



State of Ohio Professional Services Agreements for Public Facility Construction

2012 Edition (June 2012)

Including Architect/Engineer, Construction Management,
and Commissioning Services Agreements,
Scope Documents, and Amendments



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The mission of the State Architect's Office is to effectively and efficiently lead capital planning, design, and construction of public facilities through quality service, expertise, and knowledge sharing.

**Architect/Engineer Agreement Form
State of Ohio Professional Services Agreements
State Agency, Board, or Commission**



This Agreement is made as of the date set forth below between the State of Ohio, acting by and through the Contracting Authority, and the Architect/Engineer in connection with the Project.

Project Number: <insert number>
Project Name: <insert name>
Site Address: <insert street address>
<insert city, county>

Owner: <insert name>
Owner's Representative: <insert name>
Address: <insert street address>
<insert city, state zip code>

Contracting Authority: <insert name>
Project Manager: <insert name>
Address: <insert street address>
<insert city, state zip code>

Architect/Engineer ("A/E"): <insert name>
A/E's Principal Contact: <insert name>
Address: <insert street address>
<insert city, state zip code>

ARTICLE 1 - SCOPE OF WORK; CONSTRUCTION BUDGET; EDGE COMMITMENT

1.1 The A/E shall perform and provide all of the Services described in the Agreement.

1.1.1 During the Construction Stage, the A/E and appropriate Consultants shall be present at the Site not less than <insert number of on-Site hours per week during Construction Stage> hours per week (excluding travel time to and from the Site) whenever any Work is in preparation or progress, unless otherwise expressly provided in writing by the Contracting Authority.

1.2 The Construction Budget is \$<insert Construction Budget amount>.

1.3 The A/E shall contract with EDGE-certified Business Enterprise(s) for not less than <insert A/E's EDGE commitment> percent of the A/E's total compensation.

ARTICLE 2 - COMPENSATION

2.1 The total compensation for the A/E's Services is \$<insert total compensation amount>, which includes the sum of (1) the Basic Fee, (2) Additional Services Fee, and (3) Reimbursable Expenses. The Owner shall pay the total compensation amount to the A/E in exchange for the A/E's proper, timely, and complete performance of the Services.

2.2 Basic Fee.

2.2.1 For Basic Services provided by the A/E and all Consultants in accordance with the A/E Scope of Basic Services attached as Exhibit B, the Owner shall pay the A/E the Basic Fee of \$«insert amount of Basic Fee», which shall not be exceeded without the prior written approval of the Contracting Authority and the Owner and an amendment to this Agreement. The Basic Fee is subject to the following allocation:

Contracting Authority: Use the table below for General Contracting, Multiple-Prime, and CM Agent projects. After entering the percentages and amounts, delete any unused rows, then delete unused tables and this note.

Project Stage	Associated Fee	Portion of Basic Fee
Program Verification Stage	\$«insert fee amount»	«insert percentage»%
Schematic Design Stage	\$«insert fee amount»	«insert percentage»%
Design Development Stage	\$«insert fee amount»	«insert percentage»%
Construction Documents Stage	\$«insert fee amount»	«insert percentage»%
Bidding and Award Stage	\$«insert fee amount»	«insert percentage»%
Conformed Documents	\$«insert fee amount»	«insert percentage»%
Construction Stage	\$«insert fee amount»	«insert percentage»%
Closeout Deliverables	\$«insert fee amount»	3%
Total Basic Fee	\$«insert fee amount»	100%

Contracting Authority: Use the table below for CM at Risk projects. After entering the percentages and amounts, delete any unused rows, then delete unused tables and this note.

Project Stage	Associated Fee	Portion of Basic Fee
Organizational Meeting	\$«insert fee amount»	«insert percentage»%
Program Verification Stage	\$«insert fee amount»	«insert percentage»%
Schematic Design Stage	\$«insert fee amount»	«insert percentage»%
Design Development Stage	\$«insert fee amount»	«insert percentage»%
GMP Proposal and Amendment	\$«insert fee amount»	«insert percentage»%
Construction Documents Stage	\$«insert fee amount»	«insert percentage»%
Construction Stage	\$«insert fee amount»	«insert percentage»%
Closeout Deliverables	\$«insert fee amount»	3%
Total Basic Fee	\$«insert fee amount»	100%

Contracting Authority: Use the table below when engaging a Criteria A/E for Design-Build projects. After entering the percentages and amounts, delete any unused rows, then delete unused tables and this note.

Project Stage	Associated Fee	Portion of Basic Fee
Organizational Meeting	\$«insert fee amount»	«insert percentage»%
Concept and Design Criteria Stage	\$«insert fee amount»	«insert percentage»%
Best Value Selection Stage	\$«insert fee amount»	«insert percentage»%
Preconstruction Stages	\$«insert fee amount»	«insert percentage»%
Construction and Closeout	\$«insert fee amount»	«insert percentage»%
Total Basic Fee	\$«insert fee amount»	100%

2.3 Additional Services Fee.

2.3.1 For Additional Services provided by the A/E and all Consultants, the Owner shall pay the A/E the Additional Services Fee of up to \$«insert amount of Additional Services Fee», which shall not be exceeded

without the prior written approval of the Contracting Authority and the Owner and an amendment to this Agreement. The Additional Services Fee is subject to the following allocation:

Description of Additional Services	Allowance	Associated Fee
Change Order Fee Allowance at «insert %» percent	Y	\$«insert fee amount»
Special Inspections	«Y/N»	\$«insert fee amount»
Geotechnical Investigation	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
Total Additional Fees		\$«insert fee amount»

2.4 Reimbursable Expenses.

2.4.1 For Reimbursable Expenses incurred by the A/E and all Consultants, the Owner shall pay the A/E up to \$«insert amount of Reimbursable Expenses», which shall not be exceeded without the prior written approval of the Contracting Authority and the Owner and an amendment to this Agreement. Reimbursable Expenses are subject to the following allocation:

Description	Allowance	Associated Amount
Additional Review Document Printing	Y	\$«insert fee amount»
Plan Approval Fees	Y	\$«insert fee amount»
Stormwater Permit Fees	Y	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
«insert description»	«Y/N»	\$«insert fee amount»
Total Reimbursable Expenses		\$«insert fee amount»

ARTICLE 3 - KEY PERSONNEL

3.1 The A/E's key personnel for the Project are:

- 3.1.1 «insert name», Senior Management Lead;
- 3.1.2 «insert name», Project Management Lead;
- 3.1.3 «insert name», Project Design Lead – «insert discipline name (e.g. Architecture, Interior Design, Mechanical, Electrical, Plumbing, Technology)»;
- 3.1.4 «insert name», «insert Project Architect or Project Engineer»;
- 3.1.5 «insert name», Specification Writer;
- 3.1.6 «insert name», Scheduler;
- 3.1.7 «insert name», Quality Control Lead – «insert discipline name»;
- 3.1.8 «insert name», Construction Administrator.

Edit the above list as appropriate for the project.

3.2 The identities of the principal persons, and the extent of their participation in performing the A/E's services as identified above, shall not be altered without the Contracting Authority's prior written consent.

3.3 The A/E shall dismiss from the Project any individual employed by the A/E or a Consultant who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

ARTICLE 4 - CONSULTANTS

4.1 The A/E's Consultants for the Project are:

4.1.1 <insert discipline>:

<insert firm name>
<insert firm address>
<insert firm address>

<insert consultant contact name, title>
<insert consultant contact name, title>
<insert consultant contact name, title>

4.1.2 <insert discipline>:

<insert firm name>
<insert firm address>
<insert firm address>

<insert consultant contact name, title>
<insert consultant contact name, title>
<insert consultant contact name, title>

Edit the above list as appropriate for the project.

ARTICLE 5 - GENERAL PROVISIONS

5.1 Effectiveness.

5.1.1 It is expressly understood by the A/E that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that there is a balance in the Owner's appropriation not already encumbered to pay existing obligations and until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of such funds is approved by the State Controlling Board, or other applicable approving body.

5.1.2 In addition, if federal funds are to be used to pay fees and expenses under this Agreement, none of the rights, duties, and obligations contained in this Agreement shall be binding on any party until the Owner gives the A/E written notice that such funds are available from the Owner's funding source.

5.1.3 Subject to Section 5.1.1, the Agreement shall become binding and effective upon execution by the Contracting Authority, the Owner, the A/E, and the Ohio Attorney General.

5.1.4 This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

5.2 Representations.

5.2.1 The A/E represents and warrants that it is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, the Agreement is void, and the A/E shall immediately repay to the Owner any funds paid under this Agreement.

5.2.2 The A/E hereby certifies that neither the A/E nor any of the A/E's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC Section 3517.13.

5.2.3 The A/E, by signature on this Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

5.2.4 The A/E affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid for services the A/E performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Agreement.

5.2.5 The A/E represents and warrants that it has not provided any material assistance, as that term is defined in ORC Section 2909.33(C), to an organization that is identified by, and included on, the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization ("DMA")." The A/E further represents and warrants that it has either (1) registered with the Ohio Business Gateway ("OBG") to file for DMA pre-certification or (2) has provided or shall provide its DMA to the Contracting Authority prior to execution of this Agreement. If these representations and warranties are found to be false, the Agreement is void and the A/E shall immediately repay to the Owner any funds paid under this Agreement.

ARTICLE 6 - ENUMERATION OF DOCUMENTS

6.1 This Agreement includes the following documents:

6.1.1 A/E Standard Terms and Conditions attached as Exhibit A.

6.1.2 A/E Scope of Basic Services attached as Exhibit B.

6.1.3 Minimum Stage Submission Requirements attached as Exhibit C.

6.1.4 Document 00 71 00 - Contracting Definitions attached as Exhibit D.

6.1.5 A/E Special Terms and Conditions attached as Exhibit E.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below:

«INSERT A/E'S NAME»

STATE OF OHIO

Signature

Signature

Printed Name

Printed Name

Title

Title

OWNER'S CONCURRENCE

ATTORNEY GENERAL APPROVAL

«INSERT OWNER'S NAME»

OHIO ATTORNEY GENERAL

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

END OF DOCUMENT



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ARTICLE 1 - ARCHITECT/ENGINEER'S RESPONSIBILITIES

1.1 Nondiscrimination

1.1.1 The A/E shall comply with Applicable Law regarding equal employment opportunity, including Ohio Revised Code ("ORC") Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 As required under ORC Section 153.59, the A/E agrees to both of the following:

- .1 "in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates; and"
- .2 "no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color."

1.1.1.2 The A/E shall cooperate fully with the State Equal Opportunity Coordinator ("EOC"), with any other official or agency of the state or federal government, which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Agreement.

1.1.1.3 In the event the A/E fails to comply with these nondiscrimination clauses, the Contracting Authority shall deduct from the amount payable to the A/E a forfeiture of the statutory penalty pursuant to ORC 153.60 for each person who is discriminated against or intimidated in violation of this Section 1.1.

1.1.1.4 The Agreement may be terminated or suspended in whole or in part by the Contracting Authority and all money to become due hereunder may be forfeited in the event of a subsequent violation of this Section 1.1.

1.2 Royalties and Patents

1.2.1 The A/E shall inform the Contracting Authority if the A/E is aware that a particular invention, design, process, or device specified in the Contract Documents is subject to patent rights or copyrights calling for the payment of a license fee or royalty.

1.3 Assignment of Antitrust Claims

1.3.1 Each party to this Agreement recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser of goods and services; in this instance the ultimate purchaser is the Owner. Therefore, the following assignment is made:

1.3.1.1 The A/E hereby assigns, sells, conveys and transfers to the Owner any and all rights, title, and interest in and to any and all claims and causes of action which the A/E may now have or hereafter acquire under the antitrust laws of the United States of America or the state of Ohio, provided that the claims or causes of action relate to the particular goods, products, commodities, intangibles, or services purchased, procured, or acquired by, or rendered to, the Owner pursuant to this Agreement, and except as to any claims or causes of action which result from antitrust violations commencing after the compensation is established under this Agreement, which are not passed on to the Owner by any means. In addition, the A/E warrants and represents that it will require any and all of its Consultants and suppliers to assign any and all federal and state antitrust claims and causes of action to the Owner, subject to the proviso and exception stated above.

1.4 Use of Domestic Steel

1.4.1 The A/E shall comply with the Department's policy regarding the specification and use of domestically produced steel products, including furnishing the required certifications. This policy is available on the Department's Web site at <http://das.ohio.gov> (click on "DAS Statewide Policies" under the Hot Links menu). Scroll down and then click on Directive GS-D-07 "Required Use of Domestic Steel."

1.5 Drug Free Safety Program

1.5.1 The A/E shall comply with Applicable Law regarding smoke-free and drug-free workplaces and shall make a good-faith effort to ensure that none of its or its Consultant's employees engaged in the Services purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way while on, or about, the Project.

1.6 Use of the State's Web-based Project Management Software

1.6.1 If the Contracting Authority decides, in its sole discretion, to utilize the State's web-based project management software, known as the OAKS Capital Improvements module ("OAKS CI"), for the Project, the A/E shall use OAKS CI for all compatible Services required under this Agreement.

1.6.2 All costs for the A/E's use of OAKS CI for the Project shall be included in its Basic Services, and additional compensation shall not be permitted. If the A/E's staff or its Consultants are unfamiliar with the proper use of OAKS CI, the A/E shall provide its staff and Consultants for training without additional compensation under this Agreement.

1.7 EDGE Business Development Program Participation

1.7.1 The A/E shall participate in the "Encouraging Diversity Growth and Equity" Program ("EDGE") by contracting with and using one or more businesses certified as an EDGE Business Enterprise ("EDGE-certified business" or "certified EDGE business") by the EOC.

1.7.1.1 If the A/E is an EDGE-certified business, the A/E may include this Agreement amount in the reporting.

1.7.1.2 The amount of EDGE participation cannot exceed 100 percent of the amount of this Agreement.

1.7.2 The A/E shall provide an EDGE Participation Report with each Architect/Engineer Pay Request.

1.7.2.1 The A/E shall provide status reports, produced by the A/E and each applicable EDGE-certified business for this Agreement, indicating:

- .1 the name of each EDGE-certified business;
- .2 the federal tax identification number of each EDGE-certified business;
- .3 the date of the EDGE-certified business contract, subcontract, or purchase order;
- .4 the projected and actual start and end dates of the EDGE-certified business contract, subcontract, or purchase order;
- .5 the original amount of the EDGE-certified business contract or purchase order with the A/E;
- .6 the current amount of the EDGE-certified business contract or purchase order;
- .7 the amount invoiced to date;
- .8 the amount paid to date;
- .9 the status of the EDGE-certified business contract or purchase order (active, complete, or void); and
- .10 a statement describing any substantive product or performance deficiencies.

1.7.2.2 The A/E shall provide reports for each EDGE-certified business; however, the reports may be consolidated and submitted as one document.

1.7.3 The A/E shall provide an EDGE Participation Final Report simultaneously with its final Payment Request.

1.7.3.1 The A/E and each EDGE-certified business shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to, and received by, each EDGE-certified business.

1.7.4 The A/E shall provide EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

1.7.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment from the A/E.

1.7.5 If the Project is administered using OAKS CI, the A/E shall submit its EDGE Participation Reports, using the "Professional Services Pay Requests" business process.

1.7.6 The A/E shall cooperate fully with requests for additional EDGE information and documentation from the EOC or the Contracting Authority.

1.8 A/E's Services

1.8.1 The A/E shall provide Services for the Project, including, but not limited to, Services customarily furnished in accordance with generally accepted architectural or engineering practice, in accordance with the terms of this Agreement.

1.8.2 The A/E shall provide the Services in accordance with Applicable Law, the applicable announcement issued pursuant to ORC Section 153.67 ("Announcement"), and the Owner's Standards of Design, if any.

1.8.3 The A/E shall not be responsible for and shall not have control or charge of construction means, methods, techniques, sequences, procedures, or scheduling used by a Contractor to comply with the Contractor's obligations under its Contract for the Project or for safety precautions and programs in connection with the Contractor's Work on the Project.

1.8.4 The A/E shall not be responsible for or have control or charge over the acts or omissions of Contractors or Subcontractors, any of their agents or employees, or any other persons performing any Work on the Project.

1.8.5 The A/E shall render decisions in connection with a Contractor's responsibilities under the Contract Documents and submit recommendations to the Contracting Authority for enforcement of the Contractor's contract as necessary.

1.8.6 The A/E is the initial interpreter of all requirements of the Contract Documents.

1.8.7 All of the A/E's decisions are subject to final determination by the Contracting Authority.

1.9 Standard of Care

1.9.1 The A/E shall perform its Services consistent with the professional skill and care ordinarily provided by registered architects, landscape architects, professional engineers, and professional surveyors in the same or similar locality under the same or similar circumstances.

1.9.2 The A/E shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

1.9.3 The A/E shall perform its Services in accordance with the applicable rules established by its respective state board of registration, including, but not limited to, the following codes of conduct and/or ethics pursuant to the Ohio Administrative Code ("OAC"):

1.9.3.1 Registered architects: OAC Section 4703-3-07

1.9.3.2 Landscape architects: OAC Section 4703:1-3-04

1.9.3.3 Professional engineers and professional surveyors: OAC Section 4733-35

1.10 Construction Budget

1.10.1 The Owner shall provide written notice to the Contracting Authority and the A/E of any change in the Construction Budget.

1.10.2 The A/E shall perform its Services so that the Project is completed within the Construction Budget.

1.10.3 The A/E, Contracting Authority, and Owner do not have control over the cost of labor, materials, or equipment, over Contractors' methods of determining prices, or over competitive bidding, market, or negotiating conditions. Accordingly, the A/E does not warrant or represent that competitively bid or negotiated prices will not vary from the Construction Budget or from any estimate of cost or evaluation prepared, or agreed to, by the A/E.

1.11 Cooperation

1.11.1 The A/E shall perform the Services so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the Work of the Contractors. The A/E shall cooperate and coordinate fully with all Separate Consultants and Contractors and shall freely share all of the A/E's Project-related information with them to facilitate the timely and proper performance of the Services and of the services and work of the Separate Consultants and Contractors.

1.11.2 If the A/E damages the property or work of any Separate Consultant or Contractor, or by failure to perform the Services with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Contractor who suffers additional expense and damage as a result, the A/E is responsible for that damage, injury, or expense.

1.11.3 If the proper execution or results of any part of the Services depends upon work performed or services provided by the Owner, a Separate Consultant, or a Contractor, the A/E shall inspect that other work and appropriate instruments of service, and promptly report to the Contracting Authority in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Services. The A/E's failure so to report will constitute an acceptance of the other work and

services as fit and proper for integration with the A/E's Services except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the A/E's inspection.

1.11.4 The A/E shall not delay the Services on account of any claim, dispute, or action between the A/E and a Separate Consultant or Contractor.

1.12 Records

1.12.1 The records of all of the A/E's Direct Personnel Expenses, Reimbursable Expenses, and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the Contracting Authority and the Owner at all times and shall be maintained for 7 years after the Contracting Authority's Final Acceptance of the Project.

1.12.2 All other records kept by the A/E related to the Project shall be available to the Contracting Authority and the Owner at all times and shall be maintained for 6 years after the Contracting Authority's Final Acceptance of the Project.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 Contracting Authority

2.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Agreement.

2.1.2 The Contracting Authority shall furnish information and services required of it in a timely manner.

2.2 Required Actions

2.2.1 The Contracting Authority and the Owner shall review, approve, or take such actions as are required of them by this Agreement, the Contract Documents, and Applicable Law in a reasonable and timely manner.

2.3 Owner's Requirements

2.3.1 The Owner shall provide, to the A/E, full information regarding its requirements for the Project including, but not limited to, the Program of Requirements, design and construction standards, and work rules, which shall set forth the Owner's use, design, time, and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, and systems and Site requirements.

2.3.2 The Owner shall furnish information and services required of it in a timely manner.

2.4 Owner's Representative

2.4.1 The Owner shall designate an Owner's Representative, a person authorized to act on the Owner's behalf with respect to the Project to the extent provided in the Contract Documents.

2.5 Site Description

2.5.1 If reasonably requested by the A/E as necessary for the Project, the Owner 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.

2.6 Notice to A/E

2.6.1 If the Owner or the Contracting Authority observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt written notice thereof shall be given to the A/E, and the CxA if applicable.

2.7 Legal Representation

2.7.1 The Owner and the Contracting Authority shall not be responsible to provide or pay for any legal representation of the A/E.

2.8 Limitation of Authority

2.8.1 The A/E shall not have any authority to bind the Contracting Authority or the Owner for the payment of any costs or expenses without the prior express written approval of the Contracting Authority or the Owner, as applicable.

2.8.2 The A/E shall have authority to act on behalf of the Contracting Authority and the Owner only to the extent provided in this Agreement and the Contract Documents.

2.8.3 The A/E's authority to act on behalf of the Contracting Authority and the Owner may be modified only by an amendment to this Agreement in accordance with Section 4.3.

2.9 Approval or Disapproval of A/E's Services

2.9.1 The Contracting Authority and the Owner may disapprove any portion of the Services.

2.9.2 If the Contracting Authority or the Owner disapproves of the Services at any Stage, the A/E shall proceed, when requested by the Contracting Authority, re-perform the those Services to satisfy the objections without additional compensation to the A/E or its Consultants.

2.9.3 The A/E acknowledges that any review or approval by the Contracting Authority and the Owner of any Services shall not relieve the A/E of the A/E's responsibility to properly and timely perform the Services.

2.10 Performance Evaluations

2.10.1 The Contracting Authority shall evaluate the A/E during performance of the Services, at completion of a phase of the Project, completion of the Project, or any or all of the foregoing. The Contracting Authority shall retain the evaluation(s).

2.10.1.1 The A/E may request a copy of the completed evaluation(s). If the A/E wishes to comment or take exception to any rating or remark, the A/E shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

2.10.1.2 The Contracting Authority may use the evaluation(s) in determining the qualifications of the A/E for future contracts.

2.10.1.3 The Contracting Authority may request information from the A/E for use in evaluating the Contractor's or the Contracting Authority's performance. If such information is requested, the A/E shall comply in a timely and responsive manner.

ARTICLE 3 - CONSULTANTS

3.1 Consultant Services

3.1.1 The A/E may provide a portion of the Services through one or more Consultants, provided, however, that the A/E shall remain responsible for all of the A/E's duties and obligations under this Agreement.

3.1.2 By appropriate written agreement, the A/E shall require each Consultant, to the extent of the Consultant's portion of the Services, to be bound to the A/E by the terms of this Agreement, and to assume toward the A/E

all of the obligations and responsibilities which the A/E assumes toward the Contracting Authority and the Owner.

3.1.2.1 The A/E shall not retain any Consultant on terms inconsistent with this Agreement.

3.1.2.2 All agreements between the A/E and a Consultant shall identify the Contracting Authority and the Owner as the agreement's intended third-party beneficiaries.

3.1.2.3 The Contracting Authority's receipt and approval of a copy of the agreement between the A/E and a Consultant is a condition precedent to the Owner's obligation to pay the A/E on account of the Consultant's services.

3.1.3 The A/E shall obtain the Contracting Authority's written approval before engaging any Consultant not named in the Agreement. The A/E shall not employ any Consultant against whom the Contracting Authority has a reasonable objection. The Contracting Authority's approval or disapproval of any Consultant, however, will not relieve the A/E of the A/E's full responsibility for the performance of the services.

3.1.4 The A/E shall not remove any Consultant from the Project or reduce the extent of any Consultant's participation in providing the services without the Contracting Authority's prior written consent. The A/E shall not permit any Consultant to replace any previously identified team member except with the Contracting Authority's prior written consent unless the Consultant ceases to employ that person. On notice from the Contracting Authority, the A/E shall immediately and permanently remove from the Project any Consultant or person under a Consultant's control whose performance is not satisfactory to the Contracting Authority.

3.1.5 The Contracting Authority may communicate with any Consultant either through the A/E or directly with the Consultant, but the Contracting Authority may not modify the agreement between the A/E and any Consultant.

