



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

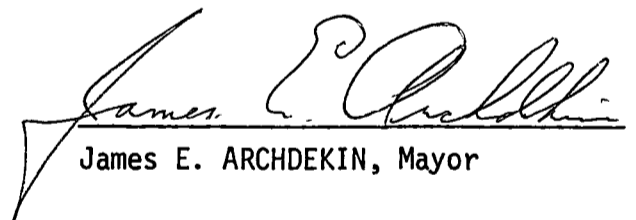
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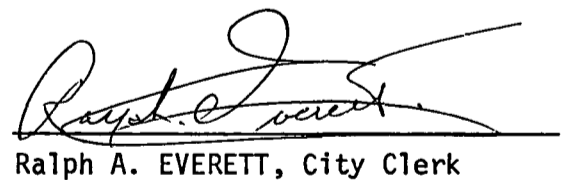
To authorize the execution of an Agreement between The Corporation of the City of Brampton and Pearson & Stephen, Architects. (Heart Lake Recreation Centre).

The Council of The Corporation of the City of Brampton ENACTS as follows:

THAT the Mayor and the Clerk are hereby authorized to execute an Agreement between The Corporation of the City of Brampton and Pearson & Stephen, Architects, attached hereto as Schedule "A".

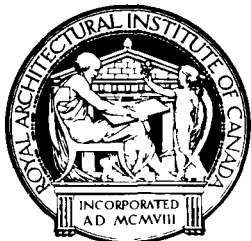
READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 10th day of October, 1979.

  
James E. ARCHDEKIN, Mayor

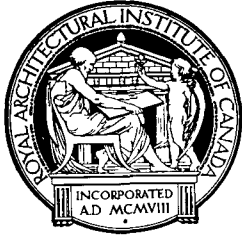
  
Ralph A. EVERETT, City Clerk

# Standard Form Of Agreement Between Client and Architect

RAIC Document 6



The Royal Architectural Institute of Canada



# Standard Form of Agreement Between Client and Architect

RAIC Document 6 1 November 1978 Edition

## Agreement

made as of the fourteenth day of August in the year of Nineteen  
Hundred and Seventy-Nine

**Between the Client:** The Corporation of The City of Brampton  
(Include name and address) 24 Queen Street East  
L6V 1A4

**and the Architect:** Pearson & Stephen, Architects  
(Include name and address) 2021 Cliff Road, Suite 203  
Mississauga, Ontario  
L5A 3N7

**For the following Project:**  
(Include detailed description of Project location and scope.)

Heart Lake Recreation Centre

The Client and the Architect agree as set forth in the following terms and conditions.

Certain provisions of this document have been derived, with modifications, from AIA Document B 141, Standard Form of Agreement Between Owner and Architect, 1977 Edition © 1977, The American Institute of Architects, 1735 New York Avenue, N W , Washington, DC 20006 USA. Reproduction herein is with the permission of AIA under application number 78044. Further reproduction of copyrighted AIA materials without separate written permission from AIA is prohibited. AIA®

# TERMS AND CONDITIONS OF AGREEMENT BETWEEN CLIENT AND ARCHITECT

## ARTICLE 1

### DEFINITIONS

#### 1.1 CONSTRUCTION COST

Construction Cost means the Contract Price of all elements of the Project designed or specified by the Architect. Where there is no Contract Price for all or part of the Project, the Construction Cost shall be the estimated cost at current market rates as determined by the Architect. Construction Cost does not include the compensation of the Architect and the Architect's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Client as provided in Article 3.

#### 1.2 CONTRACT

The Contract is the agreement between the Client and the Contractor for the provision of labour, materials, and equipment for the execution of the Work by the Contractor.

#### 1.3 CONTRACT DOCUMENTS

The Contract Documents consist of the executed Agreement between the Client and the Contractor, the General Conditions of the Contract, the Drawings, and such other documents as are identified in the Agreement and the General Conditions as constituting part of the Contract Documents.

