seeks to include in the Project.

### Bidding or Negotiating Phase

- Upon the Owner's approval of the Bidding Documents and the Owner's written authorization to proceed, SitelogIQ shall:
  - ◆ Assist the Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-Bid conferences, and receive and process Contractor deposits or charges for the Bidding Documents.
  - ◆ Issue addenda as appropriate to clarify, correct, or change the Bidding Documents.



- ◆ Provide information or assistance needed by the Owner in the course of any negotiations with prospective Contractors.
- ◆ Make recommendations to the Owner regarding the acceptability of Subcontractors, suppliers, manufacturers, and other individuals and entities proposed by prospective Contractors for those portions of the Work as to which such acceptability is required by the Bidding Documents.
- The Bidding or Negotiating Phase will be considered complete upon the bid award recommendation to the Board.

## Part C – Construction Management Services

### Construction Phase

#### General

Upon successful completion of the Bidding or Negotiating Phase, and upon the Owner's written authorization, SitelogIQ shall:

- General Administration of Construction Contract. Consult with the Owner and act as the Owner's on-site representative in all matters arising out of or relating to the Project, including communications regarding the acceptability of Work completed on the Project and status of the Project.
- Program Construction Manager (PCM). Provide site project management to monitor construction activities in conjunction with the architectural, engineering, construction and close out phases of the Project. The PCM shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors, provide administration of the contract for construction documents, coordinate scheduling activities, conduct regularly scheduled construction meetings, prepare and distribute meeting minutes, monitor Work done by Contractors to ensure schedule and contractual compliance, and assist in the monitoring of budget expenditure accounting records.
- Pre-Construction Conference. Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
- Schedules. Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to SitelogIQ, including the progress schedule, schedule of submittals, and schedule of values. If a schedule update indicates that a previously agreed schedule may not be met, SitelogIQ shall make corrective recommendations to the Owner.
- Baselines and Benchmarks. As appropriate, establish baselines and benchmarks for locating the Work which in SitelogIQ's judgment are necessary to enable Contractor to proceed.
- Visits to Premises and Observation of Construction. In connection with observations of Contractor's Work and Subcontractor's Work while it is in progress:
  - ◆ Make visits to the Premises at intervals appropriate to the various stages of construction, as SitelogIQ deems necessary, to observe as an experienced and qualified design professional the progress and quality of Contractor's or Subcontractor's executed Work. Based on information obtained during such visits and observations, SitelogIQ will determine in general if the Work is proceeding in



accordance with the Contract Documents, and SitelogIQ shall keep the Owner informed of the progress of the Work.

- ◆ The purpose of SitelogIQ's visits will be to enable SitelogIQ to better carry out the duties and responsibilities assigned to and undertaken by SitelogIQ during the Construction Phase, and, in addition, by the exercise of SitelogIQ's efforts as an experienced and qualified design professional, to provide for the Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. SitelogIQ shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work or Subcontractor's Work, nor shall SitelogIQ have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor or Subcontractor, for security or safety on the Site, for safety precautions and programs incident to Contractor's Work or Subcontractor's Work, nor for any failure of Contractor or Subcontractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work or Subcontractor's furnishing and performing the Work. Accordingly, SitelogIQ neither guarantees the performance of any Contractor or Subcontractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents or any Subcontractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- Defective Work. Recommend that the Owner reject Contractor's Work or Subcontractor's Work while it is in progress if, on the basis of SitelogIQ's observations, SitelogIQ believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
- Clarifications and Interpretations; Field Orders. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's Work and Subcontractor's Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. SitelogIQ may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents. SitelogIQ may not issue a field order if it will increase the cost of the Contractor's Work.
- Change Orders and Work Change Directives. Recommend Change Orders and Work Change Directives to the Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
- Shop Drawings and Samples. Review and take appropriate action in respect to shop drawings and samples and other data which Contractor is required to submit, but only for conformance with general intent the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action do not control the means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto, and do not relieve the Contractors of their duty to comply with the Contract Documents.
- Substitutes and "or-equal." Evaluate and offer an opinion to the Owner regarding the acceptability of substitute or "or-equal" Materials and Equipment proposed by Contractor.

Any decision by the Owner to accept a substitution in contravention of the Opinion of SitelogIQ shall be at the Owner's sole risk.