3.1.6 The A/E hereby assigns to the Contracting Authority each Consultant's agreement provided that the assignment is effective only after the Contracting Authority terminates this Agreement and only for those agreements which the Contracting Authority accepts by notifying the Consultant and A/E in writing. The Contracting Authority may re-assign accepted agreements.

3.2 Payments by A/E

3.2.1 Within 10 business days of receipt of payment made pursuant to this Agreement, the A/E shall pay all portions thereof due to Consultants and to persons who provided items, the expenses of which are Reimbursable Expenses.

3.2.2 The Owner has no obligation to pay or see to the payment of money to any Consultant except as otherwise required under Applicable Law.

ARTICLE 4 - MODIFICATIONS

4.1 Compensation for Extension of Project Time

4.1.1 If the A/E notifies the Owner and the Contracting Authority not less than 30 days before the date for completion of the Project set in the approved Project Schedule, that the time for completion is reasonably expected to be exceeded by more than 10 percent through no fault of the A/E, the A/E's compensation Services to be rendered during such extended period, shall be negotiated to the mutual reasonable satisfaction of the Contracting Authority, the Owner and the A/E.

4.1.2 If, through such negotiation, the Contracting Authority and Owner agree that the A/E shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Section 4.3.

4.1.3 Such amendment shall be executed before the A/E renders any Services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the Contracting Authority and the Owner.

4.2 Compensation for Change of Scope of Project or Construction Budget

4.2.1 The Project Scope is defined by the Approved Program of Requirements, as provided in Exhibit B.

4.2.2 The Construction Budget is defined in the Agreement Form.

4.2.3 If the Contracting Authority and the Owner, through no fault of the A/E, materially change the Project Scope after the Schematic Design Stage or materially change the Construction Budget at any time after the execution of this Agreement, any necessary adjustment in the A/E's compensation shall be negotiated to the mutual reasonable satisfaction of the Contracting Authority, the Owner and the A/E.

4.2.4 If, through such negotiation, the Contracting Authority and the Owner agree that the A/E shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Section 4.3.

4.2.5 Such amendment shall be executed before the A/E renders any Services made necessary by such change in the Project Scope or the Construction Budget, unless otherwise agreed in writing by the Contracting Authority and the Owner.

4.3 Amendments

4.3.1 This Agreement may be modified only by an amendment prepared by the Contracting Authority and signed by both the A/E and the Contracting Authority, with the concurrence of the Owner.

4.3.2 Amendments involving changes to the legal terms and conditions of this Agreement shall require approval by the Attorney General of the state of Ohio.

4.3.2.1 Changes to the legal terms and conditions do not include amendments to the scope or cost of the Services governed by this Agreement, which include changes to Exhibit B.

4.3.3 If the Project is administered using OAKS CI, the A/E shall submit its request for an amendment to the Contracting Authority through the "Professional Services Amendments" business process.

4.4 Allocation Adjustments

4.4.1 Without exceeding the total compensation for this Agreement, the allocation of costs, as described in the Agreement Form, may be adjusted upon request of the A/E and approval by the Contracting Authority without a formal signed amendment.

4.4.2 If the Project is administered using OAKS CI, the A/E shall submit its request for an allocation adjustment to the Contracting Authority through the "Professional Services Amendments" business process.

ARTICLE 5 - DISPUTE RESOLUTION

5.1 Mediation

5.1.1 The Contracting Authority, the Owner, and the A/E may by written agreement submit any claims, requests, disputes, or matters in question between or among them to mediation as shall be mutually agreeable.

5.2 Notice and Filing of Requests

5.2.1 Any request by the A/E for additional fees or expenses shall be made in writing to the Contracting Authority and filed prior to payment of the final 5 percent of the Basic Fee. The A/E's failure to comply with the requirements of this Section 5.2.1 shall constitute an irrevocable waiver by the A/E of any request for such fees and expenses.

5.3 Substantiation of Request

5.3.1 In every written request filed pursuant to Section 5.2, the A/E shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project

Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

5.4 Meeting with the Project Manager

5.4.1 Within 30 days after receipt of the request filed with the Contracting Authority pursuant to Section 5.2, or other period mutually agreed by the parties, the Project Manager shall schedule a meeting to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting.

5.4.2 The meeting scheduled by the Project Manager shall be attended by persons expressly and fully authorized to resolve the request on behalf of the A/E.

5.5 Appeal to State Architect/Institutional Designee

5.5.1 If the efforts of the Project Manager do not lead to resolution of the request, the A/E may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.

5.5.1.1 If the Project is administered by the Department through the State Architect's Office or locally administered by authority granted to an agency by the Department, the written notice shall be delivered to the State Architect.

5.5.1.2 If the Project is administered by an Institution of Higher Education, the written notice shall be delivered to the Institutional Designee

5.5.2 Within 30 days after receipt of the notice or other period mutually agreed by the parties, the State Architect or Institutional Designee shall schedule a meeting to resolve the dispute and render a decision on the appeal promptly thereafter or render a decision on the appeal without a meeting.

5.5.3 The meeting shall be attended by persons expressly and fully authorized to resolve the matters on behalf of the A/E.

5.5.4 ORC Chapter 119 shall not be applicable to any proceedings of the State Architect or Institutional Designee under this Section 5.5.

5.5.5 The decision of the State Architect or Institutional Designee, if applicable, shall serve as the Contracting Authority's final and conclusive determination.

5.6 Delegation

5.6.1 No provision of this Article 5 shall prevent the State Architect from delegating the duties or authorities of the State Architect to any other person selected at the State Architect's sole discretion.

5.7 Performance

5.7.1 The A/E shall proceed with the A/E's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the A/E and the Contracting Authority in writing.

5.7.2 The Contracting Authority shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute.

ARTICLE 6 - COMPENSATION AND PAYMENT

6.1 Basic Fee

6.1.1 For Basic Services provided by the A/E and all Consultants, the Owner shall pay the A/E a Basic Fee in accordance with the amount identified in the Agreement Form.

6.1.2 A change in the Basic Fee may be made only by an amendment to this Agreement in accordance with Section 4.3.

6.2 Additional Services Fee

6.2.1 The Owner shall pay the A/E the Additional Services Fees for the associated Additional Services, when those Services are performed in accordance with the Agreement.

6.2.2 For Change Order work authorized by the Contracting Authority, the A/E shall be compensated at the prescribed rate of the additional construction cost up to the amount of the Change Order Fee Allowance. There shall be no fees for approved Change Orders processed as a result of errors and/or omissions on the part of the A/E or decreases in construction cost.

6.2.3 Except for the Additional Services and Additional Services Fee listed above, Additional Services and any Additional Services Fee shall be approved only by an amendment to this Agreement in accordance with Section 4.3.

6.2.3.1 For Additional Services not included in the original Agreement Form that are provided by the A/E and any Consultants in accordance with Section 4.3, the Owner shall pay the A/E Additional Services Fee in an amount negotiated to the mutual reasonable satisfaction of the Contracting Authority, the Owner and the A/E, but in all events, such Additional Services Fee shall not exceed 2.5 times the Direct Personnel Expense incurred by the A/E and any applicable Consultant in providing those Additional Services.

6.3 Reimbursable Expenses

6.3.1 The A/E shall use its best efforts to minimize Reimbursable Expenses.

6.3.2 In all events, total Reimbursable Expenses shall not exceed the amount identified in the Agreement Form, without the prior written approval of the Contracting Authority and the Owner and an amendment to this Agreement in accordance with Section 4.3.

6.3.3 Reimbursable Expenses shall only be permitted for the items identified in the Agreement Form and shall not exceed the respective amounts.

6.3.4 No mark-up shall be permitted on Reimbursable Expenses.

6.4 Method and Terms of Payment

6.4.1 Basic Fee.

6.4.1.1 Payment of the Basic Fee shall be made monthly in proportion to Basic Services performed in each Stage, in accordance with Section 6.1, and the percentages of the Basic Fee described in the Agreement Form.

6.4.1.2 The Contracting Authority may, in its sole discretion, waive the withholding of any final balance or part thereof if the A/E has performed to the satisfaction of the Contracting Authority and the Owner.

6.4.1.3 Payment of the last 20 percent of the Basic Fee for any Stage of the Services shall be made only after all deliverables required for the Stage have been submitted by the A/E to the Contracting Authority or the Owner, as applicable, in form and substance reasonably satisfactory to the Contracting Authority and the Owner.

6.4.1.4 The entire Basic Fee is subject to all setoffs for claims against the A/E in favor of the State.

6.4.1.5 Payments for Basic Services shall be based upon a properly completed Architect/Engineer Pay Request and shall be made within the applicable time limits provided by ORC Section 126.30, which requires payment of interest on overdue payments. The interest rate shall be at the rate per calendar month, which equals one-twelfth of the rate per annum, prescribed by ORC Section 5703.47.

6.4.1.6 If the Project is administered using OAKS CI, the A/E shall submit its Architect/Engineer Pay Request to the Owner, through the Contracting Authority, for approval and payment through the “Professional Services Pay Request” business process.

6.4.2 Additional Services Fee and Reimbursable Expenses.

6.4.2.1 Payments of the Additional Services Fee in accordance with Section 6.2 and for Reimbursable Expenses in accordance with Section 6.3 shall be made monthly based upon Additional Services performed or expenses incurred, as applicable, and as shown by a properly completed Architect/Engineer Pay Request.

ARTICLE 7 - INSURANCE AND INDEMNIFICATION

7.1 A/E's General Insurance Requirements

7.1.1 Throughout the performance of the Services or longer as may be described below, the A/E shall obtain, pay for, and keep in force, the minimum insurance coverage described in this Article 7.

7.1.1.1 Each requirement of this Article 7 applies to Consultants just as it applies to the A/E.

7.1.1.2 If a Consultant's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Consultant, the A/E shall submit to the Contracting Authority (1) a certificate of insurance evidencing the insurance the Consultant will carry without additional compensation and (2) if the Contracting Authority requests, a written proposal from the Consultant to provide coverage which meets the minimum coverage requirements. The Contracting Authority will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

7.1.1.3 On a case-by-case basis, the Contracting Authority and the A/E may agree to adjust the below requirements for any particular Consultant.

7.1.2 Before starting the Services, upon renewal of any policy, and upon a change of any insurance carrier, the A/E shall deliver to the Contracting Authority certificates evidencing that the required insurance is in force.

7.1.3 With the exception of government-controlled workers compensation coverage:

7.1.3.1 the A/E shall place the insurance with companies that (1) are satisfactory to the Contracting Authority, (2) hold an A.M. Best Rating of A-, X, or higher, and (3) are authorized to conduct business in Ohio;

7.1.3.2 if the certificate(s) of insurance is not on the ACORD 25 (2009/09 or more recent) form, it (1) shall provide or be endorsed to provide that coverage will not be cancelled or not renewed until at least 30-days' prior written notice (10-day notice for nonpayment of premium) has been given to the Contracting Authority, and (2) shall have the words “endeavor to” and “but failure to do so shall impose no obligation or liability of any kind upon insurer, its agents or representatives” and any like provisions crossed out or deleted; and

7.1.3.3 within 30 days of the Contracting Authority's request, the A/E shall submit insurance-company certified copies of the policies, the policy endorsements, or both.

7.1.4 The A/E shall pay all deductibles, or self-insured retentions, or both contained in the A/E's policies of insurance required or provided in connection with the Project. The Contracting Authority reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the A/E may use to comply with any insurance requirement.

7.1.5 The A/E shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the Contracting Authority purchases for the Project. The A/E's proportionate share

will derive from the percentage of the associated claim or loss attributable to the alleged or actual negligence of the A/E or a Consultant.

7.1.6 The Contracting Authority and Owner do not represent that required coverage or limits are adequate to protect the A/E.

7.1.7 Failure of the Contracting Authority to demand a certificate or other evidence of full compliance with the insurance requirements or failure of Contracting Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the A/E's obligation to maintain the required insurance.

7.1.8 The Contracting Authority may terminate the Agreement for cause on account of the A/E's failure to maintain the required insurance.

7.2 A/E's Minimum Coverage Requirements

7.2.1 Workers Compensation. The A/E shall maintain workers compensation coverage meeting the requirements of Applicable Law.

7.2.2 Employers Liability Coverage. The A/E shall maintain employers liability coverage with (1) an each-accident limit of not less than \$1,000,000, (2) a disease each-employee limit of not less than \$1,000,000, and (3) a disease policy limit of not less than \$1,000,000.

7.2.3 Commercial General Liability. The A/E shall maintain commercial general liability ("CGL") coverage, which provides (1) an each-occurrence limit of not less than \$1,000,000, (2) a general-aggregate limit of not less than \$2,000,000, and (3) a products and completed-operations aggregate limit of not less than \$2,000,000.

7.2.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

7.2.3.2 The A/E shall include the State, the Contracting Authority, and the Owner as additional insureds under the CGL policy using ISO endorsement CG 20 10 11 85 or a substitute form(s) providing equivalent coverage.

7.2.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the insured's projects.

7.2.3.4 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs, which cover the additional insured(s).

7.2.3.5 The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

7.2.3.6 The A/E shall maintain the CGL insurance in effect for no less than five years after the earlier of the termination the Agreement or Final Acceptance of all Work.

7.2.4 Business Automobile Liability. The A/E shall maintain business automobile ("BA") coverage written on ISO form CA 00 01 10 01 or a substitute form, providing at least equivalent coverage with a limit of not less than \$1,000,000 each accident.

7.2.4.1 The coverage shall extend to any auto.

7.2.4.2 The A/E shall include the State, the Contracting Authority, and the Owner as additional insureds under the BA policy.

7.2.5 Umbrella/Excess Liability. The A/E may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

7.2.6 **Professional Liability.** The A/E shall maintain professional liability (“PL”) insurance with limits not less than as identified in the following table:

Construction Budget	Each Claim	Annual Aggregate
Up to \$10,000,000	\$1,000,000	\$2,000,000
From \$10,000,000.01 to \$25,000,000	\$3,000,000	\$3,000,000
From \$25,000,000.01 to \$50,000,000	\$5,000,000	\$5,000,000
More than \$50,000,000	\$10,000,000	\$10,000,000

7.2.6.1 The PL policy shall have an effective date, which is on or before the date on which the A/E first started to provide any Project-related Services.

7.2.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the A/E shall advise the Contracting Authority in writing of any actual or alleged claims, which may erode the PL policy’s limits.

7.2.6.3 The A/E shall maintain the PL insurance in effect for no less than five years after the earlier of the termination the Agreement or Final Acceptance of all Work.

7.2.6.4 If the Project is using the design-build project delivery system, the PL policy shall not contain any design-build exclusions.

7.2.7 **Pollution Liability.** If the Services include environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the A/E shall maintain a pollution liability (“Pollution”) policy with (1) a per-claim limit of not less than \$1,000,000 and (2) an annual-aggregate limit of not less than \$1,000,000, covering the acts, errors and/or omissions of the A/E for damages (including from mold) sustained by the Contracting Authority by reason of the A/E’s performance of the Services.

7.2.7.1 The Pollution_policy shall have an effective date, which is on or before the date on which the A/E first started to perform any Project-related Services.

7.2.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the A/E shall advise the Contracting Authority in writing of any actual or alleged claims, which may erode the Pollution policy’s limits.

7.2.7.3 The A/E shall maintain the Pollution_insurance in effect for no less than 5 years after the earlier of the termination the Agreement or Final Acceptance of all Work.

7.2.7.4 The A/E may achieve the Pollution insurance requirement through a PL policy, which provides the required pollution coverage.

7.3 Waivers of Subrogation

7.3.1 To the fullest extent permitted by Applicable Law, the A/E waives all rights against the Owner, the Contracting Authority, and their agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

7.3.2 The Owner, the Contracting Authority, and the A/E waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or builder’s risk insurance applicable to the Work.

7.4 Indemnification for Injury or Damage

7.4.1 To the fullest extent permitted by Applicable Law, the A/E shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of contractors, engineers, architects, attorneys, and other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with

the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense (all of which may be direct, indirect, or consequential) is attributable to:

7.4.1.1 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the A/E or a person or entity for whom the A/E may be liable;

7.4.1.2 infringement of patent rights or copyrights by the A/E or a person or entity for whom the A/E may be liable; or

7.4.1.3 a violation of Applicable Law but only to the extent attributable to the A/E or a person or entity for whom the A/E may be liable.

7.4.2 The A/E's indemnification obligation under Section 7.4 exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a party indemnified under Section 7.4. But nothing in Section 7.4 obligates the A/E to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

7.4.3 In claims against an Indemnified Party by any direct or indirect employee (or the survivor or personal representative of that employee) of the A/E or a person or entity for whom the A/E may be liable, the indemnification obligation under Section 7.4 will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.4.4 The A/E's indemnification obligation under Section 7.4 will not be limited by any insurance policy provided or required in connection with the Project.

7.4.5 The A/E's obligations under Section 7.4 shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.

7.4.6 The A/E's indemnification obligation under Section 7.4 will survive termination of the Agreement and Final Acceptance of the Work.

7.4.7 The Contracting Authority may deduct from the Basic Fee the claims, damages, losses, fines, penalties, and expenses for which the A/E is liable under Section 7.4. If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of the Basic Fee, the A/E shall immediately pay the difference to the Owner.

7.5 Indemnification for Use of Electronic Files

7.5.1 To the fullest extent permitted by law, the A/E shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including, but not limited to, the fees and charges of contractors, engineers, architects, attorneys, and other professionals) arising out of, or related to the A/E's, or any other Person's use of electronic files, including, but not limited to, CAD or BIM files (collectively "Electronic Files").

7.5.1.1 These Electronic Files are provided solely for the A/E's convenience and use related to the Project. Any use of the Electronic Files shall be at the sole risk of the A/E.

7.5.1.2 The Owner alone owns the Electronic Files and every right, title, and interest therein from the moment of creation.

7.5.1.3 The Electronic Files are not products.

7.5.1.4 The A/E shall not use the Electronic Files for any purpose other than as a convenience for preparing documents and other information intended solely for use on the Project.

7.5.1.5 The State makes no warranties, either express or implied, of the merchantability or fitness of the Electronic Files for any particular purpose.

7.5.1.6 The A/E understands and accepts that the Electronic Files may deteriorate or be inadvertently or otherwise modified without authorization of the State.

7.5.1.7 The State makes no representations as to compatibility, usability, or readability of the Electronic Files resulting from the use of software, application packages, operating systems, or computer hardware differing from those used to create the Electronic Files.

7.5.1.8 In the event of a conflict between the Contract Documents and the Electronic Files, the Contract Documents shall control, take precedence over, and govern the Electronic Files.

7.5.1.9 The A/E alone is responsible to check, verify, and otherwise confirm the accuracy of data on the Electronic Files.

7.5.1.10 The A/E shall not make any claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature against the Indemnified Parties, which may arise out of, or in connection with, the use of the Electronic Files.

ARTICLE 8 - SUSPENSION AND TERMINATION

8.1 Suspension of the Services

8.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the A/E in writing to suspend, delay, or interrupt the performance of the Services in whole or in part for such period of time as the Contracting Authority may determine.

8.1.1.1 If the Contracting Authority suspends the Services under this Section 8.1.1 and the A/E complies with Article 4, the Basic Fee, Additional Services Fee, and Reimbursable Expenses shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption.

8.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Basic Fee, Additional Services Fee, or Reimbursable Expenses to the extent that:

- .1 performance was, or could have been, suspended, delayed, or interrupted by a cause for which the A/E is responsible; or
- .2 an equitable adjustment is made or denied under another provision of the Agreement.

8.1.1.3 If the Contracting Authority suspends the Services under this Section 8.1.1 and the A/E submits a proper Architect/Engineer Payment Request, but subject to all other provisions of the Agreement, the A/E shall be entitled to payment of compensation due under the Agreement for Services performed before the suspension.

8.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the A/E in writing to suspend, delay, or interrupt the performance of the Services in whole or in part for such period of time as the Contracting Authority may determine on account of the A/E's failure to properly or timely perform the Services.

8.1.2.1 The Contracting Authority's exercise of its right to suspend the Services under this Section 8.1.2 shall not entitle the A/E to any adjustment of the Basic Fee, Additional Services Fee, or Reimbursable Expenses.

8.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Services under this Section 8.1.2, the suspension shall be deemed to have been a suspension under Section 8.1.1.

8.1.3 Upon receipt of notice of suspension under this Section 8.1, the A/E shall cease providing the suspended Services and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The A/E shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Services, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.

8.1.4 The Contracting Authority's right to stop the Services shall not give rise to any duty to exercise the right for the benefit of the A/E or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.

8.2 Termination for Convenience

8.2.1 The Contracting Authority may terminate the Agreement in whole or in part for the Owner's convenience and without cause, at any time upon written notice to the A/E.

8.2.2 Upon receipt of the notice of termination for convenience, the A/E shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

8.2.2.1 cease operation as specified in the notice;

8.2.2.2 no further Consultant agreements except as necessary to complete continued portions of the Project;

8.2.2.3 terminate all Consultant agreements to the extent they relate to the Services terminated; and

8.2.2.4 proceed with Services not terminated.

8.2.3 The Owner shall pay the A/E for Services rendered before the date of termination in accordance with the allocations the Agreement, including any Reimbursable Expenses incurred, but not in excess of the allocations and caps otherwise provide in the Agreement Form.

8.2.3.1 In no event shall the A/E be entitled to overhead and profit associated with Services the A/E did not perform on account of the termination or otherwise.

8.2.4 If the Contracting Authority terminates the Services under this Section 8.2, the termination shall not affect the rights or remedies of the State against the A/E then existing or which may thereafter accrue.

8.2.5 Notwithstanding Section 8.2.3, if the Contracting Authority terminates the Services under this Section 8.2, but there exists an event of the A/E's default, the A/E shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in Section 8.3.

8.3 Termination for Cause

8.3.1 The Contracting Authority may terminate all or a portion of the Agreement if the A/E commits a material breach of the Agreement including but not limited to:

8.3.1.1 failure to prosecute the Services with the necessary force or in a timely manner;

8.3.1.2 refusal to remedy disapproved Services;

8.3.1.3 failure to properly make payment to Consultants;

8.3.1.4 performance of any services outside of the United States;

8.3.1.5 permitting Consultants to perform any services outside of the United States; or

8.3.1.6 disregarding laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

8.3.2 If the Contracting Authority intends to exercise its termination rights under this Section 8.3, the Contracting Authority shall notify the A/E in writing of the Contracting Authority's intent to terminate this Agreement and the cause(s) for that termination.

8.3.3 If the A/E fails to cure the identified cause(s) for termination within 7 days after receiving the notice described under Section 8.3.2, the Contracting Authority may terminate the Agreement by giving written notice of the termination to the A/E.

8.3.4 If the Agreement is terminated, the Contracting Authority may complete the Services by means the Contracting Authority determines appropriate. The Contracting Authority may take immediate possession of all A/E Documents.

8.3.5 If the Agreement is terminated, the A/E shall not be entitled to further payment.

8.3.5.1 If the unpaid balance of the sum of the Basic Fee plus Additional Services Fee plus Reimbursable Expenses is exceeded by the costs of finishing the Services, including without limitation the fees and charges of contractors, engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the A/E shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Agreement.

8.3.6 If the Contracting Authority terminates the Services under this Section 8.3, the termination shall not affect any rights or remedies of the State against the A/E then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the A/E shall not release the A/E from liability for performance of the Services in accordance with the requirements of the Contract Documents.

8.3.7 If the Contracting Authority is adjudged to have improperly terminated the Services under this Section 8.3, the termination will be deemed to have been a termination under Section 8.2.

8.4 A/E Insolvency

8.4.1 Bankruptcy of A/E.

8.4.1.1 If the A/E files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the A/E, the A/E as the debtor-in-possession, or the trustee of the A/E's bankruptcy estate shall file a motion to assume or reject the Agreement under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and prosecute that motion within the time frames provided by this Section 8.4 shall constitute a material breach of the Agreement as time is of the essence with respect to A/E's performance of all terms of this Agreement. A/E agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Agreement for cause in such instance and issue and serve all notices necessary to terminate the Agreement or arising out of the termination of the Agreement and to take any and all other action necessary to terminate the Agreement.