#### 1.4 CONTRACTOR

The Contractor is the person, firm, or corporation contracting with the Client to provide labour, materials, and equipment for the execution of the Work.

#### 1.5 SUBCONTRACTOR

A Subcontractor is a person, firm, or corporation contracting with the Contractor to perform a part or parts of the Work included in the Contract, or to supply products worked to a special design according to the Contract Documents.

#### 1.6 SUBSTANTIAL PERFORMANCE

Substantial Performance of the Work is as defined in the Lien legislation applicable to the place of the Project. If such legislation is not in force or does not contain such definition, Substantial Performance shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Architect.

## ARTICLE 2

### ARCHITECT'S SERVICES AND RESPONSIBILITIES

#### BASIC SERVICES

The Architect's Basic Services consist of the six phases described in Paragraphs 2.1 through 2.6 and include normal structural, mechanical, and electrical engineering services and any other services included in Article 13 as part of Basic Services.

#### 2.1 SCHEMATIC DESIGN PHASE

2.1.1 The Architect shall study the program and the budget furnished by the Client to ascertain the requirements of the Project and shall review the understanding of such requirements with the Client.

2.1.2 The Architect shall provide a preliminary evaluation of the program and the Project Budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 4.1.

2.1.3 The Architect shall review with the Client alternative approaches to design and construction of the Project.

2.1.4 Based on the mutually agreed upon program and budget requirements, the Architect shall prepare, for approval by the Client, Schematic Design Documents consisting of drawings and other documents appropriate to the size of the project illustrating the scale and relationship of Project components.

2.1.5 The Architect shall submit to the Client an Estimate of Construction Cost based on current area, volume, or other unit costs.

#### 2.2 DESIGN DEVELOPMENT PHASE

2.2.1 Based on the approved Schematic Design Documents and approved budget, the Architect shall prepare, for approval by the Client, Design Development Documents consisting of drawings and other documents appropriate to the size of the Project to fix and describe the size and character of the entire Project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate.

2.2.2 The Architect shall review and if necessary revise the Estimate of Construction Cost and submit it to the Client.

#### 2.3 CONSTRUCTION DOCUMENTS PHASE

2.3.1 Based on the approved Design Development Documents and budget, the Architect shall prepare, for approval by the Client, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.3.2 The Architect shall advise the Client of any adjustments to previous Estimates of Construction Cost.

indicated by changes in requirements or general market conditions

**2.3.3** The Architect shall prepare necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Client and the Contractor

**2.3.4** The Architect shall assist the Client in connection with the Client's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project

**2.3.5** The Architect shall interpret codes, by-laws, and regulations as they apply to the Project. However the client acknowledges that as the Project progresses, the government authorities' interpretation of such codes, by-laws, and regulations may change and differ from the Architect's interpretation in ways which the Architect cannot reasonably anticipate

#### **2.4 BIDDING OR NEGOTIATION PHASE**

The Architect, following the Client's approval of the Construction Documents and of the latest Estimate of Construction Cost, shall assist the Client in obtaining bids or negotiated proposals, and in awarding and preparing contracts for construction

#### **2.5 CONSTRUCTION PHASE — ADMINISTRATION OF THE CONSTRUCTION CONTRACT**

**2.5.1** Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Architect shall provide administration of the Contract for Construction as set forth below

**2.5.2** During the Construction Phase the Architect shall be a representative of the Client, shall advise and consult with him, and shall have authority to act on his behalf to the extent provided in this Agreement. All instructions to the Contractor shall be forwarded through the Architect

**2.5.3** The Architect shall conduct inspections at intervals appropriate to the stage of construction which he considers necessary to enable him to determine if the Work is proceeding in general accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of such on-site observations, the Architect shall keep the Client informed of the progress and quality of the Work, and shall endeavor to guard the Client against defects and deficiencies in the Work of the Contractor, but he shall not be responsible for identifying defects or deficiencies in the Work which are not reasonably apparent or visible at the time of such inspections and which result from the Contractor's failure to carry out the work in accordance with the Contract Documents