- Inspections and Tests. Require such special inspections or tests of Contractor's Work or Subcontractor's Work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by the laws and regulations imposed by the State of Michigan or the Contract Documents. SitelogIQ's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. SitelogIQ shall be entitled to rely on the results of such tests. With the Owner's maintenance personnel, SitelogIQ shall observe the Contractor's final testing and start-up of utilities, operational systems, and Equipment.
- Disagreements between the Owner and Contractor. Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's Work or Subcontractor's Work and the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work or subcontractor's Work; review each duly submitted claim by the Owner or Contractor, and in writing either deny such claim in whole or in part, approve such claim, or decline to resolve such claim if SitelogIQ in its discretion concludes that to do so would be inappropriate. In rendering such decisions, SitelogIQ shall be fair and not show partiality to the Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- Applications for Payment. Based on SitelogIQ's observations as an experienced and qualified design professional and on review of applications for payment and accompanying supporting documentation:
  - ◆ Recommend the amounts that Contractor is paid for Work properly completed. SitelogIQ may make such recommendations in conjunction with the architect of record, if SitelogIQ does not serve as the architect of record. Such recommendations of payment will be in writing and will constitute SitelogIQ's representation to the Owner, based on such observations and review, that, to the best of SitelogIQ's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon substantial completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractors being entitled to such payment appear to have been fulfilled in so far as it is SitelogIQ's responsibility to observe Contractor's Work. In the case of unit price work, SitelogIQ's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
  - ◆ By recommending any payment, SitelogIQ shall not thereby be deemed to have represented that observations made by SitelogIQ to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to SitelogIQ in this Agreement and the Contract Documents. Neither SitelogIQ's review of Contractor's Work for the purposes of recommending payments nor SitelogIQ's recommendation of any

payment, including final payment, will impose on SitelogIQ any responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with the laws and regulations of the State of Michigan applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on SitelogIQ to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the contract price, or to determine that title to any portion of the Work in progress, materials, or Equipment has passed to the Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between the Owner and Contractor that might affect the amount that should be paid.

- Contractor's Completion Documents. Receive, review, and transmit to the Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates, or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, shop drawings, samples, and other data approved and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment.
- Substantial Completion. Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with the Owner and Contractor, conduct an inspection to determine if the Work is substantially complete. If after considering any objections of the Owner, SitelogIQ considers the Work substantially complete; SitelogIQ shall deliver a certificate of substantial completion to the Owner and Contractor. Providing a certificate of substantial completion to the Owner and Contractor does not make SitelogIQ responsible for any of Contractor's Work, including but not limited to Work that may possess a latent defect or defect unknown to SitelogIQ at the time the certificate of substantial completion is issued.
- Final Notice of Acceptability of the Work. Conduct a final inspection to determine if the completed Contractor's Work is acceptable so that SitelogIQ may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, SitelogIQ shall also provide a notice to Contractor and the Owner that the Work is acceptable to the best of SitelogIQ's knowledge, information, and belief and based on the extent of the Services provided by SitelogIQ under this Agreement. Providing final notice of acceptability of the Work does not make SitelogIQ responsible for any of Contractor's Work, including but not limited to Work completed by Subcontractors or Work that may possess a latent defect or defect unknown to SitelogIQ at the time final notice of acceptability of the Work is issued.

### Duration of Construction Phase.

The Construction Phase will commence upon the completion of the Bidding or Negotiation Phase and the Owner providing SitelogIQ written authorization to proceed. The Construction Phase shall terminate upon written recommendation by SitelogIQ for final payment to Contractors.

### Limitation of Responsibilities.

SitelogIQ shall not be responsible for the acts or omissions of any Contractor, or of any Subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work, Materials, or Equipment on the Project. SitelogIQ shall not be responsible for the failure

of any Contractor or Subcontractor to perform or furnish the Work in accordance with the Contract Documents.