8.4.2 Receivership or Assignment for the Benefit of Creditors.

8.4.2.1 If the A/E makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the A/E's business or property, the Contracting Authority shall serve written notice on the A/E stating that any failure of the A/E to provide adequate assurance of continued performance shall be considered a rejection of the Agreement, which shall result in termination of the Agreement for cause. Such termination of the Agreement need not be evidenced by an order of any court.

ARTICLE 9 - GENERAL PROVISIONS

9.1 A/E's Documents and Contract Documents

9.1.1 Except as provided under Section 9.1.2 and subject to Section 9.1.6, the Owner alone owns the A/E's Documents and the Contract Documents and every right, title, and interest in the A/E's Documents and the Contract Documents from the moment of creation.

9.1.2 Section 9.1.1 does not apply to standard details and specifications regularly used by the A/E or any of its Consultants in its normal course of business that are included in the A/E's Documents. The A/E grants to the Owner an irrevocable, non-exclusive, perpetual, freely assignable, and royalty-free license to copy, reproduce, distribute, and otherwise use those standard details and specifications for all Project-related purposes such as but not limited to owning, financing, constructing, testing, commissioning, decommissioning, using, operating, maintaining, repairing, modifying, selling, obtaining insurance for, and obtaining permits for the Project before, during, and after termination or completion of this Agreement.

9.1.3 The A/E must execute and deliver and cause its employees and agents and all Consultants to execute and deliver, to the Owner any transfers, assignments, documents, or other instruments (if any) necessary to vest in the Owner complete right, title, interest in and ownership of all of the A/E's Documents and the Contract Documents under Section 9.1.1 and the license described under Section 9.1.2.

9.1.4 The A/E may retain copies, including reproducible copies of A/E's Documents and the Contract Documents for information, reference, and the performance of the Services. The Owner grants to the A/E and its Consultants a non-exclusive, royalty-free license to copy, reproduce, distribute, and otherwise use the A/E's Documents and the Contract Documents in relation to the performance of the Services, including any Additional Services.

9.1.5 The submission or distribution of A/E's Documents and the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Owner's reserved rights in the A/E's Documents and the Contract Documents. Any unauthorized use of the A/E's Documents and the Contract Documents will be at the sole risk of the entity making the unauthorized use of the A/E's Documents and the Contract Documents.

9.1.6 Should Owner desire to use any of the A/E's Documents for an addition to, remodeling or rehabilitation of, or change to any one or more of the Project improvements built on the basis of the A/E's Documents, Owner shall engage one or more suitable licensed design professionals under terms that require each of those design professionals to independently evaluate any design or related features in the A/E's Documents without reliance on any information in the A/E's Documents that would be inconsistent to the standard of care applicable to that design professional.

9.1.7 The A/E shall provide Electronic Files to the Contractor for the Contractor's and Subcontractors' use in connection with the Project. The A/E shall provide the Electronic Files at no additional cost to the Contractor, the Subcontractors, or the Owner.

9.2 Public Relations

9.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control, and with the consent of, the Owner.

9.2.2 Publicity after completion of the Project. After completion of the Project, the A/E may exercise reasonable public relations and marketing efforts related to the Project, provided the A/E properly identifies the Owner and the Contracting Authority, and their participation in the Project.

9.2.3 Professional Photography. If the A/E commissions photography of the completed Project, the A/E shall include in its photography agreements a release for unrestricted and unlimited use of photographs by the Owner and the Contracting Authority, and shall provide the Owner and the Contracting Authority with a reasonable quantity of photographs for use in the Owner's and the Contracting Authority's marketing and awareness activities, including, but not limited to, profiles of the Project on their respective websites.

9.2.4 Design Awards and Other Recognition.

9.2.4.1 If the A/E submits the Project for design awards or other similar venues for recognition of the Project, the A/E shall properly identify the Owner and the Contracting Authority, and their participation in the Project.

9.2.4.2 In addition, if the Project receives any design award or other recognition, the A/E shall provide duplicate copies of the award plaque or other memento of the award to the Owner and the Contracting Authority.

9.3 Application and Governing Law

9.3.1 This Agreement and the rights of the parties hereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding hereunder or related to the Project. The A/E irrevocably consents to such jurisdiction.

9.3.2 The parties to the Agreement shall comply with Applicable Law.

9.3.3 Other rights and responsibilities of the Contractor, the A/E, the Contracting Authority, and the Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

9.4 Written Notice

9.4.1 Notice under this Agreement shall be validly given if:

9.4.1.1 delivered personally to a member of the organization for whom the notice is intended;

9.4.1.2 delivered, or sent by registered or certified mail, to the last known business address of the organization; or

9.4.1.3 sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

9.4.2 When the Owner, the Contracting Authority, the A/E, or a Contractor gives notice to one of the other 3, it shall also simultaneously send a copy of that notice to the others.

9.4.3 A copy of all notices, certificates, requests, or other communications to the Contracting Authority shall be sent to the Project Manager.

9.4.4 For convenience of communication only, notices, certificates, requests, or other communications hereunder, may be sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

9.4.4.1 Notices, certificates, requests, or other communications sent by facsimile transmission shall be validly given provided a counterpart is delivered or mailed in accordance with Section Error! Reference source not found..

9.4.4.2 Requests for payment may be sent to the Contracting Authority by facsimile only upon the Contracting Authority's prior specific written direction.

9.4.5 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the A/E shall immediately notify the Contracting Authority and the Owner by telephone.

9.4.6 The Contracting Authority, the Owner, or the A/E may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

9.5 Computing Time

9.5.1 When this Agreement refers to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

9.5.2 Except as excluded under Section 9.5.1, all time periods referred to in this Agreement include Saturdays, Sundays, and all days defined as legal holidays by Section 9.5.4.

9.5.3 The standard workdays for State projects are Monday through Friday, excluding legal holidays.

9.5.4 Legal holidays are as follows:

- 9.5.4.1 New Year's Day – First Day in January;
- 9.5.4.2 Martin Luther King Jr. Day – Third Monday in January;
- 9.5.4.3 Washington-Lincoln (President's) Day – Third Monday in February;
- 9.5.4.4 Memorial Day – Last Monday in May;
- 9.5.4.5 Independence Day – Fourth day of July;
- 9.5.4.6 Labor Day – First Monday in September;
- 9.5.4.7 Columbus Day – Second Monday in October;
- 9.5.4.8 Veteran's Day – Eleventh Day of November;
- 9.5.4.9 Thanksgiving Day – Fourth Thursday of November; and
- 9.5.4.10 Christmas Day – Twenty-fifth day of December.

9.5.5 If a legal holiday falls on a Saturday, it is observed on the preceding Friday. If a legal holiday falls on a Sunday, it is observed on the following Monday.

9.6 Time of the Essence

9.6.1 Time limits stated in the Agreement are of the essence of the Agreement and all obligations under the Agreement. By signing the Agreement, the A/E acknowledges that those time limits are reasonable.

9.6.1.1 The A/E acknowledges that the Contracting Authority and the Owner have entered into, or may enter into, other contracts based upon the A/E properly providing the Services in a timely manner.

9.6.1.2 The A/E shall perform the Work in a reasonable, efficient, and economical sequence, and in the order and time as provided in the Project Schedule.

9.6.1.3 The A/E acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Services from any cause. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the time for performance of the Services, unless otherwise required by ORC Section 4113.62.

9.7 Successors and Assigns

9.7.1 The Contracting Authority and the A/E, each bind themselves, their successors, assigns, and legal representatives, to the other party to this Agreement and to the successors, assigns, and legal representatives of the other party with respect to all terms of this Agreement.

9.7.2 The Contracting Authority and the A/E each acknowledge that the Owner is an intended third-party beneficiary of this Agreement.

9.7.3 The A/E shall not assign, or transfer any right, title, or interest in this Agreement without the Contracting Authority's prior written consent.

9.8 Extent of Agreement

9.8.1 Entire Agreement. This Agreement, including the attached documents, and the Contract Documents represent the entire and integrated agreement between the Contracting Authority and the A/E and supersede all prior negotiations, representations, or agreements, either written or oral.

9.8.1 Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.8.2 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.8.3 **Precedence.** If there are any inconsistencies between the provisions of the Contract Documents and the provisions of the Announcement or this Agreement, the provisions of this Agreement shall prevail.

9.9 Severability

9.9.1 If any term or provision of this Agreement, or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

9.10 Facsimile Signatures

9.10.1 Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax, e-mail, or web-based project management software. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

9.11 No Third-Party Interest

9.11.1 Except as expressly provided under Sections 3.1.6 and 9.7.2, (1) no person or entity, other than the Owner and Contractor, will have any right or interest under the Agreement, and (2) the Agreement does not create a contractual relationship of any kind between any people or entities other than the Owner and the Contractor.

9.12 No Waiver

9.12.1 The failure of the Owner or the A/E to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Agreement or to exercise any rights under the Agreement or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

9.13 Rights and Remedies

9.13.1 The duties, obligations, rights, and remedies under the Agreement are in addition to and not a limitation of the duties, obligations, rights, and remedies otherwise imposed by or available under Laws and Regulations.

9.14 Survival of Obligations

9.14.1 All representations, indemnity obligations, warranties, guarantees, and necessarily continuing obligations under the Agreement, will survive final payment, completion and acceptance of the Work, and termination or completion of the Agreement.

ARTICLE 10 - DEFINED TERMS AND ABBREVIATIONS

10.1 For the purposes of this Agreement, the words, terms, and abbreviations set forth below have the following meanings:

10.1.1 “Architect/Engineer” or “A/E” means the Person identified in the Agreement responsible for providing professional design services and construction contract administration for the Project. The A/E shall be (1) a registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ORC Chapter 4703, (2) a landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ORC Chapter 4703, or (3) a professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ORC Chapter 4733. As used in the Agreement, the term A/E may include a Criteria Architect/Engineer for a Design-Build project.

10.1.2 “A/E’s Documents” means all Project-related documents, including those in electronic form, prepared by the A/E or Consultants.

10.1.3 “Change Order Fee Allowance” means the amount established by the Contracting Authority in the Agreement Form for the purpose of funding Change Order fees payable to the A/E resulting from increases in the construction cost by approved Change Orders.

10.1.4 “Consultant” means a Person engaged by the A/E to provide or perform a portion of the Services.

10.1.5 “Contractor” means a Person, which is party to a contract for the performance of Work on the Project in cooperation with Separate Contractors and Persons, and in accordance with the Contract Documents. As used in the Agreement, the term Contractor may include a Construction Manager at Risk or a Design-Builder.

10.1.6 “Direct Personnel Expense” means the portion of direct salaries and wages of all personnel of the A/E or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to 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, social security contributions, insurance, sick leave, holidays, vacations, pensions, profit sharing, and similar benefits related to their time devoted to the Project.

10.1.7 “Equal Opportunity Coordinator” means the public official who exercises the duties and responsibilities of the position of the equal employment opportunity coordinator identified in ORC Section 121.04, including but not limited to issuing certificates of compliance with the State’s affirmative action and EDGE programs.

10.1.8 “Fee” (as in “Basic Fee,” “Additional Services Fee,” and otherwise) means all of the compensation to be paid by the Owner to the A/E on account of the proper, timely, and complete performance of the associated Services by the A/E or its Consultants, including, but not limited to, salaries or other compensation of the A/E’s employees at the principal office, branch offices, and the field office, general operating expenses of the A/E’s principal office, branch offices, and the field office, any part of the A/E’s capital expenses, including interest on the A/E’s capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the A/E’s negligence, the A/E’s general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

10.1.9 “Indemnified Parties” means the State, the Contracting Authority, the Owner, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.

10.1.10 “Life Cycle Cost” means the sum of present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and disposal costs over the lifetime of the Project, product, or measure.

10.1.11 “Life Cycle Cost Analysis” means an economic method for assessing the total cost of facility ownership, taking into account all costs of acquiring, owning, maintaining, and disposing of a building or building system. Life Cycle Cost Analysis is also utilized to compare design alternatives that fulfill the same performance requirements, but differ with respect to initial costs and operating costs, in order to select the one that maximizes net savings.

10.1.12 “Reimbursable Expenses” means actual expenditures incurred by the A/E or its Consultants in the interest of the Project, approved by the Contracting Authority for reproduction of Contract Documents for distribution to Bidders, plan approval fees, building permits, and, if requested by the Owner or the Contracting Authority, reformatting Project Record Submittals to a computer medium different than the computer medium used by the A/E.

10.1.13 “Services” includes all of the A/E’s obligations, individually or collectively, under the Agreement including all items reasonably inferable from the Agreement, whether provided or to be provided by the A/E,

a Consultant, or any other entity for whom the A/E is responsible. The Services include both Basic Services and Additional Services as defined in the Agreement.

10.1.14 “Submittals” means Shop Drawings, Product Data, Samples, and other items for the A/E’s review and action provided by a Contractor for any item required by the Contract Documents, but not fully described in the Contract Documents.

END OF DOCUMENT

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ARTICLE 1 - ARCHITECT/ENGINEER'S BASIC SERVICES

1.1 General

1.1.1 Basic Services to be provided by the Architect/Engineer ("A/E") shall consist of the activities and stages set forth in Article 2 through Article 8, inclusive, and include, but are not limited to, normal architectural, civil, structural, mechanical, electrical, and landscape design and engineering services for the Project, any necessary signage and graphics, and any services necessary to comply with the ORC Section 3379.10 Percent for Arts Program.

1.2 Sustainability Requirements

1.2.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policy, and procedures adopted by the Department establishing Sustainability Requirements for Capital Improvements Projects.

1.2.2 The A/E shall incorporate cost-effective, energy-efficient, green building practices to the maximum extent possible into the Project.

1.3 Consultation

1.3.1 The A/E shall schedule and attend regular meetings with the Contracting Authority and the Owner. The A/E shall consult with the Contracting Authority and the Owner regarding Site use and improvements and the selection of materials, building systems, and equipment. The A/E shall give recommendations to the Contracting Authority, the Owner, and A/E on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, budgets and possible economies.

1.3.2 At all appropriate times throughout the performance of the Work, the A/E shall contact, meet, consult, and otherwise coordinate with the Contracting Authority, the Owner, governmental authorities with jurisdiction over the Project, and others for the purpose of facilitating the Project's design and construction.

1.4 Design Schedule

1.4.1 Within 10 days after the execution of this Agreement, or other period agreed with the Contracting Authority, the A/E shall submit, for approval by the Contracting Authority and the Owner, a Design Schedule for the performance of the A/E's Services.

1.4.2 The Design Schedule shall include allowances for reasonable periods required for the review and approval of items by the Contracting Authority and the Owner, and for approvals of governmental authorities having jurisdiction over the Project.

1.4.3 Unless the Contracting Authority or the Owner notify the A/E of objections to the Design Schedule within 30 days of receipt thereof, the Contracting Authority and the Owner shall be deemed to have approved the Design Schedule.

1.4.4 The A/E shall coordinate the Design Schedule with the Project Schedule.

1.4.5 The A/E shall not exceed or adjust the Design Schedule after its initial approval without the prior written consent of the Contracting Authority and the Owner.

1.4.6 The A/E shall perform its Services in a timely manner consistent with the Project Schedule.

ARTICLE 2 - PROGRAM VERIFICATION STAGE

2.1 Commencement

2.1.1 The A/E's Services will begin on the date set forth in a notice that the Contracting Authority will issue to the A/E.

2.2 Organizational Meeting

2.2.1 Unless the Contracting Authority agrees otherwise in writing, the A/E's Services will begin with an organizational meeting between the Contracting Authority, the Owner, and the A/E. All of the A/E's key personnel involved in the Project shall attend the organizational meeting.

2.2.2 During the organizational meeting, the attendees will:

2.2.2.1 review the responsibilities of each of the Contracting Authority's and the Owner's key personnel involved in the Project;

2.2.2.2 review the scope of the A/E's Services and the responsibilities of each of the A/E's key personnel involved in the Project;

2.2.2.3 review and establish lines of communication between the Contracting Authority, the Owner, and the A/E;

2.2.2.4 develop a list of the Owner's Project-stakeholder representatives to be involved in the Program Verification Stage to inform the development of the Approved Program of Requirements; and

2.2.2.5 review the then-available information and documents which reflect the Owner's requirements and objectives for the Project including Project Schedule and Construction Budget requirements and objectives.

2.2.3 Within 5 days after the organizational meeting is adjourned, the A/E shall prepare and submit to the Contracting Authority and the Owner:

2.2.3.1 detailed minutes of the organizational meeting; and

2.2.3.2 a proposed Project Schedule reflecting the performance of the A/E's Services and the progression of the Project through award of the Contract to the Contractor.

- .1 The Contracting Authority, the Owner, and the A/E will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision.

2.2.3.3 If the Project is administered using OAKS CI, the A/E shall distribute the minutes of the organizational meeting through the "Meeting Minutes" business process.

2.3 General Requirements

2.3.1 In addition to performing those Services required to comply with Sections 2.4 and 2.4.3, during the Program Verification Stage, the A/E shall:

2.3.1.1 identify the building type and research, analyze, and document relevant information specific to that type;

2.3.1.2 meet and otherwise work with the Contracting Authority, the Owner, the Owner's Project-stakeholder representatives, and others with an interest in the Project to establish goals and objectives for the Project;

2.3.1.3 gather, analyze, and document information relevant to the identified Project goals and objectives;

2.3.1.4 identify and evaluate strategies to achieve the identified Project goals and objectives;

2.3.1.5 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

2.3.1.6 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Program Verification Stage of the Project;

2.3.1.7 identify and analyze issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;

2.3.1.8 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

2.3.1.9 notify the Owner of the need for the professional services of any Separate Consultants required for the Project; and

2.3.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

2.4 A/E's Program Submission

2.4.1 At the completion of the Program Verification Stage, the A/E shall submit the provisional Program Documents to the Contracting Authority and the Owner.

2.4.2 The provisional Program Documents shall be in the form of a written report, conceptual drawings, and conceptual specifications. At a minimum, the Program Documents shall include:

2.4.2.1 an executive summary of the Program Documents;

2.4.2.2 building type information including: (1) the types of functions frequently included in the building type, (2) the space criteria (number of square feet per person or unit) for those functions, (3) typical relationships of spaces for those functions, (4) typical ratios of net assignable square footage to gross square footage for the building type, (5) typical costs per square foot for the building type, (6) typical site requirements for the building type, (7) technical, mechanical, electrical, security, or other issues unique to the building type, and (8) issues that might alter the accuracy of the identified data in the case of the Project;

2.4.2.3 a narrative description of the Project's goals and objectives such as: (1) the role of the Project in the achievement of the Owner's overall organizational objectives and goals; (2) Project form and image goals such as aesthetics, relationship to the site, adjacent areas, and neighbors including any historic, cultural, and/or context implications; (3) function goals including identification of all major building functions and occupancy requirements; (4) economic goals including total Project Budget, Construction Budget, factors related to initial costs versus long-range operating and maintenance costs, level of quality desired; and sustainability considerations; and (5) schedule goals including desired dates for commencement of construction and for Final Completion and the Owner's projected needs for the Project over the next 20 years in 5-year increments;

2.4.2.4 a description of space requirements, including a listing of the desired spaces and an identification of each space's basic criteria such as occupancy requirements, dimensions, proportions, ceiling heights, and service, equipment, storage, utility, access, flexibility, configuration, security, adjacency, aesthetic, and other requirements;

2.4.2.5 a description of planning and design criteria such as workstation, office/room standards; clustering and layout criteria; circulation criteria; applicable space-planning modules; dimensional criteria; building systems interface criteria; envelope criteria; accessibility requirements; and a description of performance criteria applicable to building components such as envelope, structure, interior construction, and mechanical, electrical, and plumbing systems, etc.;

2.4.2.6 a description of site development and design criteria including zoning, design guidelines, deed restrictions and requirements, traffic (bus, automobile, and pedestrian) considerations, utility availability, topography, views, built features, etc.;

2.4.2.7 a conceptual site plan and conceptual building plans and elevations illustrating the Project's scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;

2.4.2.8 if not noted on the drawings, conceptual specifications reflecting preliminary selections of materials, building systems, and equipment;

2.4.2.9 a preliminary estimate of Construction Cost using area, volume or similar conceptual estimating techniques;

- .1 If the Program Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the A/E to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The A/E will present those proposals as an addendum to its Program Verification Stage Submission.

2.4.2.10 a preliminary Project Schedule reflecting the design and construction of the Project through Owner occupancy;

2.4.2.11 a preliminary evaluation of the Program, Project Schedule, and Construction Budget requirements, each in terms of the other including a description of the distribution of the Construction Budget between major Project components, contingencies, and other categories the Contracting Authority may designate;

2.4.2.12 a review of feasible alternative approaches to the design and construction of the Project, if any, including the estimated budget and schedule impacts of those alternative approaches; and

2.4.2.13 an identification of Applicable Law.

2.4.3 If the Project is administered using OAKS CI, the A/E shall submit its provisional Program Documents, and any revisions, to the Contracting Authority and the Owner through the "Design Review" business process.

2.5 Program Documents Review

2.5.1 The Contracting Authority, the Owner, and the A/E shall meet to review the provisional Program Documents and to reach agreement on any Contracting Authority- or Owner-authorized adjustments to the Program Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Program Documents.

2.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E shall revise the provisional Program Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Program Documents and sign the related Design Review Acceptance form, the revised Program Documents shall become the Approved Program of Requirements.

ARTICLE 3 - SCHEMATIC DESIGN STAGE

3.1 Commencement

3.1.1 Unless the Contracting Authority directs otherwise in writing, the Schematic Design Stage will begin upon completion of the activities described under Section 2.5.

3.2 General Requirements

3.2.1 In addition to performing those Services required to comply with Sections 3.3 and 3.4, during the Schematic Design Stage, the A/E shall:

- 3.2.1.1 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

3.2.1.2 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Schematic Design Stage of the Project;

3.2.1.3 further evaluate and refine the Approved Program of Requirements;

3.2.1.4 develop estimates of the Construction Costs in increasing detail;

3.2.1.5 identify all issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;

3.2.1.6 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

3.2.1.7 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project; and

3.2.1.8 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project.

3.3 Preliminary Life Cycle Cost Analysis

3.3.1 At the time set forth in the Project Schedule, the A/E shall prepare and submit three design concepts for a preliminary Life Cycle Cost Analysis (“LCCA”) and the preliminary LCCA for each concept to the Owner and Contracting Authority.

3.3.2 The alternative design concepts may include:

3.3.2.1 A baseline alternative, which complies in all aspects with the requirements of the current version of the Ohio Building Code (“OBC”), including the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35;

3.3.2.2 A high-performance alternative, which demonstrates 20 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35; and

3.3.2.3 A high-performance alternative, which demonstrates 30 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35, and includes one or more renewable energy sources, such as waste heat recovery, solar energy, wind energy, biomass fuel energy, or geothermal energy.

3.3.3 The A/E shall base the Schematic Design Documents on the Owner’s selected preliminary design concept.

3.4 A/E’s Schematic Design Submission

3.4.1 At the completion of the Schematic Design Stage, the A/E shall submit the Schematic Design Documents to the Contracting Authority and the Owner.

3.4.1.1 The A/E shall also submit 1 copy of the Schematic Design Documents to the State Security Coordinator (Department of Public Safety, 1970 West Broad Street, Columbus, Ohio 43223) for review and written comment.

3.4.2 The Schematic Design Documents shall include:

3.4.2.1 a conceptual site plan and preliminary building plans, sections, and elevations illustrating the Project’s scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;

3.4.2.2 if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials;

3.4.2.3 an estimate of Construction Cost (“A/E’s Schematic Design Estimate”) using area, volume or similar conceptual estimating techniques;

- .1 If the Schematic Design Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the A/E to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The A/E will present those proposals as an addendum to its Schematic Design Stage Submission.