**2.5.4** The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor will he be responsible for the acts or omissions of the Contractor, Subcontractors, or any

other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents

**2.5.5** The Architect shall at all times have access to the Work wherever it is in preparation or progress

**2.5.6** The Architect shall determine the amounts owing to the contractor based on observations at the site and on evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment in such amounts, as provided in the Contract Documents

**2.5.7** The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Client, based on the Architect's observations at the site as provided in Subparagraph 2.5.3 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated, that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. Such certification is subject to continuing evaluation of the Work as it progresses for general conformance with the Contract Documents, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment. The issuance of the Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Price

**2.5.8** The Architect shall be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both the Client and Contractor. The Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Client or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes, and other matters in question between the Client and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents

**2.5.9** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form. In the capacity of interpreter and judge, the Architect shall endeavor to secure faithful performance by both the Client and the Contractor, shall not show partiality to either, and shall not be liable for the result of any interpretation or decision rendered in good faith in such capacity

**2.5.10** The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents. The Architect's decisions on any other claims, disputes, or other matters, including those in question between the Client and the Contractor, shall be subject to review as provided in this Agreement and in the Contract Documents

**2.5.11** The Architect shall have the authority to reject Work which does not conform to the Contract Documents. Whenever, in the Architect's opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work, whether or not such Work be then fabricated, installed, or completed.

**2.5.12** The Architect shall review or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness. The Architect's review of a specific item shall not indicate acceptance of an assembly of which the item is a component.

**2.5.13** The Architect shall prepare Change Orders for the Client's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time which are consistent with the intent of the Contract Documents.

**2.5.14** The Architect shall determine the Date of Substantial Performance, shall receive and forward to the Client for the Client's review written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment.

**2.5.15** The extent of the duties, responsibilities, and limitations of authority of the Architect as the Client's representative during construction shall not be modified or extended without written consent of the Client and the Architect.

## **2.6 POST-CONSTRUCTION PHASE**

The Architect shall assess any reported defects or deficiencies arising during the period of one year following certification of Substantial Performance, and if requested he shall inspect the Work with the Client prior to the expiry of that period. The Architect shall issue on behalf of the Client the necessary instructions to the Contractor if work is required to correct such defects or deficiencies.

## **2.7 CONTINUOUS REPRESENTATION AT THE SITE**

**2.7.1** If the Client and Architect agree that continuous representation at the site is required, the Architect shall provide one or more Project Representatives to assist the Architect in carrying out such responsibilities.

**2.7.2** Such Project Representatives shall be selected, employed, and directed by the Architect. The duties, responsibilities, and limitations of authority of such Project Representatives and the compensation to the Architect shall be as mutually agreed between the Client and the Architect.

**2.7.3** Through the observations by such Project Representatives, the Architect shall endeavour to provide further protection for the Client against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities, or obligations of the Architect as described in Paragraph 2.5.

## **2.8 ADDITIONAL SERVICES**

The following Services are not included in Basic Services unless so identified in Article 13. They shall be provided if authorized or confirmed in writing by the Client, and they shall be paid for by the Client as provided in this Agreement, in addition to the compensation for Basic Services.

**2.8.1** Providing analyses of the Client's needs, and programming the requirements of the Project.

**2.8.2** Providing financial feasibility or other special studies.

**2.8.3** Providing planning surveys, site evaluations, environmental studies, or comparative studies of prospective sites, and preparing special surveys, studies, and submissions required for approval of governmental authorities or others having jurisdiction over the Project.

**2.8.4** Providing services relative to future facilities, systems, and equipment which are not intended to be constructed during the Construction Phase.

**2.8.5** Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Client.

**2.8.6** Preparing documents of alternate, separate, or sequential bids or providing extra services in connection with bidding, negotiation, or construction prior to the completion of the Construction Documents Phase, when requested by the Client.