## Post-Construction Phase

- Upon completion of the Construction Phase and with written authorization from the Owner, SitelogIQ, during the Post-Construction Phase, shall:
  - ◆ Provide assistance in connection with the adjusting of the Project Equipment and systems.
  - ◆ Assist the Owner in training the Owner’s staff to operate and maintain the Project Equipment and systems.
  - ◆ Assist the Owner in developing procedures for control of the operation and maintenance of, and record keeping for the Project Equipment and systems.
  - ◆ Together with the Owner, visit the Project to observe any apparent defects in the Work, assist the Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if present.
- The Post-Construction Phase Services may commence during the Construction Phase, if mutually agreed to by the Owner and SitelogIQ. Unless otherwise modified elsewhere in this Schedule A or by subsequent amendment, the Post-Construction Phase will terminate at the end of the any correction period noted in the Contract Documents or this Agreement.

## Part D – Commissioning Services

### Commissioning Phase

SitelogIQ shall, or cause the architect of record to, complete an Architect Review and an HVAC Mechanical and Electrical Review.

#### Architect Review

Document the Owner’s building criteria, needs, etc. for a programming report.

- Design Development Phase. Document the design intent for general building design and function.
- Construction Documents Phase.
  - ◆ Coordinate the development of the design intent by all design team members.
  - ◆ Document the design intent, design narrative and design parameters.
  - ◆ Include appropriate system inspection sections into the specification, including specialty systems such as food service, swimming pool, etc. The System Inspector will prepare sections.
- Construction and Acceptance Phase.
  - ◆ Coordinate resolution of system deficiencies identified during the system inspection process, according to the Contract Documents.
  - ◆ Prepare and submit final record drawings for inclusion in the operation and maintenance (O&M) manuals. Review and approve the O&M manuals.

- ◆ Coordinate the review of applications for payment with SitelogIQ and System Inspector.
- One Year Correction Period.
  - ◆ Coordinate resolution of design nonconformance and design deficiencies identified during the one year correction period.

## HVAC Mechanical and Electrical Review

Document the Owner's mechanical and electrical system requirements.

- Design Development. Document design intent and general operating parameters.
- Construction Documents Phase.
  - ◆ Complete the documentation of the design intent and operating parameters.
  - ◆ Include in the division 20-25 (HVAC mechanical designer) and division 26-28 (electrical designer) of the specification, the Contractor requirements for system inspections, as prepared by the System Inspector or attached as a supplemental document.
- Construction and Acceptance Phase.
  - ◆ Assist (along with the Contractors) in clarifying the operation and control of Equipment in areas where the specifications, control drawings, or Equipment documentation are not sufficient for writing detailed testing procedures.
  - ◆ Participate in the resolution of mechanical and electrical system deficiencies identified during the system inspection process.
  - ◆ Prepare and submit the division mechanical and electrical final record drawing documentation for inclusion in the O&M manuals.
  - ◆ Review and approve the O&M manuals.
- One Year Correction Period.
  - ◆ Coordinate resolution of design nonconformance and design deficiencies identified during the one year correction period.

## System Inspector.

SitelogIQ shall serve as the System Inspector for this Project. The primary role of the System Inspector is to review the design intent and Construction Documents, observe that construction is performed according to the design documents, develop, and coordinate the execution of a testing plan, and document the testing results in order to be reasonably assured that the installed systems operate according to design intent and in accordance with the Contract Documents.

## The Owner's Role and Obligations

Programming through Design Development Phases. The Owner shall assist SitelogIQ to identify which building systems will undergo the commissioning or system inspection process, (e.g., HVAC and others required by the law of the State of Michigan, or others, such as fire alarm, security, card access, CCTV, telephone, data, fire sprinkler, windows, walls, roofs, etc.). In addition, the Owner's responsibilities include:

- Construction Documentation Phase.
  - ◆ Working with the System Inspector to identify the sampling rates for system testing.

- ◆ Approving the final system inspection-testing plan.
- ◆ Working with architects, engineers, and PCM and the System Inspector to provide language in the specifications that the Contractors will provide in their bid a specific dollar amount for their part of the system inspection process. This amount will be indicated on the schedule of values form, with draws made against this amount throughout the system inspections process.
- ◆ Reviewing and approve the design intent documentation.
- ◆ Reviewing and approve the system inspection specification sections.
- Construction and Acceptance Phase.
  - ◆ Managing the Contractor's contracts.
  - ◆ Providing final approval for the successful completion of the system inspections.
  - ◆ Withholding Contractor's retainage until all Work is complete and operates properly.
- One Year Correction Period.
  - ◆ Withholding adequate funds from the Contractors, architects, engineers, and System Inspectors until all system inspection activities have been successfully completed. Coordinate Contractor efforts to correct deficiencies in a timely manner.