3.4.2.4 cost evaluations of alternative building systems and construction materials;

3.4.2.5 an identification of any unresolved issues related to compliance with Applicable Law;

3.4.2.6 a written description of all modifications of the Approved Program of Requirements;

3.4.2.7 if agreed in writing by the Contracting Authority, the A/E will develop study models, perspective sketches, electronic modeling, or combinations of those media; and

3.4.2.8 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

3.4.3 If the Project is administered using OAKS CI, the A/E shall submit its provisional Schematic Design documents, and any revisions, to the Contracting Authority and the Owner through the "Design Review" business process.

3.5 Schematic Design Documents Review

3.5.1 The Contracting Authority, the Owner, and the A/E shall meet to review the provisional Schematic Design Documents and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Schematic Design Documents.

3.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E shall revise its Schematic Design Stage submission to reflect the adjustments and clarifications agreed upon in the review meeting (including any comments from the State Security Coordinator, which have been reviewed and approved by the Owner), and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Schematic Design Stage submission and sign the related Design Review Acceptance form, the revised Schematic Design Stage submission shall become the final Schematic Design Documents.

ARTICLE 4 - DESIGN DEVELOPMENT STAGE

4.1 Commencement

4.1.1 Unless the Contracting Authority directs otherwise in writing, the Design Development Stage will begin upon completion of the activities described under Section 3.5.

4.2 General Requirements

4.2.1 In addition to performing those Services required to comply with Sections 4.3 and 4.4, during the Design Development Stage, the A/E shall:

4.2.1.1 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

4.2.1.2 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Design Development Stage of the Project;

4.2.1.3 further evaluate and refine the Approved Program of Requirements;

4.2.1.4 develop estimates of the Construction Costs in increasing detail;

- .1 If the Design Development Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the A/E to immediately develop viable proposals to reconcile

the estimate with the Construction Budget. The A/E will present those proposals as an addendum to its Design Development Stage Submission.

4.2.1.5 prepare and submit a sole-source justification letter describing any materials, products, or systems included in the Work that are only available from a single manufacturer, supplier, or contractor to the Contracting Authority for its approval in writing;

4.2.1.6 resolve all issues related to compliance with Applicable Law (except to the extent stated otherwise in writing by the A/E for necessary variances and waivers at the time of the A/E's provisional Design Development Document submission) and participate in related meetings with government authorities that have jurisdiction over the Project;

4.2.1.7 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

4.2.1.8 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project;

4.2.1.9 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project; and

4.2.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

4.3 Life Cycle Cost Analysis

4.3.1 The A/E shall prepare and submit 3 copies of the revised LCCA for the selected design concept to the Owner and Contracting Authority.

4.3.2 If the Project creates or renovates an area greater than 5,000 square feet, the A/E shall also submit the revised LCCA to the Department's Office of Energy Services.

4.4 A/E's Design Development Submission

4.4.1 At the completion of the Design Development Stage, the A/E shall submit the provisional Design Development Documents to the Contracting Authority and the Owner.

4.4.2 The provisional Design Development Documents shall include:

4.4.2.1 plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural, structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;

4.4.2.2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;

4.4.2.3 a detailed estimate of Construction Cost ("A/E's Design Development Estimate");

4.4.2.4 a written description of all proposed or previously agreed upon Alternates, which description may be included in the specifications rather than as a separate document;

4.4.2.5 a written description of all proposed or previously agreed upon Allowances;

4.4.2.6 an identification of any unresolved issues related to compliance with Applicable Law;

4.4.2.7 the A/E's Design Intent Statement;

4.4.2.8 a written description of all modifications of the Approved Program of Requirements; and

4.4.2.9 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

4.4.3 If the Project is administered using OAKS CI, the A/E shall submit its provisional Design Development documents and any changes or revisions to the Contracting Authority and the Owner through the “Design Review” business process.

4.5 Design Development Documents Review

4.5.1 The Contracting Authority, the Owner, and the A/E shall meet to review the provisional Design Development Documents and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Design Development Documents.

4.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Program A/E shall revise its Design Development Stage submission to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Design Development Stage submission and sign the related Design Review Acceptance form, the revised Design Development Stage submission shall become the final Design Development Documents.

ARTICLE 5 - CONSTRUCTION DOCUMENTS STAGE

5.1 Commencement

5.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Documents Stage will begin upon the completion of the activities described in Section 4.5.

5.2 General Requirements

5.2.1 In addition to performing those services required to comply with Sections 5.2.2 and 5.3, during the Construction Documents Stage, the A/E shall:

- 5.2.1.1 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- 5.2.1.2 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review Drawings and other documents which depict the current status of the Construction Documents Stage of the Project;
- 5.2.1.3 update and re-issue the Project Schedule as necessary to keep the Contracting Authority and the Owner apprised of the schedule’s current status;
- 5.2.1.4 develop, prepare, and compile all forms and information needed to properly bid and complete the Project;
- 5.2.1.5 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;
- 5.2.1.6 make recommendations to the Contracting Authority and the Owner, for actions designed to minimize adverse effects of labor shortages;
- 5.2.1.7 file documents required for the approvals of governmental authorities with jurisdiction over the Project; and
- 5.2.1.8 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

5.2.2 During the A/E's completion of the Construction Documents:

5.2.2.1 The A/E shall verify that the Drawings and Specifications include requirements and assignment of responsibilities for safety precautions and programs and for temporary facilities for common use of the A/E and the Contractor.

5.2.2.2 The A/E shall prepare the Drawings and Specifications to encourage competition except where otherwise required to comply with the Approved Program of Requirements.

5.2.2.3 The A/E shall identify areas that the A/E recognizes as having incomplete documentation and uncoordinated multi-discipline Work.

5.2.2.4 With the prior written consent of the Owner, the A/E shall develop and include Alternates in the Construction Documents.

5.3 A/E's Construction Documents Submission

5.3.1 Upon completion of the Construction Documents Stage, the A/E shall prepare the following documents and submit them to the Contracting Authority and the Owner:

5.3.1.1 Drawings setting forth in detail the requirements for the construction of the Project;

5.3.1.2 Specifications prepared in accordance with the most-current CSI *MasterFormat* and that establish in detail the quality levels of all materials and systems required for the Project and include all stipulations pertaining to the furnishing and installation of the Work as required for completion of the Project;

5.3.1.3 develop estimates of the Construction Costs in increasing detail; and

- .1 If the Construction Documents Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the A/E to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The A/E will present those proposals as an addendum to its Construction Documents Stage Submission.

5.3.1.4 an updated Project Schedule.

5.3.2 If the Project is administered using OAKS CI, the A/E shall create, approve, and submit the A/E's Construction Documents Stage Submission to the Contracting Authority and the Owner through the "Design Review" business process.

5.4 Construction Documents Review

5.4.1 The Contracting Authority, the Owner, and the A/E shall meet to review the A/E's Construction Documents Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the A/E's Construction Documents Stage Submission.

5.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E shall revise its Construction Documents Stage Submission to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Construction Documents Stage Submission and sign the related Design Review Acceptance form, the revised Construction Documents Stage Submission shall become the final Construction Documents, subject to (1) execution of an appropriate Modification to incorporate the adjustments into the Contract and (2) further revisions as provided in the General Conditions.

5.5 Government Approvals

5.5.1 Plan Approval.

5.5.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

- .1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

5.5.1.2 The A/E shall attend all intermediate and final inspections required for any permit applicable to the Work including without limitation the life safety inspection for occupancy permits.

5.5.2 Local Permits.

5.5.2.1 The A/E shall attend all intermediate and final inspections required for any local permit applicable to the Work.

5.5.3 National Pollutant Discharge Elimination System (“NPDES”) Storm Water General Permit.

5.5.3.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent (“NOI”) application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a “co-permittee” if required under Applicable Law.

5.5.3.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.5.3.3 The A/E shall prepare and process the required Notice of Termination (“NOT”) prior to Contract Completion.

5.5.4 If the Project is administered using OAKS CI, the A/E shall document transmission of government-approved Construction Documents and any changes or revisions to the Contracting Authority, the Owner, and the Contractor, through the “Transmittal” business process, with physical copies sent to their offices.

ARTICLE 6 - BIDDING AND AWARD STAGE

6.1 Obtaining Bids

6.1.1 The A/E shall develop and make recommendations for bidding criteria, bidding schedules, and bidding information and develop Bidders’ interest in the Project.

6.1.2 The A/E shall prepare and issue Addenda as necessary to render interpretations and clarifications of the Contract Documents.

6.2 Pre-bid Conference

6.2.1 The A/E shall conduct pre-bid conference(s) with prospective Bidders to familiarize Bidders with the Contract Documents, including any special requirements of the Contract Documents.

6.2.2 At the pre-bid conference(s), the A/E shall also familiarize prospective Bidders with requirements of equal employment opportunity, prevailing wage, EDGE, Drug Free Safety Program, campaign contribution limits, ethics compliance, Sustainability Requirements, an overview of OAKS CI if applicable, and other requirements, as necessary.

6.2.3 The A/E shall respond to questions from the pre-bid conference(s) by preparing and issuing pre-bid conference minutes attached to one or more written Addenda within 5 days of the conference.

6.3 Bid Packages

6.3.1 The A/E shall obtain all necessary prevailing wage determinations and shall include them in the Contract Documents.

6.3.2 The A/E, or its designee (e.g., its reprographer), shall assemble and distribute the Contract Documents to prospective Bidders, the Contracting Authority, the Owner, and other appropriate persons, including, but not limited to, any applicable local or regional plan room organizations.

6.4 Bid Review

6.4.1 The A/E shall, in accordance with Applicable Law, review all Bids received for responsiveness, investigate the responsibility of Bidders, and deliver a written recommendation to the Contracting Authority about the award, or rejection, of any Bid or Bids for each contract for the Project.

6.4.2 In making the recommendation, the A/E shall evaluate all applicable Alternates referenced in the Contract Documents.

6.5 Substitutions after Bid Opening

6.5.1 The A/E shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

6.5.1.1 The specified Basis of Design Components, Acceptable Components, or Substitutions approved prior to the bid opening, through no fault of the Contractor or the Contractor's Subcontractors and Material Suppliers, are not available; or

6.5.1.2 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.6 Pre-award Conferences

6.6.1 The A/E shall conduct pre-award conferences with the apparent successful Bidder and shall assist the Contracting Authority to gather documentation for contract execution from such Bidder.

6.6.2 Upon the failure of the apparent successful Bidder to provide such documentation in a timely manner, the A/E shall assist the Contracting Authority in considering whether an extension of time for submitting such documentation is appropriate.

6.7 Subcontractor and Material Supplier Review

6.7.1 The A/E, based upon review of the Contract Documents, any past experience, and reasonable inquiry, shall participate in investigating any Subcontractor or Material Supplier proposed by any Contractor and recommend approval or disapproval.

6.7.2 After receiving original or amended Subcontractor and Material Supplier Declaration forms from the Contractor, the A/E shall verify that the forms are complete and deliver them to the Contracting Authority.

6.7.3 If the A/E finds the forms are incomplete, the A/E shall return them to the Contractor with no action and identify corrective action the Contractor shall perform prior to resubmitting the forms. If the A/E returns such incomplete forms to the Contractor, the Contractor shall resubmit the forms with revisions complying with the corrective action identified by the A/E.

6.7.4 Upon the Contracting Authority's receipt of the forms, the A/E and the Owner shall consult with the Contracting Authority in performing an initial review of each Subcontractor and Material Supplier listed.

6.7.5 If the Project is administered using OAKS CI, the A/E shall review and recommend approval or disapproval to the Contracting Authority of each Subcontractor and Material Supplier through the "Subcontractor Supplier Declaration" business process.

6.8 Over Budget Options

6.8.1 If the Construction Budget is exceeded by the total of the lowest responsive and responsible Bids and any legally negotiated prices for the Project, the Contracting Authority and the Owner shall, at their option:

6.8.1.1 Approve in writing an increase in the Construction Budget and rebid the Project;

6.8.1.2 Authorize rebidding or renegotiation for some or all parts of the Project within a reasonable time without an increase in the Construction Budget;

6.8.1.3 Abandon the Project, in whole or in part, and terminate this Agreement; or

6.8.1.4 Cooperate in the revision of the Project Scope as defined in Section 5.3.1.3.1 to reduce the actual cost of construction to the Construction Budget.

6.8.2 If the Contracting Authority and the Owner adopt the option in Section 6.8.1.1 above and such increase in the Construction Budget is more than 10 percent, the A/E may request, in writing, an adjustment to the Basic Fee.

6.8.3 If the Contracting Authority and the Owner adopt the option in Section 6.8.1.4 above, the A/E shall appropriately modify the Approved Program of Requirements, the Project Schedule, and the Contract Documents and cooperate in any necessary bidding or negotiation without additional charge.

6.9 Further Revisions to Cost Estimate and Project Schedule

6.9.1 If necessary, the A/E shall inform the Contracting Authority and the Owner of the need for any adjustments in the Detailed Estimate of Construction Cost and the Project Schedule.

6.9.2 Upon approval of the Contracting Authority and the Owner of any such adjustments, the A/E shall prepare a revised Detailed Estimate of Construction Cost or a revised Project Schedule, as applicable, incorporating such adjustments, obtain the Owner's signature thereon, and deliver the signed, revised Detailed Estimate of Construction Cost or Project Schedule to the Contracting Authority.

6.10 Conformed Documents

6.10.1 During the entire bidding and award Stage, the A/E shall incorporate all Addenda information into the Contract Documents; and, between the date that the Contracting Authority issues a Notice of Intent to Award for the first construction contract for the Project and the effective date of the first construction contract Notice to Proceed, the A/E shall provide updated Contract Documents that conform in every regard to the documents originally issued for bidding purposes plus all of the information in all Project Addenda ("Conformed Documents").

6.10.2 The A/E shall issue the Conformed Documents to the successful Bidder upon award of its contract.

6.10.3 If the amount of the contract is \$500,000 or less, the A/E shall furnish 5 sets of Conformed Documents to the Contractor. If the amount of the contract is greater than \$500,000, the A/E shall furnish 7 sets of Conformed Documents to the Contractor.

6.10.4 The A/E shall provide Electronic Files to each requesting Contractor for the Contractor's convenience for the purpose of preparing its submittals, including, but not limited to, Shop Drawings and Coordination Drawings. The A/E shall provide such Electronic Files at no additional cost to the Contractor or the Owner.

6.11 Partnering

6.11.1 The A/E shall, prior to construction of the Project, participate in the creation and implementation of a partnering arrangement, and shall participate in partnering meetings with the Contracting Authority, Owner, appropriate Consultants, A/E's field representative, Contractor, and other parties involved in the Project. Partnering meetings may be conducted during both the design and construction stages of the Project.

6.11.2 The formation of a cohesive, mutually beneficial partnering arrangement among the Contractor, the Contracting Authority, the A/E, and the Owner will accomplish the construction of the Project most effectively and efficiently. This arrangement draws on their collective strengths, skills, and knowledge to achieve a Project of the intended quality, within budget, and on schedule. To achieve that objective, participation in a partnering session is required for the following key stakeholders:

6.11.2.1 Contracting Authority: Project Manager

6.11.2.2 Owner: Primary representative

6.11.2.3 A/E: Principal-in-charge, project manager, field representative, major consultants

6.11.2.4 Contractor: Principal-in-charge, project manager, and superintendent

6.11.2.5 Major Subcontractors (e.g., plumbing, HVAC, electrical): Principal-in-charge, project manager or superintendent

6.11.2.6 CxA, if applicable

6.11.3 The purpose of the partnering arrangement is to build cooperative relationships between the Project's key stakeholders, avoid or minimize disputes, and nurture a more collaborative ethic characterized by trust, cooperation and teamwork. This arrangement is intended to produce a voluntary, non-binding, but formally structured agreement among the Project's key stakeholders, leading to an attitude that fosters risk sharing.

6.11.4 To create and implement the partnering arrangement, the Project's key stakeholders shall meet prior to the construction of the Project for developing a partnering agreement. The arrangement should be comprehensive and focus on all issues necessary for successful completion of the Project, and shall identify common goals and objectives, develop a problem solution process, an Alternative Dispute Resolution ("ADR") strategy, and an implementation plan for the partnering arrangement.

6.11.5 Formal contractual relations, responsibilities, and liabilities are not affected by any partnering arrangement. The cost associated with establishing this partnership shall be included in an allowance in the Contractor's bid. The A/E shall include in its Basic Fee the resources necessary to participate in the partnering meetings.

6.11.6 Partnering services may extend over the entire period of performance of the Project and may include intervention or project realignment services to be utilized if serious disputes arise. The Project's key stakeholders should agree, during the initial partnering session, to the types of situations and circumstances in which intervention or realignment services shall be utilized.

6.11.6.1 If realignment or intervention services are utilized, partnering facilitators shall not be called as witnesses in any litigation, mediation, or quasi-judicial proceeding.

ARTICLE 7 - CONSTRUCTION STAGE

7.1 Duration; Extent, Access

7.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Final Acceptance of the Project.

7.1.2 The A/E shall have access, at all times, to the Project whenever any Work is in preparation or in progress.

7.2 Progress of the Project

7.2.1 The A/E shall record the progress of the Project and provide written reports to the Contracting Authority and the Owner on a monthly basis, unless otherwise agreed in writing. Such reports shall include, but are not limited to, information on the Contractor's Work, as well as completion status on the entire Project, showing percentages of completion.

7.2.1.1 If the Project is administered using OAKS CI, the A/E shall issue written reports to the Contracting Authority, the Owner, and the Contractor through the "Field Reports" business process.

7.3 Construction Progress Schedule

7.3.1 The A/E shall review the Construction Progress Schedule for conformance with the Contract Documents, provide a copy of the Construction Progress Schedule and schedule of submittals to the Contracting Authority and the Owner.

7.3.1.1 If the Project is administered using OAKS CI, the A/E shall receive initial and updated schedules from the Contractor, and forward them to the Contracting Authority and the Owner, through the “Schedule Approvals” business process.

7.3.2 The A/E shall periodically inform the Contracting Authority and the Owner of the need to update the Project Schedule as required to show current conditions, including, but not limited to, conformance to the Construction Schedule, as updated from time to time.

7.3.2.1 If such conditions indicate that Milestone completion dates shown on the Project Schedule may not be met, the A/E shall recommend corrective action to the Contracting Authority and the Owner and carry out the directions of the Contracting Authority so that the Milestone completion dates may be met, unless the Contracting Authority and the Owner agree in writing to revise the Milestone completion dates.

7.4 Meetings

7.4.1 The A/E shall schedule, conduct, and participate in weekly progress meetings with the Contracting Authority, Owner, appropriate Consultants, the Contractor, Subcontractors, and any other parties involved in the Project to discuss such matters as procedures, progress, problems, and scheduling.

7.4.1.1 The A/E shall prepare and distribute written agendas and minutes of all progress meetings to the Contracting Authority, Owner, Contractor, and any other parties involved. The A/E shall not delegate the duty to prepare such agendas and minutes and shall distribute the written minutes of each meeting within 3 business days after the meeting.

- .1 If the Project is administered using OAKS CI, the A/E shall distribute meeting agendas and minutes to each Contractor, the Contracting Authority, and the Owner through the “Meeting Minutes” business process and document issues identified during progress meetings that require resolution by one or more construction participants through the “Action Items” business process.

7.4.1.2 The A/E shall attach the minutes of each progress meeting to the Contractor’s weekly written report as submitted to the A/E, describing progress on the Contractor’s and its Subcontractors’ past, current, and upcoming activities.

7.4.1.3 The minutes of each progress meeting shall reflect any objection made to the minutes of the previous meeting and any response.

7.4.1.4 The A/E shall notify the Contractor, and other Persons involved in the Project of the time and place of the progress meetings that shall thereafter be the same day and hour of the week for the duration of the Project, unless the A/E notifies the Contractors and other persons involved in the Project of a different day and hour at least 2 days in advance.

7.4.2 The A/E shall attend and participate in preconstruction, quality-control, pre-installation, and special meetings with the Contracting Authority, Owner, appropriate Consultants, the Contractor, Subcontractors, and any other parties involved in the Project.

7.5 Site Visits and Observation

7.5.1 The A/E shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes a period of 1 year after Final Acceptance.

7.5.2 The A/E shall designate a field representative, subject to the Contracting Authority’s approval, to review the Work of the Contractor for Defective Work, to maintain familiarity with the progress and quality of the Work on the Project, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

7.5.3 The A/E, and appropriate Consultants, shall also visit the Project at such intervals as the Contracting Authority requires, to review the Work of the Contractor for Defective Work, to become familiar with the

progress and quality of the Work on the Project, and to determine if the Work is proceeding in conformity with the Contract Documents.

7.5.3.1 Such visits shall specifically include, but are not limited to, those listed in the Agreement, observation of large excavations, observation of footings during placement of concrete and observation of masonry work, structural steel erection, roofing work and interior finishes.

7.5.4 In all events, the A/E and appropriate Consultants, shall be at the Site for such purposes not less than the number of hours per week identified in the Agreement whenever any Work is in preparation or progress, unless otherwise expressly provided in writing by the Contracting Authority.

7.5.5 If the A/E becomes aware, either through such visits or otherwise, of any Defective Work on the Project, then the A/E shall immediately report the Defective Work to the Contracting Authority and the Owner, together with recommendations for the correction thereof, and shall deliver written notice to the Contractor to correct such Defective Work. Such written notice shall specify the time within which the Contractor shall correct the Work. (“72-Hour Notice”)

7.5.5.1 If the Project is administered using OAKS CI, the A/E shall issue written notice of defective work to the Contractor with copies to the Contracting Authority and the Owner, through the “72 Hour Notice” business process.

7.5.6 The A/E may disapprove or reject any item of Work that it believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents.

7.5.7 The A/E shall immediately notify the Contracting Authority and the Owner any time the A/E disapproves or rejects an item of Work.

7.6 Investigation of Conditions for Renovation or Remodeling

7.6.1 For renovation and remodeling, the A/E shall, as portions of the Project become accessible, investigate existing conditions, and verify the accuracy of information provided by the Owner about such existing conditions.

7.7 Interpretations

7.7.1 The A/E shall render interpretations of the Contract Documents necessary for the proper execution or progress of the Work on the Project.

7.7.2 The A/E shall respond to the Contractor’s Request for Interpretation (“RFI”) within 3 days of receiving the RFI.

7.7.3 All interpretations shall be in writing, shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be delivered to the Contracting Authority, the Owner, and the Contractor.

7.7.4 The A/E shall keep a log of all RFIs and their respective responses.

7.7.5 If the Project is administered using OAKS CI, the A/E shall render its interpretations to the Contracting Authority, the Owner, and the Contractor through the “Request for Interpretations” business process.

7.8 Differing Site Condition Investigation

7.8.1 Promptly after receiving notice of a Differing Site Condition from the Contractor, the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition.

7.8.2 The A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

7.8.3 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall prepare (as appropriate) a resulting Change Order or a Change Directive through which the Contracting Authority may convey its disagreement with the A/E's determination.

7.9 Coordination Drawings

7.9.1 The A/E shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals established in the coordination meetings.

7.9.2 The A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

7.9.3 If installed Work causes or contributes to interference with subsequent Work of a Separate Contractor, the A/E shall determine the needed modifications to the installed Work to accommodate the subsequent Work.

7.9.4 If the Project is administered using OAKS CI, the A/E shall receive and forward Coordination Drawings to its Consultants using the "Submittals" business process.

7.10 Submittal Review

7.10.1 The A/E shall review Submittals such as Shop Drawings, Product Data, and Samples for conformity with design intent and conformity with the Contract Documents within 14 days of receiving Submittals or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor.

7.10.2 The A/E shall also review drawings, calculations, and designs required of the Contractor and its Subcontractors and provided with such Submittals (except calculations and designs of manufacturers of original equipment and systems to be installed in the Project and except calculations and designs which the Contract Documents expressly make the sole responsibility of the Contractor or one or more Subcontractors, Material Suppliers, or other persons).

7.10.3 The A/E shall act upon resubmission of corrected Submittals within 14 days of receiving them, or other period as mutually agreed by the A/E and the Contractor.