**2.8.7** Providing coordination of Work performed by separate contractors or by the Client's own forces.

**2.8.8** Providing services in connection with the work of a construction manager or separate consultants retained by the Client.

**2.8.9** Providing Detailed Estimates of Construction Cost, analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment, and labor.

**2.8.10** Providing interior design and other similar services required for or in connection with the selection, procurement, or installation of furniture, furnishings, and related equipment.

**2.8.11** Providing services for planning tenant or rental spaces.

**2.8.12** Making revisions in Drawings, Specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously

given, when such revisions are required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents, or when such revisions are due to other causes not solely within the control of the Architect

**2.8.13** Preparing Drawings, Specifications, and supporting data and providing other services in connection with Change Orders to the extent that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not commensurate with the services required of the Architect, provided such Change Orders are required by causes not solely within the control of the Architect

**2.8.14** Making investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities, and providing services required in connection with construction performed by the Client

**2.8.15** Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work

**2.8.16** Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance by either the Client or Contractor under the Contract for Construction

**2.8.17** Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings, and other data furnished by the Contractor to the Architect. The Architect shall not be held responsible for the accuracy of the information provided by the Contractor

**2.8.18** Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation

**2.8.19** Providing services after expiry of the period of one year following certification of Substantial Performance

**2.8.20** Preparing to serve or serving as witness in connection with any public hearing, arbitration proceeding, or legal proceeding

**2.8.21** Providing services of consultants for other than the normal architectural, structural, mechanical, and electrical engineering services for the Project

**2.8.22** Providing translation to a language other than the language of this Agreement

**2.8.23** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice

### ARTICLE 3

#### CLIENT'S RESPONSIBILITIES

**3.1** The Client shall provide full information regarding requirements for the Project including a program,

which shall set forth the Client's design objectives, constraints, and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems, and site requirements

**3.2** The Client's Project Budget shall include contingencies for bidding, changes in the Work during construction, and other costs which are the responsibility of the Client, including those described in this Article 3. The Client shall, at the request of the Architect, provide a statement of funds available for the Project, and their source

**3.3** The Client shall designate, when necessary, a representative authorized to act in the Client's behalf with respect to the Project. The Client or such authorized representative shall examine the documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services

**3.4** The Client shall furnish a legal description and a certified land survey of the site, giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site, locations, dimensions, and complete data pertaining to existing buildings, other improvements, and trees, and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths

**3.5** The Client shall furnish reports and appropriate professional recommendations of specialist consultants when deemed necessary by the Architect

**3.6** The Client shall furnish structural, mechanical, chemical, and other laboratory tests, inspections and reports as required by the Architect, the law, or the Contract Documents

**3.7** The Client shall furnish all legal, accounting, and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Client may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor uses the moneys paid by or on behalf of the Client

**3.8** The services, information, surveys, and reports required by Paragraphs 3.4 through 3.7 inclusive shall be furnished at the Client's expense, and the Architect shall be entitled to rely upon their accuracy and completeness

**3.9** Contracts for the provision of such services, information, surveys, and reports, whether arranged by the Client or the Architect, shall be considered direct contracts with the Client unless explicitly provided otherwise

**3.10** If the Client observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, he shall notify the Architect promptly

**3.11** The Client shall furnish required information and services and shall render approvals and decisions as

necessary for the orderly progress of the Architect's services and of the Work

#### **ARTICLE 4**

##### **RESPONSIBILITY FOR CONSTRUCTION COST AND ESTIMATES OF CONSTRUCTION COST**

**4.1** Evaluations of the Client's Project Budget, Estimates of Construction Cost, and Detailed Estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Client has control over the cost of labor, materials, or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project Budget proposed, established, or approved, by the Client, if any, or from any Estimate of Construction Cost or other cost estimate or evaluation prepared by the Architect.