### **Part E – Contingent or Optional Services**

- SitelogIQ will provide, at the Owner's request, additional Contingent or Optional services which are not included in SitelogIQ's initial Services, and may include but not be limited to the following:
  - ◆ Consultation for or services required to coordinate replacement of work caused by fire or others during construction.
  - ◆ Services necessary due to default or termination of Contractor.
  - ◆ Services in connection with public hearings, arbitration proceedings, or legal proceedings (unless SitelogIQ is a party).
  - ◆ Services for coordination of construction performed by the Owner's own work forces and connection with Equipment supplied by the Owner.
  - ◆ Services in connection with separate Consultants retained by the Owner.
  - ◆ Services of Consultants other than architectural, structural, mechanical, and electrical portions of this Project.
  - ◆ Other services required that are not part of the Professional Services Agreement.
  - ◆ To the extent that SitelogIQ provides Contingent or Optional Services, SitelogIQ shall receive additional compensation or other form of consideration for such Services.



## Schedule B – Compensation for Services

The Compensation for Services shall be paid in the currency of the United States of America by the Owner to SitelogIQ on a progress payment basis identified below. This Schedule applies only to the Services identified in Schedule A, Scope of Services.

### Compensation for Services

The Compensation for Services to be paid by the Owner to SitelogIQ for the Services set forth in Schedule A shall be as follows:

#### General

The lump sum fee is \$798,787.50 based upon the proposed Project scope of Work and estimated Project costs identified in Schedule C. To the extent that the lump sum fee increases or decreases, the parties shall execute an amendment to this Agreement.

#### Basis for Payments

As a basis for payment to SitelogIQ, Project costs will be based on one or more of the following determinations with precedence in the order listed for Work designed or specified by SitelogIQ:

- For Work designed or specified and incorporated in the completed Project, the actual final cost of the Services performed SitelogIQ, including overhead and profit.
- For Work designed or specified but not constructed, the actual cost of the Work, including overhead and profit, performed by SitelogIQ pursuant to the fee schedule set forth herein and reimbursable expenses.
- No deduction shall be made from SitelogIQ’s compensation due to any penalty, liquidated damages, or other amounts withheld from payments to Contractor(s).

#### Progress Payments

- Except for the initial invoice, the portion of the amounts billed for SitelogIQ’s Services will be based upon SitelogIQ’s estimate of the proportion of the total Services actually completed during the billing period to the percentage of construction cost.
- The progress payment breakdown by Service phases is as follows:

Project/Service	Percent of Total Compensation
Initial Invoice	25%
Design Document Phase	60%
Construction Implementation Phase	10%
Post Construction Phase	5%
<b>Total</b>	<b>100%</b>

- SitelogIQ may alter the distribution of compensation between individual phases of the Work noted herein but shall not exceed the total percent fee unless approved in writing by the Owner.



## Schedule C – Project Scope of Work

### Bridgman Public Schools Phase #1

The scope of Work for the Project includes and is limited to:

- Installing of a new pool HVAC System. The new pool HVAC system includes an integrated, roof mounted pool HVAC with humidity control, heat recovery, and pool water heating; new ductwork configured to supply air at the perimeter walls and medium and high level return; and new pool surface level exhaust system.
- Replacing the existing pool roof.
- Renovating the pool area by:
  - Removing and replacing the pool deck ceramic tile;
  - Removing acoustical ceiling, ductwork, and lighting;
  - Painting walls, roof deck, joists, and school branded painting;
  - Installing stainless handrails;
  - Removing and replacing all exterior doors; and
  - Installing a new scoreboard, public address system, and diving board.
- Installing a new pool filter system and alkalinity meter;
- Installing a new ultraviolet pool treatment system; and
- installing a new fire suppression and upgrading the fire alarm system in the pool area.

The scope of Work shall also include a \$6,450 allowance for recaulking control joints. The District acknowledges that and understands that if any of the above allowance amount does not cover the cost of the allowance items the District wants to procure, the allowance scope of Work will only be partially completed.

SitelogIQ estimates the total Project costs are \$4,260,200.00.

To the extent required, Owner and SitelogIQ shall execute amendments to Schedule C of this Agreement to further define the scope of Services and Work to be completed on the Premises.