7.10.4 The Contractor shall review and stamp "approved" all Submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the Submittals, or has conducted an incomplete review of them, the A/E may reject the Submittals.

7.10.5 The A/E may hold samples and other Submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until Submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that its Submittal is being held, within 7 days of receiving it.

7.10.6 If the Project is administered using OAKS CI, the A/E shall receive and forward submittals to its Consultants, and return reviewed submittals to the Contractor, using the "Submittals" business process.

7.11 Additional Tests and Inspections

7.11.1 If the A/E determines that any portion of the Work requires inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order the inspection, testing, or approval.

7.11.2 Within 5 days after completion of an inspection, test, or approval, the A/E shall provide an original report of the inspection, test, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

7.11.3 The Owner shall reimburse the A/E for the special inspection, test, or approval as a change in the Services.

7.11.4 The A/E shall not be reimbursed or otherwise compensated for any special inspection, testing, or approval made necessary by the act or omission of the A/E or any Consultant of the A/E.

7.12 Change Order Procedure

7.12.1 Paperwork Consolidation.

7.12.1.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same change-related document.

7.12.1.2 Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.

7.12.1.3 Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.

7.12.2 Change Order Numbering.

7.12.2.1 The A/E shall assign a number to each Modification, which shall uniquely identify it.

7.12.2.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.12.2.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

7.12.3 Change Order Log.

7.12.3.1 The A/E shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:

- .1 number of the Modification;
- .2 a brief description of the Modification;
- .3 cost of the Modification;
- .4 schedule impact of the Modification; and
- .5 dates sent to, and received from, the parties.

7.12.4 Reconciliation of Unit Price Items.

7.12.4.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.12.4.2 The A/E shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.12.4.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or the Contractor, the A/E shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

7.12.4.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Change Directive and subsequent Change Order to authorize an adjustment in the scheduled quantity.

7.12.5 Change Orders.

7.12.5.1 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order form to the Contractor for signature.

7.12.5.2 When the A/E receives the Change Order signed by the Contractor, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.12.5.3 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Change Orders for approval, using the “Change Order” business process.

7.12.6 Proposal Requests.

7.12.6.1 The A/E shall prepare Proposal Requests with estimated costs and other necessary documentation seeking Proposals from the Contractor for adjustments of the Contract Sum or the Contract Times, or both, associated with potential and proposed changes in the Work.

7.12.6.2 If the Project is administered using OAKS CI, the A/E shall prepare and distribute Proposal Requests using the “Change Order” business process with the “Proposal Request” workflow.

7.12.7 Request for Change Order.

7.12.7.1 The Contractor may initiate a change in the Work by submitting written notice to the A/E accompanied by a Proposal. The A/E shall promptly evaluate the Request for Change Order and submit a written recommendation to the Contracting Authority and the Owner.

7.12.7.2 If the Project is administered using OAKS CI, the A/E shall respond to the Contractor’s Request for Change Order using the “Change Order” business process.

7.13 Change Directives

7.13.1 A Change Directive may, if necessary:

7.13.1.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.13.1.2 Limit the scope of the change in the Work by a fixed adjustment of the Contract Sum.

7.13.2 If a change in the Contractor’s Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E shall prepare a Change Directive, for the Contracting Authority’s and Owner’s signatures pursuant to Section 7.13.1, authorizing the Contractor to proceed.

7.13.3 A Change Directive shall be used to direct a change in a Contractor’s Work in the absence of total agreement on the terms of a Change Order.

7.13.4 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Change Directives for approval, using the “Change Order” business process with the “Change Directive” workflow.

7.14 Orders for Minor Changes in the Work

7.14.1 The A/E may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents.

7.14.2 The A/E shall issue orders for minor changes in the Contractor’s Work by written order to the Contractor. The A/E shall keep a log of all Orders for Minor Change in the Work.

7.14.3 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Orders for Minor Changes in the Work for approval, using the “Action Items” business process.

7.15 Claims Analysis

7.15.1 The A/E, in consultation with the Contracting Authority, shall respond to the Contractor’s written notice of a claim within a reasonable time of receipt, but not to exceed 10 days.

7.15.2 The A/E shall review each Contractor claim, prepare a written analysis of its content, and submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor’s substantiated and certified claim. The written analysis shall include:

7.15.2.1 A narrative of the A/E’s examination of the facts giving rise to the claim;

7.15.2.2 Identification of relevant Contract Documents and language;

7.15.2.3 An analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to claim initiation and substantiation including, but not limited to, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Times, or both;

7.15.2.4 An analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

7.15.2.5 An analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

7.15.2.6 A concluding opinion regarding the Contractor's entitlement to, and the appropriateness and reasonableness of all, or any part of, the claim; and

7.15.2.7 An appendix containing copies of contemporaneous documentation supporting the concluding opinion.

7.15.3 The A/E shall attend dispute resolution meetings convened by the Contracting Authority related to each claim.

7.16 Project Costs

7.16.1 The A/E shall monitor Project cost accounting records on Work performed by the Contractor under unit costs, actual costs for labor and materials, or other appropriate basis. The A/E shall afford the Contracting Authority and the Owner access to these records at all times.

7.17 Schedule of Values

7.17.1 The Contractor shall submit to the A/E a Schedule of Values with separate amounts shown for labor and materials for each branch of the Contractor's Work.

7.17.2 The A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to the requirements in the General Conditions.

7.17.3 If the Project is administered using OAKS CI, the A/E shall receive and process the Contractor's Schedule of Values, using the "Contract Schedule of Values" business process.

7.18 Payments

7.18.1 The Contractor may submit a Contractor Payment Request to the A/E each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

7.18.1.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the A/E not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

7.18.1.2 The A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

7.18.1.3 The Contractor shall incorporate the A/E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

7.18.2 Based upon the A/E's review of the applicable Work and evaluations of the Contractor Payment Request, the A/E shall review and approve, modify, or reject the amounts shown on such Payment Request as being due to the Contractor.

7.18.3 The A/E may request, from a Contractor, additional documentation in connection with each payment to the Contractor.

7.18.4 Each Contractor Payment Request that the A/E determines that it will recommend shall be signed by the A/E and delivered to the Contracting Authority.

7.18.5 The A/E may recommend to the Contracting Authority that payments be withheld from, or Liquidated Damages be assessed against, a Contractor Payment Request.

7.18.6 If the Project is administered using OAKS CI, the A/E shall receive and approve the Contractor's Contractor Payment Request, using the "Contractor Pay Request" business process.

ARTICLE 8 - CLOSEOUT

8.1 Partial Occupancy

8.1.1 The A/E shall assist the Contracting Authority and the Owner in determining dates of Partial Occupancy of the Work or portions thereof designated by the Owner and shall assist in obtaining any certification required by Applicable Law.

8.1.2 Before the Owner commences Partial Occupancy, the A/E shall process a Certification of Contract Completion for the designated area listing incomplete or Defective Work under the Contract for approval of the Contracting Authority.

8.1.2.1 If the Project is administered using OAKS CI, the A/E shall process the partial Certification of Contract Completion, using the "Closeout - Contractor" business process.

8.2 Contract Closeout

8.2.1 Within 3 business days of receipt of the Contractor's request for the A/E's Review of the Work, the A/E shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

8.2.2 Within 7 days of its acceptance of a Contractor's request, the A/E shall conduct the A/E's Review to determine whether the Contractor's Work, or the designated portion, is in conformity with the Contract Documents.

8.2.3 The A/E shall notify the Contractor, Contracting Authority, and Owner of the scheduled time of the A/E's Review.

8.2.4 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List"). The A/E shall include comments from the Contracting Authority and Owner in the A/E's Punch List.

8.2.4.1 If the Project is administered using OAKS CI, the A/E shall receive the Contractor's Punch List and distribute the A/E's Punch List, using the "Punch List" business process.

8.2.5 If the A/E accepts the Contractor's request for the A/E's Review of the Work and subsequently reasonably determines that the Work is not in conformity with the Contract Documents, the A/E may request compensation for expenses related to excessive Punch List activities.

8.2.6 Within 3 business days of receipt of the Contractor's notice that all Punch List items have been completed, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.

8.2.7 If multiple inspections of items on the A/E's Punch List are required because of the Contractor's failure to properly and timely complete them, the A/E may request compensation for expenses related to excessive Punch List activities.

8.2.8 When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the Contracting Authority's sole discretion.

8.2.9 The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

8.2.10 When all items on the A/E's Punch List have been completed to the A/E's satisfaction and all requirements of the Contract Documents have been completed, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

8.2.10.1 If the Project is administered using OAKS CI, the A/E shall process the Final Certification of Contract Completion, using the "Closeout - Contractor" business process.

8.2.11 Upon execution of a Final Certification of Contract Completion, the A/E shall receive, review for conformity with the requirements of the Contract Documents, and transmit to the Contracting Authority any affidavits and turn over to the Owner any keys, manuals and the originals of any guarantees, warranties, releases, bonds, and waivers.

8.2.12 The A/E shall transmit a copy of any guarantees, warranties, releases, bonds, and waivers to the Contracting Authority.

8.3 Record Documents

8.3.1 The A/E shall prepare the Record Documents by revising the Contract Documents and related electronic files on the basis of the information contained on the As-Built Documents submitted by the Contractor and the A/E's observations during the progress of the Project. The Record Documents shall detail the actual construction of the Project and contain such annotations by the A/E as may be necessary for someone unfamiliar with the Project to understand the changes that were made to the Contract Documents.

8.3.2 The A/E shall label the revised Contract Documents and related electronic files as "Record Documents" and reflect the date on which the A/E finished preparing them.

8.3.3 The A/E shall furnish to the Owner one set of Record Documents in the form of paper documents and one set in the form of electronic files.

8.3.4 By submitting the Record Documents to the Owner, the A/E certifies that the Record Documents are complete, correct, and accurate, to the best of the A/E's knowledge based upon the As-Built Documents delivered to the A/E by the Contractor and the A/E's observations during the progress of the Project.

8.4 Post-Occupancy Inspection

8.4.1 The A/E shall participate in a walk-through of the Project with the Owner one month prior to the expiration of each Correction Period. The A/E shall consult with the Owner to address any issue identified in the walk-through according to the procedures specified in the Standard Requirements. The A/E shall notify the Contractor of such defects in writing with a request that the Contractor correct the deficient work, prior to the end of the Correction Period.

ARTICLE 9 - ADDITIONAL SERVICES

9.1 General

9.1.1 Services Not Included in Basic Services.

9.1.1.1 The A/E shall provide the services listed in Sections 9.1.2 through 9.1.18 as Additional Services only when identified in the Agreement Form and approved in writing by the Contracting Authority in consultation with the Owner.

9.1.1.2 The Fee for the Additional Services listed in Sections 9.1.2 through 9.1.18 shall be paid as provided in the Agreement Form, in addition to payment for the Basic Services; however, the A/E shall not be compensated for any of the Additional Services listed in Sections 9.1.2 through 9.1.18 made necessary by any act or omission of the A/E or any of the A/E's Consultants.

9.1.1.3 Unless waived by the Contracting Authority in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

9.1.2 Specialized Services. Providing specialized design and engineering services, including, but not limited to, services for acoustical analysis or design, computer services, communication consultant services, design or specification of unusual or large volumes of fixtures, furnishings, and equipment.

9.1.3 Additional On-Site Services. Providing administration or observation of construction beyond the Basic Services provided pursuant to Exhibit B.

9.1.4 Extensive Change Orders. Preparing Drawings, Specifications, cost estimates, and other documents and supporting data in connection with Change Orders beyond those services to be reasonably provided as Basic Services, pursuant to Exhibit B.

9.1.5 Partnering and Scheduling Consultants. Serving as a partnering or construction scheduling consultant or providing such consulting services.

9.1.6 Perspectives, Models, Renderings. Preparing professional perspectives, physical models, or renderings, which are not otherwise useful or necessary to the A/E in providing the Basic Services required hereunder and which are provided at the prior written request of the Contracting Authority in consultation with the Owner.

9.1.7 Grant Applications. Preparing applications and supporting documents for governmental grants, loans, or advances.

9.1.8 Special Studies. Providing planning services, site evaluations, environmental studies, or comparative studies of prospective sites, preparing special surveys, studies, and submissions required under Applicable Law.

9.1.9 Surveys. Providing surveying services, including land surveys and rights-of-way studies.

9.1.10 Investigation of Conditions for New Construction. Providing services for new construction to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

9.1.11 Constructability and Cost Analyses. Preparing extensive analyses of the construction feasibility of the Project or of owning and operating costs, or preparing detailed quantity surveys or inventories of material, equipment, and labor beyond those services to be reasonably provided as Basic Services in Exhibit B.

9.1.12 Off-Site Services. Providing planning or design services for off-site utilities, which are not adjacent to the Project, building connections, or roadways.

9.1.13 Certain Revisions. Making revisions in Drawings, Specifications, or other Contract Documents at the request of the Contracting Authority when such revisions are inconsistent with written approvals or instructions previously given or are required by the enactment or revision of Applicable Law subsequent to the preparation of such documents.

9.1.14 Replacement Work. Providing consultation and other services in connection with replacement of any Work damaged by fire, casualty, or other incident not caused by negligence of the A/E or any Consultant.

9.1.15 Contractor Default. Providing services made necessary by the Contractor's default.

9.1.16 Additional Documents. Providing more sets of Contract Documents than the number required as Basic Services pursuant to Exhibit B.

9.1.17 Special Inspections Required by the Ohio Building Code.

9.1.17.1 The special inspections indicated in the current edition of the OBC Chapter 17 are not included as Basic Services; however, in the event such special inspections are required as a condition of the Plan Approval issued by the Building Authority having jurisdiction for the Project, the A/E shall provide the

special inspections and be compensated for such as Additional Services, and shall provide written notice to the Contractor, the Owner, and the Contracting Authority of the Special Inspection to be performed.

9.1.17.2 The A/E shall not be compensated for any such Additional Services made necessary by the act or omission of the A/E or any Consultant of the A/E.

9.1.18 Quality Assurance Testing.

9.1.18.1 General Requirements.

- .1 The Quality Assurance (“QA”) Testing services listed under Sections 9.1.18.2 through 9.1.18.10, which is not intended to be an exhaustive list, are not included as Basic Services, however, the A/E shall provide such services when identified in the Agreement Form either itself (if qualified) or through a Consultant properly licensed to perform the required inspections and all related testing services.
- .2 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of quality assurance testing, structural testing and special inspections required under the current edition of Ohio Building Code (“OBC”) Chapter 17.
- .3 Such testing and inspections shall include geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing (e.g., medical gases testing, lead shielding, etc.); or approval required by Applicable Law.
- .4 The A/E shall identify the name or names of the Consultants it intends to use for all quality assurance and special inspections that would be reasonably anticipated for the Project and shall provide a Schedule of Fees for Typical Services for each Consultant. The A/E may include a negotiated markup for the Consultant services used.

9.1.18.2 Geotechnical Analysis. Sampling and analysis of soils and hydrologies, and subsequent reporting and recommendations, upon which architectural and engineering designs may be based. Applicable to Construction Stage observation, testing, and reporting of soils conditions, including testing for types and quality of fill material and its installation, compaction, soil density testing, caisson borings inspections, cut and fill monitoring, etc.

9.1.18.3 Environmental Testing and Analysis. Sample and analysis of existing conditions or materials for any of a variety of environmental materials, including Hazardous Materials and suspected Hazardous Materials, and subsequent reporting.

9.1.18.4 Concrete. Test for general quality, such as: slump, air entrainment, cylinder test, core test, swiss hammer.

9.1.18.5 Masonry. Includes such testing as prism tests, mortar cube, grout tests, water infiltration.

9.1.18.6 Structural Steel, Reinforcing Steel, Welding, Bolts and Connections. Includes any testing and reporting of any type of steel, including those listed above.

9.1.18.7 HVAC Systems and Controls. Includes testing and balancing of any or all HVAC components including controls systems.

9.1.18.8 Plumbing and Piping. Includes testing of water, waste, vent and process piping, and provide associated reporting.

9.1.18.9 Air and Water Testing and Balancing. Includes testing and balancing of various pneumatic and hydronic piping, and provide associated reporting.

9.1.18.10 Other. (e.g., Medical Gases testing, Lead Shielding, etc.)

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Exhibit B - Architect/Engineer's Scope of Services

State of Ohio Professional Services Agreements

Construction Manager at Risk Project



ARTICLE 1 - ARCHITECT/ENGINEER'S BASIC SERVICES

1.1 General

1.1.1 Basic Services to be provided by the Architect/Engineer ("A/E") shall consist of the activities and stages set forth in Article 2 through Article 9, inclusive, and include, but are not limited to, normal architectural, civil, structural, mechanical, electrical, and landscape design and engineering services for the Project, any necessary signage and graphics, and any services necessary to comply with the ORC Section 3379.10 Percent for Arts Program.

1.2 Sustainability Requirements

1.2.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policies, and procedures adopted by the Department establishing Sustainability Requirements for Capital Improvements Projects.

1.2.2 The A/E shall incorporate cost-effective, energy-efficient, green-building practices to the maximum extent possible into the Project.

1.3 Best Value Selection of Contractor

1.3.1 To the extent the Contracting Authority requests, the A/E shall assist the Contracting Authority with the selection of the Contractor, which will serve as the Project's construction-manager at risk.

1.4 Consultation

1.4.1 The A/E with the Contractor shall jointly schedule and attend regular meetings with the Contracting Authority and the Owner. The A/E shall consult with the Contracting Authority, the Owner, and Contractor regarding Site use and improvements and the selection of materials, building systems, and equipment. The A/E shall give due consideration to the Contractor's recommendations to the Contracting Authority, the Owner, and A/E on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, budgets and possible economies.

1.4.2 At all appropriate times throughout the performance of the Work, the A/E shall contact, meet, consult, and otherwise coordinate with the Contracting Authority, the Owner, the Contractor, governmental authorities with jurisdiction over the Project, and others for the purpose of facilitating the Project's design and construction.

1.5 Design Schedule

1.5.1 Within 10 days after the execution of this Agreement, or other period agreed with the Contracting Authority, the A/E shall submit, for approval by the Contracting Authority and the Owner, a Design Schedule for the performance of the A/E's Services.

1.5.2 The Design Schedule shall include allowances for reasonable periods required for the review and approval of items by the Contracting Authority and the Owner, and for approvals of governmental authorities having jurisdiction over the Project.

1.5.3 Unless the Contracting Authority or the Owner notify the A/E of objections to the Design Schedule within 30 days of receipt thereof, the Contracting Authority and the Owner shall be deemed to have approved the Design Schedule.

1.5.4 The A/E shall coordinate the Design Schedule with the Project Schedule.

1.5.5 The A/E shall not exceed or adjust the Design Schedule after its initial approval without the prior written consent of the Contracting Authority and the Owner.

1.5.6 The A/E shall perform its Services in a timely manner consistent with the Project Schedule.

ARTICLE 2 - PROGRAM VERIFICATION STAGE

2.1 Organizational Meeting

2.1.1 Commencement.

2.1.1.1 The A/E's Services will begin on the date set forth in a notice that the Contracting Authority will issue to the A/E.

2.1.1.2 Unless the Contracting Authority agrees otherwise in writing, the A/E's Services will begin with an organizational meeting between the Contracting Authority, the Owner, the A/E, and the Contractor. All of the A/E's key personnel involved in the Project shall attend the organizational meeting.

2.1.2 During the organizational meeting, the attendees will:

2.1.2.1 review the responsibilities of each of the Contracting Authority's and the Owner's key personnel involved in the Project;

2.1.2.2 review the scope of the A/E's Services and the responsibilities of each of the A/E's key personnel involved in the Project;

2.1.2.3 review the scope of the Contractor's services and the responsibilities of each of the Contractor's key personnel involved in the Project;

2.1.2.4 review and establish lines of communication between the Contracting Authority, the Owner, the A/E, and the Contractor; and

2.1.2.5 review the then-available programming and other documents which reflect the current status of the Project's design.

2.1.3 Within 5 days after the organizational meeting is adjourned, the Contractor will submit a proposed Project Schedule to the Contracting Authority, the Owner, and the A/E.

2.1.3.1 The Contracting Authority, the Owner, the A/E, and the Contractor will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision.

2.1.3.2 The A/E shall align the Design Schedule with the agreed-upon initial Project Schedule.

2.1.4 Within 5 days after the organizational meeting is adjourned, the A/E will prepare and distribute the meeting's minutes.

2.1.4.1 If the Project is administered using OAKS CI, the A/E shall distribute the minutes of the organizational meeting through the "Meeting Minutes" business process.

2.2 Program Verification Stage

2.2.1 Commencement.

2.2.1.1 Unless the Contracting Authority directs otherwise in writing, the Program Verification Stage will begin upon completion of the activities described under Section 2.1.

2.2.2 In addition to performing those Services required to comply with Section 2.2.3, during the Program Verification Phase, the A/E shall:

2.2.2.1 review the preliminary Project needs, design, schedule, and budget information furnished by the Contracting Authority and the Owner to ascertain the requirements of the Project and arrive at a mutual

understanding of the Project's preliminary requirements with the Contracting Authority, the Owner, and the Contractor;

2.2.2.2 verify Owner-provided drawings and information concerning existing buildings, utilities, and other conditions, and prepare measured drawings of existing conditions when necessary to properly perform the Services;

2.2.2.3 document and evaluate existing building and utilities systems to be affected during the Project; and

2.2.2.4 meet with the Contracting Authority to identify and evaluate Program requirements.

2.2.3 A/E's Program Submission.

2.2.3.1 Based upon a mutual understanding of the Project's preliminary requirements, the A/E shall prepare the Program Documents. At the completion of the Program Phase, the A/E shall submit the provisional Program Documents to the Contracting Authority, the Owner, and the Contractor.

2.2.3.2 The provisional Program Documents shall be in the form of a written report, which may include graphics, but shall include:

- .1 an executive summary of the Program Documents;
- .2 a narrative description of the Project and the design goals;
- .3 a description of space requirements, including a listing of the desired spaces and an identification of each space's basic criteria such as dimensions, proportions, ceiling heights, and service, equipment, storage, utility, access, flexibility, configuration, security, adjacency, aesthetic, and other requirements;
- .4 a description of planning and design criteria such as workstation, office/room standards; clustering and layout criteria; circulation criteria; applicable space-planning modules; dimensional criteria; building systems interface criteria; envelope criteria; accessibility requirements; and a description of performance criteria applicable to building components such as envelope, structure, interior construction, and mechanical, electrical, and plumbing systems;
- .5 a preliminary estimate of Construction Cost ("A/E's Program Estimate") using area, volume or similar conceptual estimating techniques;
- .6 a preliminary evaluation of the Program, Project Schedule, and Construction Budget requirements, each in terms of the other including a description of the distribution of the Construction Budget between major Project components, contingencies, and other categories the Contracting Authority may designate;
- .7 preliminary recommendations regarding selection of materials, building systems, and equipment;
- .8 a review of feasible alternative approaches to the design and construction of the Project, if any, including the estimated budget and schedule impacts of those alternative approaches;
- .9 an identification of Applicable Law; and
- .10 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

2.2.3.3 If the Project is administered using OAKS CI, the A/E shall submit its provisional Program Documents, and any revisions, to the Contractor through the "Program of Requirements" business process.

2.2.4 Review of Provisional Program Documents.

2.2.4.1 The Contractor will review the provisional Program Documents after receiving them. At the completion of that review, the Contractor will provide a written "Opinion of Document Characteristics" to the Contracting Authority and send a copy of the Opinion to the A/E.

2.2.4.2 Through that Opinion, the Contractor will document the Contractor's opinion of the provisional Program Documents in terms of what the Contractor would reasonably expect to see in program

documents on a similar project. The Contracting Authority's agreement with the Contractor further defines the criteria of the Contractor's review.

2.2.4.3 If it is the Contractor's opinion that the Program Documents do not reflect what the Contractor would reasonably expect to see in program documents on a similar project, the A/E shall immediately meet with the Contracting Authority and the Contractor to review the Opinion. The Contracting Authority will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of its documents under Section 2.2.3 and the Contractor's re-evaluation of them.