**4.2** No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal, or establishment of a Project Budget under Subparagraph 2.1.2 or Paragraph 3.2 or otherwise, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding, and price escalation, to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project, and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Any such fixed limit shall be increased in the amount of any increase in the Contract Price occurring after execution of the Contract for Construction.

**4.3** If the Bidding or Negotiation Phase has not commenced within three months after the Architect submits the Construction Documents to the Client, any Project Budget or fixed limit of Construction Cost shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Client and the date on which proposals are sought.

**4.4** If the Project Budget is exceeded by more than 10%, or if the fixed limit of Construction Cost (adjusted as provided in Paragraph 4.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Client shall (1) give written approval of an increase in such Project Budget or fixed limit, (2) authorize rebidding or renegotiating of the Project within a reasonable time, (3) if the Project is abandoned, terminate in accordance with Paragraph 8.3, or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (4), provided a fixed

limit of Construction Cost has been established as a condition of this Agreement, the Architect, without additional charge, shall modify the Drawings and Specifications as necessary to comply with the fixed limit. The providing of such service shall be the limit of the Architect's responsibility arising from the establishment of such fixed limit, and having done so, the Architect shall be entitled to compensation for all other services performed, in accordance with this Agreement, whether or not the Construction Phase is commenced.

#### **ARTICLE 5**

##### **PAYMENTS TO THE ARCHITECT**

###### **5.1 PAYMENTS ON ACCOUNT OF BASIC SERVICES**

**5.1.1** An initial payment as set forth in Paragraph 12.1 is the minimum payment under this Agreement.

**5.1.2** Subsequent payments for Basic Services shall be made monthly and shall be in proportion to services performed within each phase of services on the basis set forth in Article 12.

**5.1.3** If and to the extent that the Contract Time initially established in the Contract for Construction is exceeded or extended through no fault of the Architect, compensation for any Basic Services required for such extended period of Administration of the Construction Contract shall be computed as set forth in Paragraph 12.4 for Additional Services.

**5.1.4** When compensation is based on a percentage of Construction Cost, and any portions of the Project are deleted or otherwise not constructed, compensation for such portions of the Project shall be payable to the extent services are performed on such portions, in accordance with the schedule set forth in Subparagraph 12.2.2, based on (1) the lowest bona fide bid or negotiated proposal or, (2) if no such bid or proposal is received, the most recent Estimate of Construction Cost or Detailed Estimate of Construction Cost for such portions of the Project.

###### **5.2 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES**

Payments on account of the Architect's Additional Services as defined in Paragraph 2.8 and for Reimbursable Expenses as defined in Paragraph 5.4 shall be made monthly upon presentation of the Architect's invoice for services rendered or expenses incurred.

###### **5.3 DIRECT PERSONNEL EXPENSE**

Direct Personnel Expense is defined as the direct salaries of all the Architect's personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.



#### 5.4 REIMBURSABLE EXPENSES

Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project for the expenses listed in the following Subparagraphs

- 1 Expense of transportation in connection with the Project, living expenses in connection with out-of-town travel, long distance communications and fees paid for securing approval of authorities having jurisdiction over the Project
- .2 Expense of reproductions, postage, and handling of Drawings, Specifications, and other documents, excluding reproductions for the office use of the Architect and the Architect's consultants
- .3 Expense of data processing and photographic production techniques when used in connection with Additional Services
- .4 If authorized in advance by the Client, expense of overtime work requiring higher than regular rates
- .5 Expense of renderings, models, and mock-ups requested by the Client
- .6 Expense of any additional insurance coverage or limits, including professional liability insurance, requested by the Client in excess of that normally carried by the Architect and the Architect's consultants

#### 5.5 PAYMENTS WITHHELD

No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect is held legally liable