2.2.5 Program Verification Stage Submission.

2.2.5.1 At the completion of the activities described under Section 2.2.3.3 and on the basis of the provisional Program Documents, the Contractor will submit its Program Verification Stage Submission, which will include the Contractor's estimate of Construction Costs ("Contractor's Program Estimate").

- .1 If the Contractor's Program Estimate exceeds the Construction Budget by more than 5% of the Budget or exceeds the A/E's Program Estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the A/E to immediately work with the Contractor to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The Contractor will present those proposals as an addendum to its Program Verification Stage Submission.

2.2.6 Program Documents Review.

2.2.6.1 The Contracting Authority, the A/E, and the Contractor shall meet to review the provisional Program Documents and the Contractor's Program Verification Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Program Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Program Documents and the Contractor's Program Verification Stage Submission.

2.2.6.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E and Contractor shall revise their respective Program Verification Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Program Verification Stage submissions and sign the related Design Review Acceptance form, the revised Program Verification Stage submissions shall become the Approved Program of Requirements.

ARTICLE 3 - SCHEMATIC DESIGN STAGE

3.1 Commencement

3.1.1 Unless the Contracting Authority directs otherwise in writing, the Schematic Design Stage will begin upon completion of the activities described under Section 2.2.6.

3.2 General Requirements

3.2.1 In addition to performing those Services required to comply with Sections 3.3 and 3.4, during the Schematic Design Stage, the A/E shall:

3.2.1.1 advise the Contracting Authority, the Owner, and the Contractor in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

3.2.1.2 meet with the Contracting Authority, the Owner, and the Contractor at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Schematic Design Stage of the Project;

3.2.1.3 further evaluate and refine the Approved Program of Requirements;

- 3.2.1.4 develop estimates of the Construction Costs in increasing detail;
- 3.2.1.5 identify all issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- 3.2.1.6 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;
- 3.2.1.7 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project;
- 3.2.1.8 assist the Owner and Contractor with filing documents required for the approvals of governmental authorities with jurisdiction over the Project;
- 3.2.1.9 work with the Contractor to locate new grading, drainage, and Site utilities;
- 3.2.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment; and
- 3.2.1.11 assist the Contractor with the Contractor's obligations to provide recommendations on construction feasibility, availability of materials and labor (including actions designed to minimize adverse effects of labor shortages), time requirements for construction, and factors related to Project cost, including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

3.3 Preliminary Life Cycle Cost Analysis

3.3.1 At the time set forth in the Project Schedule, the A/E shall prepare and submit three design concepts for a preliminary Life Cycle Cost Analysis ("LCCA") and the preliminary LCCA for each concept to the Contractor. The Contractor shall promptly review, comment on, and forward the preliminary LCCAs with the Contractor's comments to the Owner and Contracting Authority.

3.3.2 The alternative design concepts may include:

- 3.3.2.1 A baseline alternative, which complies in all aspects with the requirements of the current version of the Ohio Building Code ("OBC"), including the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35;
- 3.3.2.2 A high-performance alternative, which demonstrates 20 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35; and
- 3.3.2.3 A high-performance alternative, which demonstrates 30 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35, and includes one or more renewable energy sources, such as waste heat recovery, solar energy, wind energy, biomass fuel energy, or geothermal energy.

3.3.3 The A/E shall base the Schematic Design Documents on the Owner's selected preliminary design concept.

3.4 A/E's Schematic Design Submission

3.4.1 At the completion of the Schematic Design Stage, the A/E shall submit the provisional Schematic Design Documents to the Contracting Authority, the Owner, and the Contractor.

3.4.1.1 The A/E shall also submit 1 copy of the provisional Schematic Design Documents to the State Security Coordinator (Department of Public Safety, 1970 West Broad Street, Columbus, Ohio 43223) for review and written comment.

3.4.2 The provisional Schematic Design Documents shall include:

- 3.4.2.1 a conceptual site plan and preliminary building plans, sections, and elevations illustrating the Project's scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;

3.4.2.2 if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials;

3.4.2.3 an estimate of Construction Cost (“A/E’s Schematic Design Estimate”) using area, volume or similar conceptual estimating techniques;

3.4.2.4 cost evaluations of alternative building systems and construction materials;

3.4.2.5 an identification of any unresolved issues related to compliance with Applicable Law;

3.4.2.6 a written description of all modifications of the Approved Program of Requirements;

3.4.2.7 if agreed in writing by the Contracting Authority, the A/E will develop study models, perspective sketches, electronic modeling, or combinations of those media; and

3.4.2.8 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

3.4.3 If the Project is administered using OAKS CI, the A/E shall submit its provisional Schematic Design documents, and any revisions, to the Contractor through the “Design Review” business process.

3.5 Review of Provisional Schematic Design Documents

3.5.1 The Contractor will review the provisional Schematic Design Documents after receiving them. At the completion of that review, the Contractor will provide a written “Opinion of Document Characteristics” to the Contracting Authority and send a copy of the Opinion to the A/E.

3.5.2 Through that Opinion, the Contractor will document the Contractor’s opinion of the provisional Schematic Design Documents in terms of what the Contractor would reasonably expect to see in schematic design documents on a similar project. The Contracting Authority’s agreement with the Contractor further defines the criteria of the Contractor’s review.

3.5.3 If it is the Contractor’s opinion that the Schematic Design Documents do not reflect what the Contractor would reasonably expect to see in schematic design documents on a similar project, the A/E shall immediately meet with the Contracting Authority and the Contractor to review the Opinion. The Contracting Authority will thereafter determine an appropriate course of action, which may include the A/E’s revision and resubmission of its documents under Section 3.4 and the Contractor’s re-evaluation of them.

3.6 Schematic Design Submission

3.6.1 At the completion of the activities described under Section 3.4.3 and on the basis of the provisional Schematic Design Documents, the Contractor will submit its Schematic Design Stage Submission, which will include the Contractor’s estimate of Construction Costs (“Contractor’s Schematic Design Estimate”).

3.6.1.1 If the Contractor’s Schematic Design Estimate exceeds the Construction Budget by more than 5% of the Budget or exceeds the A/E’s Schematic Design Estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the A/E to immediately work with the Contractor to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The Contractor will present those proposals as an addendum to its Schematic Design Stage Submission.

3.7 Schematic Design Documents Review

3.7.1 The Contracting Authority, the A/E, and the Contractor shall meet to review the provisional Schematic Design Documents and the Contractor’s Schematic Design Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Schematic Design Documents and the Contractor’s Schematic Design Stage Submission.

3.7.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E and Contractor shall revise their respective Schematic Design Stage submissions to reflect

the adjustments and clarifications agreed upon in the review meeting (including any comments from the State Security Coordinator, which have been reviewed and approved by the Owner), and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Schematic Design Stage submissions and sign the related Design Review Acceptance form, the revised Schematic Design Stage submissions shall become the final Schematic Design Documents.

ARTICLE 4 - DESIGN DEVELOPMENT STAGE

4.1 Commencement

4.1.1 Unless the Contracting Authority directs otherwise in writing, the Design Development Stage will begin upon completion of the activities described under Section 3.7.

4.2 General Requirements

4.2.1 In addition to performing those Services required to comply with Sections 4.3 and 4.4, during the Design Development Stage, the A/E shall:

4.2.1.1 advise the Contracting Authority, the Owner, and the Contractor in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

4.2.1.2 meet with the Contracting Authority, the Owner, and the Contractor at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Design Development Stage of the Project;

4.2.1.3 further evaluate and refine the Approved Program of Requirements;

4.2.1.4 develop estimates of the Construction Costs in increasing detail;

4.2.1.5 prepare and submit a sole-source justification letter describing any materials, products, or systems included in the Work that are only available from a single manufacturer, supplier, or contractor to the Contracting Authority for its approval in writing;

4.2.1.6 resolve all issues related to compliance with Applicable Law (except to the extent stated otherwise in writing by the A/E for necessary variances and waivers at the time of the A/E's provisional Design Development Document submission) and participate in related meetings with government authorities that have jurisdiction over the Project;

4.2.1.7 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

4.2.1.8 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project;

4.2.1.9 assist the Owner and Contractor with filing documents required for the approvals of governmental authorities with jurisdiction over the Project;

4.2.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment; and

4.2.1.11 assist the Contractor with the Contractor's obligations to provide recommendations on construction feasibility, availability of materials and labor (including actions designed to minimize adverse effects of labor shortages), time requirements for construction, and factors related to Project cost, including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

4.3 Life Cycle Cost Analysis

4.3.1 The A/E shall prepare and submit 3 copies of the revised LCCA for the selected design concept to the Contractor. The Contractor shall promptly review, comment on, and forward the revised Life Cycle Cost Analysis with the Contractor's comments to the Owner and Contracting Authority.

4.3.2 If the Project creates or renovates an area greater than 5,000 square feet, the A/E shall also submit the revised LCCA to the Department's Office of Energy Services.

4.4 A/E's Design Development Submission

4.4.1 At the completion of the Design Development Stage, the A/E shall submit the provisional Design Development Documents to the Contracting Authority, the Owner, and the Contractor.

4.4.2 The provisional Design Development Documents shall include:

4.4.2.1 plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural, structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;

4.4.2.2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;

4.4.2.3 a detailed estimate of Construction Cost ("A/E's Design Development Estimate");

4.4.2.4 a written description of all proposed or previously agreed upon Alternates, which description may be included in the specifications rather than as a separate document;

4.4.2.5 a written description of all proposed or previously agreed upon Allowances;

4.4.2.6 an identification of any unresolved issues related to compliance with Applicable Law;

4.4.2.7 the A/E's Design Intent Statement;

4.4.2.8 a written description of all modifications of the Approved Program of Requirements; and

4.4.2.9 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

4.4.3 If the Project is administered using OAKS CI, the A/E shall submit its Design Development documents and any changes or revisions to the Contractor through the "Design Review" business process.

4.5 Review of Provisional Design Development Documents

4.5.1 The Contractor will review the provisional Design Development Documents after receiving them. At the completion of that review, the Contractor will provide a written "Opinion of Document Characteristics" to the Contracting Authority and send a copy of the Opinion to the A/E.

4.5.2 Through that Opinion, the Contractor will document the Contractor's opinion of the provisional Design Development Documents in terms of what the Contractor would reasonably expect to see in design development documents on a similar project. The Contracting Authority's agreement with the Contractor further defines the criteria of the Contractor's review.

4.5.3 If it is the Contractor's opinion that the Design Development Documents do not reflect what the Contractor would reasonably expect to see in design development documents on a similar project, the A/E shall immediately meet with the Contracting Authority and the Contractor to review the Opinion. The Contracting Authority will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of its documents under Section 4.4 and the Contractor's re-evaluation of them.

4.6 Design Development Submission

4.6.1 At the completion of the activities described under Section 4.4.3 and on the basis of the provisional Design Development Documents, the Contractor will submit its Design Development Stage Submission, which will include the Contractor's estimate of Construction Costs ("Contractor's Design Development Estimate").

4.6.1.1 If the Contractor's Design Development Estimate exceeds the Construction Budget or varies from the A/E's Design Development Estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the A/E to immediately work with the Contractor to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The Contractor will present those proposals as an addendum to its Design Development Stage submission.

4.7 Design Development Documents Review

4.7.1 The Contracting Authority, the A/E, and the Contractor shall meet to review the provisional Design Development Documents and the Contractor's Design Development Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Design Development Documents and the Contractor's Design Development Stage Submission.

4.7.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E and Contractor shall revise their respective Design Development Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Design Development Stage submissions and sign the related Design Review Acceptance form, the revised Design Development Stage submissions shall become the final Design Development Documents.

ARTICLE 5 - GMP PROPOSAL AND AMENDMENT

5.1 Commencement

5.1.1 Unless the Contracting Authority agrees otherwise in writing, the GMP Proposal and Amendment process will begin upon the completion of the activities described in Section 4.7.2.

5.1.1.1 This Article 5 and related provisions of this Agreement are based upon the assumption that there will be only one GMP Amendment for the Project. The parties recognize, however, that during the Preconstruction Stage, the Contracting Authority and the Contractor may decide to use more than one GMP Amendment for the Project in order to accommodate Phased construction. In that case, the Contracting Authority and the Contractor will execute a GMP Amendment for each Phase with each amendment after the first one supplementing the previous amendment(s).

5.2 A/E's Services

5.2.1 The A/E shall meet with the Contracting Authority, the Owner, and the Contractor to review the GMP Proposal and to agree on necessary clarifications or adjustments of the GMP Proposal. Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Contractor shall revise the GMP Proposal to reflect the clarifications and adjustments, and resubmit it to the Contracting Authority, the Owner, the A/E. Thereafter, the Contracting Authority, the Owner, the A/E, and the Contractor shall meet to review the revised GMP Proposal and to agree on necessary clarifications or adjustments of the GMP Proposal.

5.2.2 If the Contractor's proposed Contract Sum exceeds the Construction Budget, Construction Budget the Contracting Authority may in its complete discretion (1) require the A/E to re-perform previously completed Services as necessary to reconcile the Contract Sum with the Construction Budget; or (2) terminate the Agreement.

5.2.2.1 If the Contracting Authority chooses to proceed under Section 5.2.2 clause (1), the Contracting Authority may require the A/E to re-perform previously completed Services as many times as necessary to reconcile the proposed Contract Sum with the Construction Budget.

5.2.3 Before the Contracting Authority, the Owner, and the Contractor sign the GMP Amendment, the Contracting Authority may direct the A/E to revise the Design Development Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Proposal or agreements reached by the Contracting Authority, the Owner, and the Contractor to change or further define the Project.

5.2.4 After the Contracting Authority, the Owner, and the Contractor sign the GMP Amendment, the Contracting Authority may direct the A/E to revise the Design Development Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Amendment.

ARTICLE 6 - CONSTRUCTION DOCUMENTS STAGE

6.1 Commencement

6.1.1 Unless the Contracting Authority directs otherwise in writing, the Construction Documents Stage will begin upon completion of the activities described under Section 5.2.

6.2 General Requirements

6.2.1 In addition to performing those Services required to comply with Sections 6.4 and 6.5, during the Construction Documents Stage, the A/E shall:

6.2.1.1 advise the Contracting Authority, the Owner, and the Contractor in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

6.2.1.2 meet with the Contracting Authority, the Owner, and the Contractor at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Construction Documents Stage of the Project;

6.2.1.3 if professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor, specify all performance and design criteria that those services must satisfy;

6.2.1.4 incorporate into the Construction Documents the design requirements of government authorities with jurisdiction over the Project;

6.2.1.5 prepare the Drawings and Specifications to support the Contractor's plan for subcontracting the Work and to encourage competition considering general market conditions and any analysis of labor provided by the Contractor;

6.2.1.6 compile the Project Manual;

6.2.1.7 resolve all issues related to compliance with Applicable Law (except to the extent stated otherwise in writing by the A/E for necessary variances and waivers at the time of the A/E's provisional Construction Document submission) and participate in related meetings with government authorities that have jurisdiction over the Project;

6.2.1.8 ensure that the Work on the various building systems is coordinated, and proper coordination has been provided for phased construction, if any;

6.2.1.9 work with the Contractor to identify areas of the Project that have incomplete documentation or uncoordinated multi-discipline work and thereafter resolve those issues;

6.2.1.10 with the Contractor's assistance, develop and include Alternates in the Contract Documents;

6.2.1.11 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project; and

6.2.1.12 assist the Owner and Contractor with filing documents required for the approvals of governmental authorities with jurisdiction over the Project.

6.3 Notice of Project Changes

6.3.1 As the A/E develops the Construction Documents, the A/E shall:

6.3.1.1 promptly notify the Contracting Authority, the Owner, and the Contractor in writing of the need for any changes in Project requirements or in construction materials, systems, or equipment and of the need for any adjustments in the Contractor's Detailed Estimate of Construction Cost and the Project Schedule;

- .1 Upon prior written approval of the Owner and the Contracting Authority of any such changes or adjustments in Project requirements or in construction materials, systems, or equipment, the Contractor, with the assistance of the A/E, shall revise the Detailed Estimate of Construction Cost and Project Schedule, as applicable, incorporating such changes or adjustments.

6.3.1.2 promptly notify the Contracting Authority, the Owner, and the Contractor in writing of any revision of the Project that would cause a change in the Contract Sum or Contract Times.

- .1 If the Contracting Authority and the Owner approve of any such revision, the A/E shall prepare the related Change Order.
- .2 While preparing the Construction Documents, the A/E is not authorized to change the Project in any way that would cause a change in the Contract Sum or Contract Times except as provided under this Section 6.3.1.2.

6.4 Preliminary Submissions

6.4.1 No less than 30 days before the scheduled date for the completion of the Construction Documents, the Contractor and the A/E shall jointly deliver to the Contracting Authority for review the entire, fully prepared and compiled "front-end" of the Project Manual and Division 01 of the Specifications.

6.4.2 On the date which marks the expiration of 75 percent of the time allotted in the Project Schedule for the Construction Documents Stage, the A/E shall make the then-current Construction Documents ("75% Construction Documents progress submission") available for the Contractor to allow the Contractor to begin to prepare Bid documents such as Bid forms and Subcontractor scopes of work.

6.5 A/E's Construction Documents Submission

6.5.1 At the completion of the Construction Documents Stage, the A/E shall submit the provisional Construction Documents to the Contracting Authority, the Owner, and the Contractor.

6.5.2 The provisional Construction Documents shall be consistent with the GMP Documents and include:

- 6.5.2.1 Drawings setting forth in detail the requirements for the construction of the Project;
- 6.5.2.2 Specifications prepared in accordance with the most-current CSI *MasterFormat*;
- 6.5.2.3 the Project Manual; and
- 6.5.2.4 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

6.6 Review of Provisional Construction Documents

6.6.1 The Contractor will review the provisional Construction Documents after receiving them. At the completion of that review, the Contractor will provide a written "Opinion of Document Characteristics" to the Contracting Authority and send a copy of the Opinion to the A/E.

6.6.2 Through that Opinion, the Contractor will document the Contractor's opinion of the provisional Construction Documents in terms of what the Contractor would reasonably expect to see in construction documents on a similar project. The Contracting Authority's agreement with the Contractor further defines the criteria of the Contractor's review.

6.6.3 If it is the Contractor's opinion that the Construction Documents do not reflect what the Contractor would reasonably expect to see in construction documents on a similar project, the A/E shall immediately meet with the Contracting Authority and the Contractor to review the Opinion. The Contracting Authority will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of its documents under Section 6.5 and the Contractor's re-evaluation of them.

6.7 Construction Documents Submission

6.7.1 At the completion of the activities described under Section 6.6 and on the basis of the provisional Construction Documents, the Contractor will submit its Construction Documents Stage Submission.

6.7.1.1 If the Project is administered using OAKS CI, the A/E shall submit its Construction Documents and any revisions to the Contractor through the "Design Review" business process.

6.8 Construction Documents Review

6.8.1 The Contracting Authority, the A/E, and the Contractor shall meet to review the provisional Construction Documents and the Contractor's Construction Documents Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Construction Documents and the Contractor's Construction Documents Stage Submission.

6.8.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the A/E and Contractor shall revise their respective Construction Documents Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Construction Documents Stage submissions and sign the related Design Review Acceptance form, the revised Construction Documents Stage submissions shall become the final Construction Documents, subject to (1) execution of an appropriate Modification to incorporate the adjustments into the Contract and (2) further revisions as provided in the General Conditions.

6.9 Government Approvals

6.9.1 Plan Approval:

6.9.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

.1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

6.9.1.2 The A/E shall attend all intermediate and final inspections required for any permit applicable to the Work including without limitation the life safety inspection for occupancy permits.

6.9.2 Local Permits:

6.9.2.1 The A/E shall attend all intermediate and final inspections required for any local permit applicable to the Work.

6.9.3 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit:

6.9.3.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a "co-permittee" if required under Applicable Law.

6.9.3.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

6.9.3.3 The A/E shall prepare and process the required Notice of Termination (“NOT”) prior to Contract Completion.

6.9.4 If the Project is administered using OAKS CI, the A/E shall document transmission of government-approved Construction Documents and any changes or revisions to the Contracting Authority, the Owner, and the Contractor, through the “Transmittal” business process, with physical copies sent to their offices.

ARTICLE 7 - SUBCONTRACTOR BUYOUT

7.1 Prequalification Process

7.1.1 During the Prequalification Process, the Contractor shall, as appropriate, submit questions to the A/E. The A/E shall promptly respond to those questions.

7.1.2 If required by the Contracting Authority, the A/E shall meet with the Contracting Authority, the Owner, and the Contractor to review the qualifications of the prospective Bidders on the list the Contractor submits to the Contracting Authority.

7.2 Subcontract Bidding Process

7.2.1 During the Subcontract Bidding Process, the Contractor shall, as appropriate, forward questions from Bidders to the A/E. The A/E shall promptly respond to those questions.

7.2.2 During the Subcontract Bidding Process, the A/E shall prepare addenda for issuance to the prospective Bidders through the Contractor.

7.2.3 No less than 10 days before Work is to be performed by any Subcontractor, or within a shorter period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Subcontractor and Material Supplier Declaration form through which the Contractor identifies the Subcontractor. After receiving the form, the A/E shall verify that it is complete and deliver it to the Contracting Authority and the Owner. If the A/E finds the form incomplete, the A/E shall return it to the Contractor and identify the incomplete information.

7.2.3.1 If the Project is administered using OAKS CI, the A/E shall review and recommend approval or disapproval to the Contracting Authority of each Subcontractor through the “Subcontractor Supplier Declaration” business process.

7.3 Evaluation of Lower-Tier Subcontractors

7.3.1 As used in this Section 7.2.3.1, a “lower-tier Subcontractor” is any Subcontractor not in privity with the Contractor.

7.3.2 No less than 10 days before Work is to be performed by any lower-tier Subcontractor, or within a shorter period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Subcontractor and Material Supplier Declaration form through which the Contractor identifies the lower-tier Subcontractor. After receiving the form, the A/E shall verify that it is complete and deliver it to the Contracting Authority and the Owner. If the A/E finds the form incomplete, the A/E shall return it to the Contractor and identify the incomplete information.

7.3.2.1 If the Project is administered using OAKS CI, the A/E shall review and recommend approval or disapproval to the Contracting Authority of each proposed lower-tier Subcontractor through the “Subcontractor Supplier Declaration” business process.

7.4 Self-Performed Work

7.4.1 During the preparation of the Subcontracting Plan, the Contractor shall notify the Contracting Authority that the Contractor or a Contractor Affiliated Entity may Bid on a portion of the Work. The Contracting Authority, the Contractor, and the A/E shall review that Work in detail and agree on its scope before the Contractor finalizes the Subcontracting Plan.

ARTICLE 8 - CONSTRUCTION STAGE

8.1 Duration; Extent, Access

8.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Final Acceptance of the Project.

8.1.2 The A/E shall have access, at all times, to the Project whenever any Work is in preparation or in progress.

8.2 Progress of the Project

8.2.1 The A/E shall assist the Contractor to record the progress of the Project and provide written reports to the Contracting Authority and the Owner on a monthly basis, unless otherwise agreed in writing. Such reports shall include, but are not limited to, information on the Contractor's Work, as well as completion status on the entire Project, showing percentages of completion.

8.2.1.1 If the Project is administered using OAKS CI, the A/E shall issue written reports to the Contracting Authority, the Owner, and the Contractor through the "Field Reports" business process.

8.3 Construction Progress Schedule

8.3.1 The A/E shall review the Construction Progress Schedule for conformance with the Contract Documents, provide a copy of the Construction Progress Schedule and schedule of submittals to the Contracting Authority and the Owner.

8.3.1.1 If the Project is administered using OAKS CI, the A/E shall receive initial and updated schedules from the Contractor, and forward them to the Contracting Authority and the Owner, through the "Schedule Approvals" business process.

8.3.2 The A/E shall periodically inform the Contracting Authority and the Owner of the need to update the Project Schedule as required to show current conditions, including, but not limited to, conformance to the Construction Schedule, as updated from time to time.

8.3.2.1 If such conditions indicate that Milestone completion dates shown on the Project Schedule may not be met, the A/E shall recommend corrective action to the Contracting Authority and the Owner and carry out the directions of the Contracting Authority so that the Milestone completion dates may be met, unless the Contracting Authority and the Owner agree in writing to revise the Milestone completion dates.

8.4 Meetings

8.4.1 The A/E shall schedule, conduct, and participate in weekly progress meetings with the Contracting Authority, Owner, appropriate Consultants, the Contractor, Subcontractors, and any other parties involved in the Project to discuss such matters as procedures, progress, problems, and scheduling.

8.4.1.1 The A/E shall prepare and distribute written agendas and minutes of all progress meetings to the Contracting Authority, Owner, Contractor, and any other parties involved. The A/E shall not delegate the duty to prepare such agendas and minutes and shall distribute the written minutes of each meeting within 3 business days after the meeting.

- .1 If the Project is administered using OAKS CI, the A/E shall distribute meeting agendas and minutes to each Contractor, the Contracting Authority, and the Owner through the “Meeting Minutes” business process and document issues identified during progress meetings that require resolution by one or more construction participants through the “Action Items” business process.

8.4.1.2 The A/E shall attach the minutes of each progress meeting to the Contractor’s weekly written report as submitted to the A/E, describing progress on the Contractor’s and its Subcontractors’ past, current, and upcoming activities.

8.4.1.3 The minutes of each progress meeting shall reflect any objection made to the minutes of the previous meeting and any response.

8.4.1.4 The A/E shall notify the Contractor, and other Persons involved in the Project of the time and place of the progress meetings that shall thereafter be the same day and hour of the week for the duration of the Project, unless the A/E notifies the Contractors and other persons involved in the Project of a different day and hour at least 2 days in advance.

8.4.2 The A/E shall attend and participate in preconstruction, quality-control, pre-installation, and special meetings with the Contracting Authority, Owner, appropriate Consultants, the Contractor, Subcontractors, and any other parties involved in the Project.

8.5 Site Visits and Observation

8.5.1 The A/E shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes a period of 1 year after Final Acceptance.

8.5.2 The A/E shall designate a field representative, subject to the Contracting Authority’s approval, to review the Work of the Contractor for Defective Work, to maintain familiarity with the progress and quality of the Work on the Project, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

8.5.3 The A/E, and appropriate Consultants, shall also visit the Project at such intervals as the Contracting Authority requires, to review the Work of the Contractor for Defective Work, to become familiar with the progress and quality of the Work on the Project, and to determine if the Work is proceeding in conformity with the Contract Documents.

8.5.3.1 Such visits shall specifically include, but are not limited to, those listed in the Agreement, observation of large excavations, observation of footings during placement of concrete and observation of masonry work, structural steel erection, roofing work and interior finishes.

8.5.4 In all events, the A/E and appropriate Consultants, shall be at the Site for such purposes not less than the number of hours per week identified in the Agreement whenever any Work is in preparation or progress, unless otherwise expressly provided in writing by the Contracting Authority.

8.5.5 If the A/E becomes aware, either through such visits or otherwise, of any Defective Work on the Project, then the A/E shall immediately report the Defective Work to the Contracting Authority and the Owner, together with recommendations for the correction thereof, and shall deliver written notice to the Contractor to correct such Defective Work. Such written notice shall specify the time within which the Contractor shall correct the Work. (“72-Hour Notice”)

8.5.5.1 If the Project is administered using OAKS CI, the A/E shall issue written notice of defective work to the Contractor with copies to the Contracting Authority and the Owner, through the “72 Hour Notice” business process.

8.5.6 The A/E may disapprove or reject any item of Work that it believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents.

8.5.7 The A/E shall immediately notify the Contracting Authority and the Owner any time the A/E disapproves or rejects an item of Work.

8.6 Investigation of Conditions for Renovation or Remodeling

8.6.1 For renovation and remodeling, the A/E shall, as portions of the Project become accessible, investigate existing conditions, and verify the accuracy of information provided by the Owner about such existing conditions.

8.7 Interpretations

8.7.1 The A/E shall render interpretations of the Contract Documents necessary for the proper execution or progress of the Work on the Project.

8.7.2 The A/E shall respond to the Contractor's Request for Interpretation ("RFI") within 3 days of receiving the RFI.

8.7.3 All interpretations shall be in writing, shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be delivered to the Contracting Authority, the Owner, and the Contractor.

8.7.4 The A/E shall keep a log of all RFIs and their respective responses.

8.7.5 If the Project is administered using OAKS CI, the A/E shall render its interpretations to the Contracting Authority, the Owner, and the Contractor through the "Request for Interpretations" business process.

8.8 Differing Site Condition Investigation

8.8.1 Promptly after receiving notice of a Differing Site Condition from the Contractor, the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition.

8.8.2 The A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

8.8.3 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall prepare (as appropriate) a resulting Change Order or a Change Directive through which the Contracting Authority may convey its disagreement with the A/E's determination.

8.9 Coordination Drawings

8.9.1 The A/E shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals established in the coordination meetings.

8.9.2 The A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

8.9.3 If installed Work causes or contributes to interference with subsequent Work of a Separate Contractor, the A/E shall determine the needed modifications to the installed Work to accommodate the subsequent Work.

8.9.4 If the Project is administered using OAKS CI, the A/E shall receive and forward Coordination Drawings to its Consultants using the "Submittals" business process.

8.10 Submittal Review

8.10.1 The A/E shall review Submittals such as Shop Drawings, Product Data, and Samples for conformity with design intent and conformity with the Contract Documents within 14 days of receiving Submittals or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor.

8.10.2 The A/E shall also review drawings, calculations, and designs required of the Contractor and its Subcontractors and provided with such Submittals (except calculations and designs of manufacturers of original equipment and systems to be installed in the Project and except calculations and designs which the Contract Documents expressly make the sole responsibility of the Contractor or one or more Subcontractors, Material Suppliers, or other persons).

8.10.3 The A/E shall act upon resubmission of corrected Submittals within 14 days of receiving them, or other period as mutually agreed by the A/E and the Contractor.

8.10.4 The Contractor shall review and stamp “approved” all Submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the Submittals, or has conducted an incomplete review of them, the A/E may reject the Submittals.

8.10.5 The A/E may hold samples and other Submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until Submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that its Submittal is being held, within 7 days of receiving it.

8.10.6 If the Project is administered using OAKS CI, the A/E shall receive and forward submittals to its Consultants, and return reviewed submittals to the Contractor, using the “Submittals” business process.

8.11 Additional Tests and Inspections

8.11.1 If the A/E determines that any portion of the Work requires inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order the inspection, testing, or approval.

8.11.2 Within 5 days after completion of an inspection, test, or approval, the A/E shall provide an original report of the inspection, test, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

8.11.3 The Owner shall reimburse the A/E for the special inspection, test, or approval as a change in the Services.

8.11.4 The A/E shall not be reimbursed or otherwise compensated for any special inspection, testing, or approval made necessary by the act or omission of the A/E or any Consultant of the A/E.

8.12 Change Order Procedure

8.12.1 Paperwork Consolidation.

8.12.1.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same change-related document.

8.12.1.2 Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.

8.12.1.3 Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.

8.12.2 Change Order Numbering.

8.12.2.1 The A/E shall assign a number to each Modification, which shall uniquely identify it.

8.12.2.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

8.12.2.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

8.12.3 Change Order Log.

8.12.3.1 The A/E shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:

- .1 number of the Modification;
- .2 a brief description of the Modification;
- .3 cost of the Modification;
- .4 schedule impact of the Modification; and
- .5 dates sent to, and received from, the parties.

8.12.4 Reconciliation of Unit Price Items.

8.12.4.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

8.12.4.2 The A/E shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

8.12.4.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or the Contractor, the A/E shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

8.12.4.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Change Directive and subsequent Change Order to authorize an adjustment in the scheduled quantity.

8.12.5 Change Orders.

8.12.5.1 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order form to the Contractor for signature.

8.12.5.2 When the A/E receives the Change Order signed by the Contractor, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

8.12.5.3 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Change Orders for approval, using the “Change Order” business process.

8.12.6 Proposal Requests.

8.12.6.1 The A/E shall prepare Proposal Requests with estimated costs and other necessary documentation seeking Proposals from the Contractor for adjustments of the Contract Sum or the Contract Times, or both, associated with potential and proposed changes in the Work.

8.12.6.2 If the Project is administered using OAKS CI, the A/E shall prepare and distribute Proposal Requests using the “Change Order” business process with the “Proposal Request” workflow.

8.12.7 Request for Change Order.

8.12.7.1 The Contractor may initiate a change in the Work by submitting written notice to the A/E accompanied by a Proposal. The A/E shall promptly evaluate the Request for Change Order and submit a written recommendation to the Contracting Authority and the Owner.

8.12.7.2 If the Project is administered using OAKS CI, the A/E shall respond to the Contractor’s Request for Change Order using the “Change Order” business process.

8.13 Change Directives

8.13.1 A Change Directive may, if necessary:

8.13.1.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

8.13.1.2 Limit the scope of the change in the Work by a fixed adjustment of the Contract Sum.

8.13.2 If a change in the Contractor's Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E shall prepare a Change Directive, for the Contracting Authority's and Owner's signatures pursuant to Section 8.13.1, authorizing the Contractor to proceed.

8.13.3 A Change Directive shall be used to direct a change in a Contractor's Work in the absence of total agreement on the terms of a Change Order.

8.13.4 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Change Directives for approval, using the "Change Order" business process with the "Change Directive" workflow.

8.14 Orders for Minor Changes in the Work

8.14.1 The A/E may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents.

8.14.2 The A/E shall issue orders for minor changes in the Contractor's Work by written order to the Contractor. The A/E shall keep a log of all Orders for Minor Change in the Work.

8.14.3 If the Project is administered using OAKS CI, the A/E shall prepare and recommend Orders for Minor Changes in the Work for approval, using the "Action Items" business process.

8.15 Claims Analysis

8.15.1 The A/E, in consultation with the Contracting Authority, shall respond to the Contractor's written notice of a claim within a reasonable time of receipt, but not to exceed 10 days.

8.15.2 The A/E shall review each Contractor claim, prepare a written analysis of its content, and submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified claim. The written analysis shall include:

8.15.2.1 A narrative of the A/E's examination of the facts giving rise to the claim;

8.15.2.2 Identification of relevant Contract Documents and language;

8.15.2.3 An analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to claim initiation and substantiation including, but not limited to, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Times, or both;

8.15.2.4 An analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

8.15.2.5 An analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

8.15.2.6 A concluding opinion regarding the Contractor's entitlement to, and the appropriateness and reasonableness of all, or any part of, the claim; and

8.15.2.7 An appendix containing copies of contemporaneous documentation supporting the concluding opinion.

8.15.3 The A/E shall attend dispute resolution meetings convened by the Contracting Authority related to each claim.

8.16 Project Costs

8.16.1 The A/E shall monitor Project cost accounting records on Work performed by the Contractor under unit costs, actual costs for labor and materials, or other appropriate basis. The A/E shall afford the Contracting Authority and the Owner access to these records at all times.

8.17 Schedule of Values

8.17.1 The Contractor shall submit to the A/E a Schedule of Values with separate amounts shown for labor and materials for each branch of the Contractor's Work.

8.17.2 The A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to the requirements in the General Conditions.

8.17.3 If the Project is administered using OAKS CI, the A/E shall receive and process the Contractor's Schedule of Values, using the "Contract Schedule of Values" business process.

8.18 Payments

8.18.1 The Contractor may submit a CM Payment Request to the A/E each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit CM Payment Requests twice a month.

8.18.1.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its CM Payment Request ("Pencil Copy") to the A/E not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

8.18.1.2 The A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

8.18.1.3 The Contractor shall incorporate the A/E's comments into its CM Payment Request prior to submitting multiple copies for payment.

8.18.2 Based upon the A/E's review of the applicable Work and evaluations of the CM Payment Request, the A/E shall review and approve, modify, or reject the amounts shown on such Payment Request as being due to the Contractor.

8.18.3 The A/E may request, from a Contractor, additional documentation in connection with each payment to the Contractor.

8.18.4 Each CM Payment Request that the A/E determines that it will recommend shall be signed by the A/E and delivered to the Contracting Authority.

8.18.5 The A/E may recommend to the Contracting Authority that payments be withheld from, or Liquidated Damages be assessed against, a CM Payment Request.

8.18.6 If the Project is administered using OAKS CI, the A/E shall receive and approve the Contractor's CM Payment Request, using the "Contractor Pay Request" business process.

ARTICLE 9 - CLOSEOUT

9.1 Partial Occupancy

9.1.1 The A/E shall assist the Contracting Authority and the Owner in determining dates of Partial Occupancy of the Work or portions thereof designated by the Owner and shall assist in obtaining any certification required by Applicable Law.

9.1.2 Before the Owner commences Partial Occupancy, the A/E shall process a Certification of Contract Completion for the designated area listing incomplete or Defective Work under the Contract for approval of the Contracting Authority.

9.1.2.1 If the Project is administered using OAKS CI, the A/E shall process the partial Certification of Contract Completion, using the "Closeout - Contractor" business process.

9.2 Contract Closeout

9.2.1 Within 3 business days of receipt of the Contractor's request for the A/E's Review of the Work, the A/E shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

9.2.2 Within 7 days of its acceptance of a Contractor's request, the A/E shall conduct the A/E's Review to determine whether the Contractor's Work, or the designated portion, is in conformity with the Contract Documents.

9.2.3 The A/E shall notify the Contractor, Contracting Authority, and Owner of the scheduled time of the A/E's Review.

9.2.4 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List"). The A/E shall include comments from the Contracting Authority and Owner in the A/E's Punch List.

9.2.4.1 If the Project is administered using OAKS CI, the A/E shall receive the Contractor's Punch List and distribute the A/E's Punch List, using the "Punch List" business process.

9.2.5 If the A/E accepts a the Contractor's request for the A/E's Review of the Work and subsequently reasonably determines that the Work is not in conformity with the Contract Documents, the A/E may request compensation for expenses related to excessive Punch List activities.

9.2.6 Within 3 business days of receipt of a the Contractor's notice that all Punch List items have been completed, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.

9.2.7 If multiple inspections of items on the A/E's Punch List are required because of the Contractor's failure to properly and timely complete them, the A/E may request compensation for expenses related to excessive Punch List activities.

9.2.8 When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the Contracting Authority's sole discretion.

9.2.9 The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

9.2.10 When all items on the A/E's Punch List have been completed to the A/E's satisfaction and all requirements of the Contract Documents have been completed, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

9.2.10.1 If the Project is administered using OAKS CI, the A/E shall process the Final Certification of Contract Completion, using the "Closeout - Contractor" business process.

9.2.11 Upon execution of a Final Certification of Contract Completion, the A/E shall receive, review for conformity with the requirements of the Contract Documents, and transmit to the Contracting Authority any affidavits and turn over to the Owner any keys, manuals and the originals of any guarantees, warranties, releases, bonds, and waivers.

9.2.12 The A/E shall transmit a copy of any guarantees, warranties, releases, bonds, and waivers to the Contracting Authority.

9.3 Record Documents

9.3.1 The A/E shall prepare the Record Documents by revising the Contract Documents and related electronic files on the basis of the information contained on the As-Built Documents submitted by the Contractor and the A/E's observations during the progress of the Project. The Record Documents shall detail the actual

construction of the Project and contain such annotations by the A/E as may be necessary for someone unfamiliar with the Project to understand the changes that were made to the Contract Documents.

9.3.2 The A/E shall label the revised Contract Documents and related electronic files as “Record Documents” and reflect the date on which the A/E finished preparing them.

9.3.3 The A/E shall furnish to the Owner one set of Record Documents in the form of paper documents and one set in the form of electronic files.

9.3.4 By submitting the Record Documents to the Owner, the A/E certifies that the Record Documents are complete, correct, and accurate, to the best of the A/E’s knowledge based upon the As-Built Documents delivered to the A/E by Contractor and the A/E’s observations during the progress of the Project.

9.4 Post-Occupancy Inspection

9.4.1 The A/E shall participate in a walk-through of the Project with the Owner one month prior to the expiration of each Correction Period. The A/E shall consult with the Owner to address any issue identified in the walk-through according to the procedures specified in the Standard Requirements. The A/E shall notify the Contractor of such defects in writing with a request that the Contractor correct the deficient work, prior to the end of the Correction Period.

ARTICLE 10 - ADDITIONAL SERVICES

10.1 General

10.1.1 Services Not Included in Basic Services.

10.1.1.1 The A/E shall provide the services listed in Sections 10.1.2 through 10.1.18 as Additional Services only when identified in the Agreement Form and approved in writing by the Contracting Authority in consultation with the Owner.

10.1.1.2 The Fee for the Additional Services listed in Sections 10.1.2 through 10.1.18 shall be paid as provided in the Agreement Form, in addition to payment for the Basic Services; however, the A/E shall not be compensated for any of the Additional Services listed in Sections 10.1.2 through 10.1.18 made necessary by any act or omission of the A/E or any of the A/E’s Consultants.

10.1.1.3 Unless waived by the Contracting Authority in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

10.1.2 Specialized Services. Providing specialized design and engineering services, including, but not limited to, services for acoustical analysis or design, computer services, communication consultant services, design or specification of unusual or large volumes of fixtures, furnishings, and equipment.

10.1.3 Additional On-Site Services. Providing administration or observation of construction beyond the Basic Services provided pursuant to the Exhibit B.

10.1.4 Extensive Change Orders. Preparing Drawings, Specifications, cost estimates, and other documents and supporting data in connection with Change Orders beyond those services to be reasonably provided as Basic Services, pursuant to Exhibit B.

10.1.5 Partnering and Scheduling Consultants. Serving as a partnering or construction scheduling consultant or providing such consulting services.

10.1.6 Perspectives, Models, Renderings. Preparing professional perspectives, physical models, or renderings, which are not otherwise useful or necessary to the A/E in providing the Basic Services required hereunder and which are provided at the prior written request of the Contracting Authority in consultation with the Owner.

10.1.7 Grant Applications. Preparing applications and supporting documents for governmental grants, loans, or advances.

10.1.8 Special Studies. Providing planning services, site evaluations, environmental studies, or comparative studies of prospective sites, preparing special surveys, studies, and submissions required under Applicable Law.

10.1.9 Surveys. Providing surveying services, including land surveys and rights-of-way studies.

10.1.10 Investigation of Conditions for New Construction. Providing services for new construction to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

10.1.11 Constructability and Cost Analyses. Preparing extensive analyses of the construction feasibility of the Project or of owning and operating costs, or preparing detailed quantity surveys or inventories of material, equipment, and labor beyond those services to be reasonably provided as Basic Services in Exhibit B.

10.1.12 Off-Site Services. Providing planning or design services for off-site utilities, which are not adjacent to the Project, building connections, or roadways.

10.1.13 Certain Revisions. Making revisions in Drawings, Specifications, or other Contract Documents at the request of the Contracting Authority when such revisions are inconsistent with written approvals or instructions previously given or are required by the enactment or revision of Applicable Law subsequent to the preparation of such documents.

10.1.14 Replacement Work. Providing consultation and other services in connection with replacement of any Work damaged by fire, casualty, or other incident not caused by negligence of the A/E or any Consultant.

10.1.15 Contractor Default. Providing services made necessary by a Contractor's default.

10.1.16 Additional Documents. Providing more sets of Contract Documents than the number required as Basic Services pursuant to Exhibit B.

10.1.17 Special Inspections Required by the Ohio Building Code.

10.1.17.1 The special inspections indicated in the current edition of the OBC Chapter 17 are not included as Basic Services; however, in the event such special inspections are required as a condition of the Plan Approval issued by the Building Authority having jurisdiction for the Project, the A/E shall provide the special inspections and be compensated for such as Additional Services, and shall provide written notice to the Contractor, the Owner, and the Contracting Authority of the Special Inspection to be performed.

10.1.17.2 The A/E shall not be compensated for any such Additional Services made necessary by the act or omission of the A/E or any Consultant of the A/E.

10.1.18 Quality Assurance Testing.

10.1.18.1 General Requirements.

- .1 The Quality Assurance ("QA") Testing services listed under Sections 10.1.18.2 through 10.1.18.10, which is not intended to be an exhaustive list, are not included as Basic Services, however, the A/E shall provide such services when identified in the Agreement Form either itself (if qualified) or through a Consultant properly licensed to perform the required inspections and all related testing services.
- .2 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of quality assurance testing, structural testing and special inspections required under the current edition of Ohio Building Code ("OBC") Chapter 17.
- .3 Such testing and inspections shall include geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing (e.g., medical gases testing, lead shielding, etc.); or approval required by Applicable Law.

- .4 The A/E shall identify the name or names of the Consultants it intends to use for all quality assurance and special inspections that would be reasonably anticipated for the Project and shall provide a Schedule of Fees for Typical Services for each Consultant. The A/E may include a negotiated markup for the Consultant services used.

10.1.18.2 Geotechnical Analysis. Sampling and analysis of soils and hydrologies, and subsequent reporting and recommendations, upon which architectural and engineering designs may be based. Applicable to Construction Stage observation, testing, and reporting of soils conditions, including testing for types and quality of fill material and its installation, compaction, soil density testing, caisson borings inspections, cut and fill monitoring, etc.

10.1.18.3 Environmental Testing and Analysis. Sample and analysis of existing conditions or materials for any of a variety of environmental materials, including Hazardous Materials and suspected Hazardous Materials, and subsequent reporting.

10.1.18.4 Concrete. Test for general quality, such as: slump, air entrainment, cylinder test, core test, swiss hammer.

10.1.18.5 Masonry. Includes such testing as prism tests, mortar cube, grout tests, water infiltration.

10.1.18.6 Structural Steel, Reinforcing Steel, Welding, Bolts and Connections. Includes any testing and reporting of any type of steel, including those listed above.

10.1.18.7 HVAC Systems and Controls. Includes testing and balancing of any or all HVAC components including controls systems.

10.1.18.8 Plumbing and Piping. Includes testing of water, waste, vent and process piping, and provide associated reporting.

10.1.18.9 Air and Water Testing and Balancing. Includes testing and balancing of various pneumatic and hydronic piping, and provide associated reporting.

10.1.18.10 Other. (e.g., Medical Gases testing, Lead Shielding, etc.)

END OF DOCUMENT

Exhibit B - Criteria Architect/Engineer's Scope of Services

State of Ohio Professional Services Agreements

Design-Build Project



ARTICLE 1 - CRITERIA ARCHITECT/ENGINEER'S BASIC SERVICES

1.1 General

1.1.1 Basic Services to be provided by the Criteria Architect/Engineer ("Criteria A/E") shall consist of the activities and stages set forth in Article 2 through Article 5.

1.2 Sustainability Requirements

1.2.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policy, and procedures adopted by the Department establishing Sustainability Requirements for Capital Improvements Projects.

1.2.2 The Criteria A/E shall incorporate cost-effective, energy-efficient, green building practices to the maximum extent possible into the Project.

1.3 Criteria A/E's Relationship to the Contractor

1.3.1 The Criteria A/E is authorized to disapprove or reject Defective Work. The Criteria A/E shall immediately notify the Contracting Authority any time the Criteria A/E disapproves or rejects an item of Work.

1.3.2 The Criteria A/E is not responsible for design or construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

1.3.3 The Criteria A/E's review and approval of the Work and any information the Contractor submits to the Criteria A/E is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

1.4 Limitation of Criteria A/E's Authority

1.4.1 Under no circumstances is the Criteria A/E authorized to:

1.4.1.1 bind the Owner or Contracting Authority to any authorizations under, modifications of, or amendments to any contract;

1.4.1.2 accept any defective or non-conforming services, Work, or vendor-furnished items;

1.4.1.3 make any settlements on behalf of the Owner or Contracting Authority; or

1.4.1.4 assume any responsibilities of the Contractor, Consultants, or Subcontractors.