#### 5.6 PROJECT SUSPENSION OR ABANDONMENT

If the Project is suspended or abandoned in whole or in part for more than three months, the Architect shall be compensated for all services performed prior to receipt of written notice from the Client of such suspension or abandonment, together with Reimbursable Expenses then due and all Termination Expenses as defined in Article 8. If the Project is resumed after being suspended for more than three months, the Architect's compensation shall be equitably adjusted

#### 5.7 ARCHITECT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the Client or the Client's authorized representative at mutually convenient times

### ARTICLE 6

#### OWNERSHIP AND USE OF DOCUMENTS

6.1 Drawings and Specifications as instruments of service are and shall remain the property of the Architect whether the Project for which they are made is executed or not. The Client shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Client's use and occupancy of the Project. The Drawings and Specifications shall not be used by the Client on other projects, for additions to this Project, or for completion of this Project by others provided the Architect is not in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect

6.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's rights

### ARTICLE 7

#### ARBITRATION

7.1 All matters in dispute under this Agreement may, with the concurrence of both the Client and the Architect, be submitted to Arbitration under the laws of the place of the Project

7.2 The parties to the Agreement may jointly appoint a single arbitrator, or if they fail to agree on such arbitrator, shall each appoint one nominee to a board of arbitration. These nominees shall together agree upon a chairman, the three persons so selected shall constitute the board of arbitration

7.3 The award of the arbitrator or board of arbitration shall be final and binding upon the parties

### ARTICLE 8

#### TERMINATION OF AGREEMENT

8.1 Unless otherwise stated in this Agreement, the Architect's services terminate one year after certification of Substantial Performance

8.2 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination

8.3 This Agreement may be terminated by the Client upon at least seven days' written notice to the Architect in the event that the Project is permanently abandoned

**8.4** In the event of termination not the fault of the Architect, the Architect shall be compensated for all services performed to termination date, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 8.5

**8.5** Termination Expenses include expenses directly attributable to suspension or termination for which the Architect is not otherwise compensated, and in addition, an amount computed as a percentage of the total Basic and Additional Compensation earned to the time of termination, as follows

- .1 Twenty percent if suspension or termination occurs during the Schematic Design Phase, or
- .2 Ten percent if suspension or termination occurs during the Design Development Phase, or
- .3 Five percent if suspension or termination occurs during any subsequent phase

#### **ARTICLE 9**

##### **LAW GOVERNING THE AGREEMENT**

Unless otherwise specified, this Agreement shall be governed by the law of the place of the Project

#### **ARTICLE 10**

##### **SUCCESSORS AND ASSIGNS**

The Client and the Architect, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Client nor the Architect shall assign, sublet, or transfer any interest in this Agreement without the written consent of the other

#### **ARTICLE 11**

##### **EXTENT OF AGREEMENT**

This agreement represents the entire and integrated agreement between the Client and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and Architect

ARTICLE 12

BASIS OF COMPENSATION

The client shall compensate the Architect for the Scope of Services provided, in accordance with Article 5, Payments to the Architect, and the other Terms and Conditions of this Agreement, as follows

12.1 AN INITIAL PAYMENT of \_\_\_\_\_ dollars (\$) shall be made upon execution of this Agreement and credited to the Client's account as follows

12.2 BASIC COMPENSATION

12.2.1 FOR BASIC SERVICES, as described in Paragraphs 2 1 through 2 6, and any other services set out in Article 13 as part of Basic Services, Basic Compensation shall be computed as follows

(Here insert basis of compensation, including fixed amounts, multiples, or percentages and identify Phases to which particular methods of compensation apply, if necessary)

The Client shall pay the Architect for his basic services a fee of seven percent (7%) of the Approved Cost Estimate of \$1,999,250.00.

Should the lowest bona fide approved bid be less than the Approved Cost Estimate, the fee will be based on 7% of the approved tender.

Should the lowest bona fide approved bid be 10% over the Approved Cost Estimate, the Architect shall co-operate in revising the Project Scope and quality as required to reduce the construction cost, at no additional expense to the Owner, provided that the Client has not made additions to the Project which have caused the increase from the Estimate.

12.2.2 Where compensation is based on a Stipulated Sum or Percentage of Construction Cost, payments for Basic Services shall be made as provided in Subparagraph 5 1 2, so that Basic Compensation for each Phase shall equal the following percentages of the total Basic Compensation payable

(Include any additional Phases as appropriate)

Schematic Design Phase	twelve & one half -----	percent ( 12.5 %)
Design Development Phase	twelve & one half -----	percent ( 12.5 %)
Construction Documents Phase	thirty-seven & one half --	percent ( 37.5 %)
Bidding or Negotiation Phase	twelve & one half -----	percent ( 12.5 %)
Construction Phase	twenty-five -----	percent ( 25.0 %)
Post-construction Phase	nil-----	percent (----- %)

12.3 FOR CONTINUOUS REPRESENTATION AT THE SITE, as described in Paragraph 2 7, Compensation shall be computed separately in accordance with Subparagraph 2 7 2

**12.4 COMPENSATION FOR ADDITIONAL SERVICES**

**12.4.1 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Paragraph 2.8, and any other services included in Article 13 as part of Additional Services, but excluding Additional Services of consultants, Compensation shall be computed as follows**

*Here, insert basis of compensation, including rates and/or multiples of Direct Personnel Expenses for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)*

**12.4.2 FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical, and electrical engineering services and those provided under Subparagraph 2.8.21 or identified in Article 13 as part of Additional Services, compensation shall be computed as a multiple of ( ) times the amounts billed to the Architect for such services**

*(Identify specific types of consultants in Article 13, if required)*

**12.5 FOR REIMBURSABLE EXPENSES, as described in Article 5, and any other items included in Article 13 as Reimbursable Expenses, compensation shall be computed as a multiple of ( ) times the amounts expended by the Architect, the Architect's employees, and consultants in the interest of the Project**

**12.6 Payments due the Architect and unpaid under this Agreement shall bear interest from 30 days after the date payment is due at the annual rate entered below, or in the absence thereof, at the prime rate prevailing at any chartered bank at the principal place of business of the Architect plus two percent**

*(Here insert any rate of interest agreed upon)*

*(Federal and Provincial statutes and regulations at the Client's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletion, modification, or other requirements such as written disclosures or waivers.)*

**12.7 The Client and the Architect agree in accordance with the Terms and Conditions of this Agreement that**

**12.7.1 IF THE SCOPE of the Project or the Architect's Services is changed materially, the amounts of compensation shall be equitably adjusted**



**12.7.2 IF THE SERVICES covered by this Agreement have not been completed within ( ) months of the date hereof, through no fault of the Architect, the amounts of compensation, rates, and multiples set forth herein shall be equitably adjusted**

**ARTICLE 13**  
**OTHER CONDITIONS OF SERVICES**



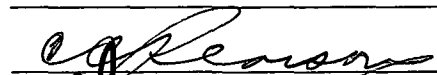
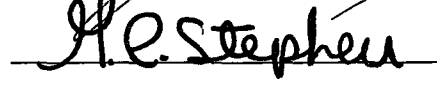
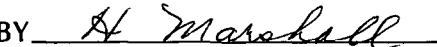
This Agreement entered into as of the day and year first written above

CLIENT THE CORPORATION OF THE  
CITY OF BRAMPTON

  
\_\_\_\_\_  
J. E. ARCHDICK, MAYOR  
  
\_\_\_\_\_  
R. A. EVERETT, CLERK

BY \_\_\_\_\_

ARCHITECT **PEARSON & STEPHEN**

  
\_\_\_\_\_  
  
\_\_\_\_\_  
BY 

PASSED October 10th, 1979

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# BY-LAW

No. 271-79

To authorize the execution of an Agreement between The Corporation of the City of Brampton and Pearson & Stephen, Architects. (Heart Lake Recreation Centre).