ARTICLE 2 - CONCEPT AND DESIGN CRITERIA STAGE

2.1 Commencement

2.1.1 The Criteria A/E's Services will begin on the date set forth in a notice that the Contracting Authority will issue to the Criteria A/E.

2.2 Organizational Meeting

2.2.1 Unless the Contracting Authority agrees otherwise in writing, the Criteria A/E's Services will begin with an organizational meeting between the Contracting Authority, the Owner, and the Criteria A/E. All of the Criteria A/E's key personnel involved in the Project shall attend the organizational meeting.

2.2.2 During the organizational meeting, the attendees will:

- 2.2.2.1 review the responsibilities of each of the Contracting Authority's and the Owner's key personnel involved in the Project;
- 2.2.2.2 review the scope of the Criteria A/E's Services and the responsibilities of each of the Criteria A/E's key personnel involved in the Project;
- 2.2.2.3 review and establish lines of communication between the Contracting Authority, the Owner, and the Criteria A/E;
- 2.2.2.4 develop a list of the Owner's Project-stakeholder representatives to be involved in the Concept and Design Criteria Stage to inform the development of the Concept and Design Criteria Documents; and
- 2.2.2.5 review the then-available information and documents which reflect the Owner's requirements and objectives for the Project including Project Schedule and Construction Budget requirements and objectives.

2.2.3 Within 5 days after the organizational meeting is adjourned, the Criteria A/E shall prepare and submit to the Contracting Authority and the Owner:

- 2.2.3.1 detailed minutes of the organizational meeting; and
- 2.2.3.2 a proposed Project Schedule reflecting the performance of the Criteria A/E's Services and the progression of the Project through award of the Contract to the Contractor.
 - .1 The Contracting Authority, the Owner, and the Criteria A/E will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision.
- 2.2.3.3 If the Project is administered using OAKS CI, the Criteria A/E shall distribute the minutes of the organizational meeting through the "Meeting Minutes" business process.

2.3 General Requirements

2.3.1 In addition to performing those Services required to comply with Sections 2.4 and 2.4.3, during the Concept and Design Criteria Stage, the Criteria A/E shall:

- 2.3.1.1 identify the building type and research, analyze, and document relevant information specific to that type;
- 2.3.1.2 meet and otherwise work with the Contracting Authority, the Owner, the Owner's Project-stakeholder representatives, and others with an interest in the Project to establish goals and objectives for the Project;
- 2.3.1.3 gather, analyze, and document information relevant to the identified Project goals and objectives;
- 2.3.1.4 identify and evaluate strategies to achieve the identified Project goals and objectives;
- 2.3.1.5 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- 2.3.1.6 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Concept and Design Criteria Stage of the Project;
- 2.3.1.7 identify and analyze issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- 2.3.1.8 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;
- 2.3.1.9 notify the Owner of the need for the professional services of any Separate Consultants required for the Project; and

2.3.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

2.4 Criteria A/E's Concept and Design Criteria Submission

2.4.1 At the completion of the Concept and Design Criteria Stage, the Criteria A/E shall submit the provisional Concept and Design Criteria Documents to the Contracting Authority and the Owner.

2.4.2 The provisional Concept and Design Criteria Documents shall be in the form of a written report, conceptual drawings, and conceptual specifications. At a minimum, the Concept and Design Criteria Documents shall include:

2.4.2.1 an executive summary of the Concept and Design Criteria Documents;

2.4.2.2 building type information including: (1) the types of functions frequently included in the building type, (2) the space criteria (number of square feet per person or unit) for those functions, (3) typical relationships of spaces for those functions, (4) typical ratios of net assignable square footage to gross square footage for the building type, (5) typical costs per square foot for the building type, (6) typical site requirements for the building type, (7) technical, mechanical, electrical, security, or other issues unique to the building type, and (8) issues that might alter the accuracy of the identified data in the case of the Project;

2.4.2.3 a narrative description of the Project's goals and objectives such as: (1) the role of the Project in the achievement of the Owner's overall organizational objectives and goals; (2) Project form and image goals such as aesthetics, relationship to the site, adjacent areas, and neighbors including any historic, cultural, and/or context implications; (3) function goals including identification of all major building functions and occupancy requirements; (4) economic goals including total Project Budget, Construction Budget, factors related to initial costs versus long-range operating and maintenance costs, level of quality desired; and sustainability considerations; and (5) schedule goals including desired dates for commencement of construction and for Final Completion and the Owner's projected needs for the Project over the next 20 years in 5-year increments;

2.4.2.4 a description of space requirements, including a listing of the desired spaces and an identification of each space's basic criteria such as occupancy requirements, dimensions, proportions, ceiling heights, and service, equipment, storage, utility, access, flexibility, configuration, security, adjacency, aesthetic, and other requirements;

2.4.2.5 a description of planning and design criteria such as workstation, office/room standards; clustering and layout criteria; circulation criteria; applicable space-planning modules; dimensional criteria; building systems interface criteria; envelope criteria; accessibility requirements; and a description of performance criteria applicable to building components such as envelope, structure, interior construction, and mechanical, electrical, and plumbing systems, etc.;

2.4.2.6 a description of site development and design criteria including zoning, design guidelines, deed restrictions and requirements, traffic (bus, automobile, and pedestrian) considerations, utility availability, topography, views, built features, etc.;

2.4.2.7 a conceptual site plan and conceptual building plans and elevations illustrating the Project's scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;

2.4.2.8 if not noted on the drawings, conceptual specifications reflecting preliminary selections of materials, building systems, and equipment;

2.4.2.9 a preliminary estimate of Construction Cost using area, volume or similar conceptual estimating techniques;

2.4.2.10 a preliminary Project Schedule reflecting the design and construction of the Project through Owner occupancy;

- 2.4.2.11 a preliminary evaluation of the Program, Project Schedule, and Construction Budget requirements, each in terms of the other including a description of the distribution of the Construction Budget between major Project components, contingencies, and other categories the Contracting Authority may designate;
- 2.4.2.12 a review of feasible alternative approaches to the design and construction of the Project, if any, including the estimated budget and schedule impacts of those alternative approaches; and
- 2.4.2.13 an identification of Applicable Law.

2.4.3 If the Project is administered using OAKS CI, the Criteria A/E shall submit its provisional Concept and Design Criteria Documents, and any revisions, to the Contracting Authority and the Owner through the “Design Review” business process.

2.5 Concept and Design Criteria Documents Review

2.5.1 The Contracting Authority, the Owner, and the Criteria A/E shall meet to review the provisional Concept and Design Criteria Documents and to reach agreement on any Contracting Authority- or Owner-authorized adjustments to the Concept and Design Criteria Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Concept and Design Criteria Documents.

2.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Criteria A/E shall revise the provisional Concept and Design Criteria Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Concept and Design Criteria Documents and sign the related Design Review Acceptance form, the revised the provisional Concept and Design Criteria Documents shall become the Final Concept and Design Criteria Documents.

ARTICLE 3 - BEST VALUE SELECTION STAGE

3.1 Commencement

3.1.1 Unless the Contracting Authority directs otherwise in writing, the Best Value Selection Stage will begin upon completion of the activities described under Section 2.5.2.

3.2 General Requirements

3.2.1 In addition to performing those Services required to comply with Sections 3.3 through 3.6, during the Best Value Selection Stage, the Criteria A/E shall:

- 3.2.1.1 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review documents and other information which depict the current status of the Best Value Selection Stage;
- 3.2.1.2 develop the interest of design-build firms in the Project, including specifically those design-build firms (if any) the Contracting Authority or the Owner asks the Criteria A/E to contact;

3.3 Preliminary Activities

3.3.1 The Criteria A/E shall schedule, conduct, and participate in meetings with the Contracting Authority and the Owner:

- 3.3.1.1 to assist the Contracting Authority and Owner with assembling the Evaluation Committee (as described under OAC 153:1-6-02);
- 3.3.1.2 to identify design-builder qualifications criteria required for the Project and to determine how those criteria will be evaluated in the qualifications phase of the selection;

3.3.1.3 to identify the performance criteria and pricing criteria required for the Project and to determine how they will be evaluated and weighted in the request for proposal phase of the selection;

3.3.1.4 to identify and document any minimum or mandatory technical requirements for the project;

3.3.1.5 to establish a process for maintaining records of decisions made at all stages of the selection process; and

3.3.1.6 if appropriate, to determine the amount of any stipend to be paid to the non-selected short-listed design-build firms for a responsive pricing and technical proposal.

3.4 Request for Qualifications

3.4.1 In consultation with the Contracting Authority and the Owner, the Criteria A/E shall (1) prepare and assist the Contracting Authority with publishing the advertisement, (2) prepare and issue the Request for Qualifications and related clarifications, and (3) receive the Statements of Qualifications.

3.4.2 The Criteria A/E shall support the Evaluation Committee in its evaluation of the Statements of Qualifications by advising the Evaluation Committee on technical issues, but Criteria A/E shall not participate as a voting member of the Evaluation Committee.

3.5 Request for Proposals

3.5.1 In consultation with the Contracting Authority and the Owner, the Criteria A/E shall (1) prepare and issue the Request for Proposals and related clarifications, (2) participate in pre-proposal meetings, and (3) receive the Proposals.

3.5.2 The Criteria A/E shall support the Evaluation Committee in its evaluation of the Proposals by attending proposer interviews and advising the Evaluation Committee on pricing and technical issues, but the Criteria A/E shall not participate as a voting member of the Evaluation Committee.

3.5.2.1 If the Proposals include GMP Proposals, the Criteria A/E shall assist the Evaluation Committee in its comparative analysis and normalization of the GMP Proposals, which Services include the Criteria A/E's detailed review and analysis of the proposed GMP Documents as described under Section 4.4.

3.6 Contract Award and Negotiation

3.6.1 The Criteria A/E shall assist the Contracting Authority and the Owner with the award and negotiation of the Contract by advising the Contracting Authority and the Owner on pricing and technical issues.

ARTICLE 4 - PRECONSTRUCTION STAGES

4.1 Commencement

4.1.1 Unless the Contracting Authority directs otherwise in writing, the Criteria A/E's Services during the Project's Preconstruction Stages will begin upon completion of the activities described under Section 3.6.1.

4.1.2 The Criteria A/E and its key personnel shall attend and participate in the organizational meeting described in the Contract.

4.2 General Requirements

4.2.1 During the Preconstruction Stages, the Criteria A/E shall:

4.2.1.1 issue clarifications and interpretations of the Final Concept and Design Criteria Documents;

4.2.1.2 advise the Contracting Authority, the Owner, and the Contractor in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

4.2.1.3 meet with the Contracting Authority, the Owner, and the Contractor at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Preconstruction Stages;

4.2.1.4 notify the Owner of the need for and assist the Owner with obtaining the professional services of any Separate Consultants required for the Project; and

4.2.1.5 at the request of the Contracting Authority:

- .1 identify and analyze issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- .2 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions;
- .3 review Contractor submittals (in addition to the submittals described under Section 4.3) for acceptability and conformance with the Final Concept and Design Criteria Documents, Construction Budget, or Project Schedule;
- .4 evaluate and provide recommendations to the Contracting Authority concerning contemplated modifications of the Final Concept and Design Criteria Documents;
- .5 evaluate and provide recommendations to the Contracting Authority concerning disputes with the Contractor; and
- .6 review and provide recommendations to the Contracting Authority concerning the Contractor's invoices for Preconstruction Services.

4.3 Submittal Reviews

4.3.1 The Criteria A/E shall receive from the Contracting Authority and promptly review a copy of the Contractor's submissions at the end of each of the Preconstruction Stages.

4.3.1.1 If the Project is administered using OAKS CI, the Criteria A/E shall receive the Contractor's submissions, and any revisions, through the "Design Review" business process.

4.3.2 Within 7 days after receiving a Contractor submission, the Criteria A/E shall review and analyze it in detail and submit a written report to the Contracting Authority and the Owner through which the Criteria A/E shall individually address each of the following topics at a minimum:

4.3.2.1 whether the Work described in the submission appears consistent with the Final Concept and Design Criteria Documents;

4.3.2.2 whether the Work described in the submission appears consistent with the Construction Budget; and

4.3.2.3 whether the Work described in the submission appears consistent with the Project Schedule.

4.3.3 If the Criteria A/E finds that the Work described in the submission appears inconsistent with the Final Concept and Design Criteria Documents, Construction Budget, or Project Schedule, the Criteria A/E shall also describe and identify in writing specific examples of the inconsistencies.

4.3.4 If the Contracting Authority requests, the Criteria A/E shall meet with the Contracting Authority, the Owner, and the Contractor to review the Criteria A/E's report.

4.3.5 If the Contracting Authority requests, the Criteria A/E shall assist the Contracting Authority and the Owner with the negotiation of the Contractor's GMP Amendment.

4.4 GMP Proposal and Amendment

4.4.1 The Criteria A/E shall receive from the Contracting Authority and promptly review a copy of the Contractor's GMP Proposal.

4.4.2 Within 7 days after receiving a copy of the Contractor's GMP Proposal, the Criteria A/E shall review and analyze it in detail and submit a written report to the Contracting Authority and the Owner through which the Criteria A/E shall individually address each of the following topics at a minimum as appropriate for the Stage in the Project when the Contractor submits the GMP Proposal:

4.4.2.1 clarity of the GMP Proposal;

4.4.2.2 completeness of the GMP Proposal;

4.4.2.3 coordination of the documents comprising the GMP Proposal;

4.4.2.4 whether the Work described in the GMP Proposal appears consistent with the Final Concept and Design Criteria Documents;

4.4.2.5 whether the Work described in the GMP Proposal appears consistent with the Construction Budget; and

4.4.2.6 whether the Work described in the GMP Proposal appears consistent with the Project Schedule.

4.4.3 If it is the Criteria A/E's opinion that the clarity, completeness, or coordination of the Contractor's GMP Proposal is deficient, the Criteria A/E shall also describe and identify in its report specific examples of the deficiencies. If the Criteria A/E finds that the Work described in the Contractor's GMP Proposal appears inconsistent with the Final Concept and Design Criteria Documents, Construction Budget, or Project Schedule, the Criteria A/E shall also describe and identify in its report specific examples of the inconsistencies.

4.4.4 If the Contracting Authority requests, the Criteria A/E shall meet with the Contracting Authority, the Owner, and the Contractor to review the Criteria A/E's report.

4.4.5 If the Contracting Authority requests, the Criteria A/E shall assist the Contracting Authority and the Owner with the negotiation of the Contractor's GMP Amendment.

ARTICLE 5 - CONSTRUCTION AND CLOSEOUT

5.1 Commencement

5.1.1 Unless the Contracting Authority directs otherwise in writing, the Criteria A/E's Services during Construction and Closeout will commence with the Contracting Authority's issuance of the Notice to Proceed to the Contractor and will terminate upon Final Acceptance of the Project.

5.2 General Requirements

5.2.1 During the Construction and Closeout, the Criteria A/E shall:

5.2.1.1 advise the Contracting Authority, the Owner, and the Contractor in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.2.1.2 meet with the Contracting Authority, the Owner, and the Contractor at intervals acceptable to the Contracting Authority and the Owner, to review the current status of the Project;

5.2.1.3 notify the Owner of the need for and assist the Owner with obtaining the professional services of Separate Consultants required for the Project; and

5.2.1.4 at the request of the Contracting Authority:

- .1 identify and analyze issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- .2 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions;

- .3 review Contractor submittals including Drawings, Specifications, and Action Submittals for acceptability and conformance with the GMP Documents;
- .4 visit the Site to observe the Work, attend meetings, and determine in general if the Work is proceeding in accordance with the GMP Documents and the Project Schedule;
- .5 evaluate and provide recommendations to the Contracting Authority concerning Modifications and Claims;
- .6 advise the Contracting Authority as to the necessity of special inspections, tests, or approvals, and review the associated results;
- .7 review and provide recommendations to the Contracting Authority concerning the Contractor's DB Payment Requests;
- .8 review and provide recommendations to the Contracting Authority concerning the Contractor's closeout documentation.

5.2.1.5 If the Project is administered using OAKS CI, the Criteria A/E shall provide Contracting Authority-requested services to the Contracting Authority and the Owner through applicable business processes.

5.3 Differing Site Condition Investigation

5.3.1 Promptly after receiving notice of a Differing Site Condition from the Contractor, the Criteria A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition.

5.3.2 The Criteria A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

ARTICLE 6 - ADDITIONAL SERVICES

6.1 General

6.1.1 Services Not Included in Basic Services.

6.1.1.1 The Criteria A/E shall provide the services listed in Sections 6.2 through 6.4 as Additional Services only when identified in the Agreement Form and approved in writing by the Contracting Authority in consultation with the Owner.

6.1.1.2 The Fee for the Additional Services listed in Sections 6.2 through 6.4 shall be paid as provided in the Agreement Form, in addition to payment for the Basic Services; however, the Criteria A/E shall not be compensated for any of the Additional Services listed in Sections 6.2 through 6.4 made necessary by any act or omission of the Criteria A/E or any of the Criteria A/E's Consultants.

6.1.1.3 Unless waived by the Contracting Authority in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

6.2 Schematic Design Stage Services

6.2.1 Commencement.

6.2.1.1 Unless the Contracting Authority directs otherwise in writing, the Schematic Design Stage will begin upon completion of the activities described under Section 2.5.2.

6.2.2 General Requirements.

6.2.2.1 In addition to performing those Services required to comply with Sections 6.2.3 and 6.2.4, during the Schematic Design Stage, the Criteria A/E shall:

- .1 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

- .2 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Schematic Design Stage of the Project;
- .3 further evaluate and refine the Final Concept and Design Criteria Documents;
- .4 develop estimates of the Construction Costs in increasing detail;
- .5 identify all issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- .6 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;
- .7 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project; and
- .8 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project.

6.2.3 Preliminary Life Cycle Cost Analysis.

6.2.3.1 At the time set forth in the Project Schedule, the Criteria A/E shall prepare and submit three design concepts for a preliminary Life Cycle Cost Analysis (“LCCA”) and the preliminary LCCA for each concept to the Owner and Contracting Authority.

6.2.3.2 The alternative design concepts may include:

- .1 A baseline alternative, which complies in all aspects with the requirements of the current version of the Ohio Building Code (“OBC”), including the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35;
- .2 A high-performance alternative, which demonstrates 20 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35; and
- .3 A high-performance alternative, which demonstrates 30 percent improvement in energy efficiency over the version of ASHRAE/IESNA 90.1 referenced in OBC Chapter 35, and includes one or more renewable energy sources, such as waste heat recovery, solar energy, wind energy, biomass fuel energy, or geothermal energy.

6.2.3.3 The Criteria A/E shall base the Schematic Design Documents on the Owner’s selected preliminary design concept.

6.2.4 Criteria A/E’s Schematic Design Submission.

6.2.4.1 At the completion of the Schematic Design Stage, the Criteria A/E shall submit the Schematic Design Documents to the Contracting Authority and the Owner.

- .1 The Criteria A/E shall also submit 1 copy of the Schematic Design Documents to the State Security Coordinator (Department of Public Safety, 1970 West Broad Street, Columbus, Ohio 43223) for review and written comment.

6.2.4.2 The Schematic Design Documents shall include:

- .1 a conceptual site plan and preliminary building plans, sections, and elevations illustrating the Project’s scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;
- .2 if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials;
- .3 an estimate of Construction Cost (“Criteria A/E’s Schematic Design Estimate”) using area, volume or similar conceptual estimating techniques;
- .4 cost evaluations of alternative building systems and construction materials;
- .5 an identification of any unresolved issues related to compliance with Applicable Law;
- .6 a written description of all modifications of the Final Concept and Design Criteria Documents;

- .7 if agreed in writing by the Contracting Authority, the Criteria A/E will develop study models, perspective sketches, electronic modeling, or combinations of those media; and
- .8 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

6.2.4.3 If the Project is administered using OAKS CI, the Criteria A/E shall submit its provisional Schematic Design documents, and any revisions, to the Contracting Authority and the Owner through the "Design Review" business process.

6.2.5 Schematic Design Documents Review.

6.2.5.1 The Contracting Authority, the Owner, and the Criteria A/E shall meet to review the provisional Schematic Design Documents and to reach agreement on any Contracting Authority- or Owner authorized adjustments to the Final Concept and Design Criteria Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Schematic Design Documents.

6.2.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Criteria A/E shall revise its Schematic Design Stage submission to reflect the adjustments and clarifications agreed upon in the review meeting (including any comments from the State Security Coordinator, which have been reviewed and approved by the Owner), and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Schematic Design Stage submission and sign the related Design Review Acceptance form, the revised Schematic Design Stage submission shall become the final Schematic Design Documents.

6.3 Design Development Stage Services

6.3.1 Commencement.

6.3.1.1 Unless the Contracting Authority directs otherwise in writing, the Design Development Stage will begin upon completion of the activities described under Section 6.2.4.3.

6.3.2 General Requirements.

6.3.2.1 In addition to performing those Services required to comply with Sections 6.3.3 and 6.3.4, during the Design Development Stage, the Criteria A/E shall:

- .1 advise the Contracting Authority and the Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- .2 meet with the Contracting Authority and the Owner at intervals acceptable to the Contracting Authority and the Owner, to review drawings and other documents which depict the current status of the Design Development Stage of the Project;
- .3 further evaluate and refine the Final Concept and Design Criteria Documents;
- .4 develop estimates of the Construction Costs in increasing detail;
- .5 prepare and submit a sole-source justification letter describing any materials, products, or systems included in the Work that are only available from a single manufacturer, supplier, or contractor to the Contracting Authority for its approval in writing;
- .6 resolve all issues related to compliance with Applicable Law (except to the extent stated otherwise in writing by the Criteria A/E for necessary variances and waivers at the time of the Criteria A/E's provisional Design Development Document submission) and participate in related meetings with government authorities that have jurisdiction over the Project;
- .7 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;
- .8 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project;

- .9 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project; and
- .10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

6.3.3 Life Cycle Cost Analysis.

6.3.3.1 The Criteria A/E shall prepare and submit 3 copies of the revised LCCA for the selected design concept to the Owner and Contracting Authority.

6.3.3.2 If the Project creates or renovates an area greater than 5,000 square feet, the Criteria A/E shall also submit the revised LCCA to the Department's Office of Energy Services.

6.3.4 Criteria A/E's Design Development Submission.

6.3.4.1 At the completion of the Design Development Stage, the Criteria A/E shall submit the provisional Design Development Documents to the Contracting Authority and the Owner.

6.3.4.2 The provisional Design Development Documents shall include:

- .1 plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural, structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;
- .2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;
- .3 a detailed estimate of Construction Cost ("Criteria A/E's Design Development Estimate");
- .4 a written description of all proposed or previously agreed upon Alternates, which description may be included in the specifications rather than as a separate document;
- .5 a written description of all proposed or previously agreed upon Allowances;
- .6 an identification of any unresolved issues related to compliance with Applicable Law;
- .7 the Criteria A/E's Design Intent Statement;
- .8 a written description of all modifications of the Final Concept and Design Criteria Documents; and
- .9 all other documents and information required under the Minimum Stage Submission Requirements attached as an exhibit to the Agreement Form.

6.3.4.3 If the Project is administered using OAKS CI, the Criteria A/E shall submit its provisional Design Development documents and any changes or revisions to the Contracting Authority and the Owner through the "Design Review" business process.

6.3.5 Design Development Documents Review.

6.3.5.1 The Contracting Authority, the Owner, and the Criteria A/E shall meet to review the provisional Design Development Documents and to reach agreement on any Contracting Authority- or Owner authorized adjustments to the Final Concept and Design Criteria Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Design Development Documents.

6.3.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Criteria A/E shall revise its Design Development Stage submission to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Design Development Stage submission and sign the related Design Review Acceptance form, the revised Design Development Stage submission shall become the final Design Development Documents.

6.4 Miscellaneous Additional Services

6.4.1 Specialized Services. Providing specialized design and engineering services, including, but not limited to, services for acoustical analysis or design, computer services, communication consultant services, design or specification of unusual or large volumes of fixtures, furnishings, and equipment.

6.4.2 Additional On-Site Services. Providing administration or observation of construction beyond the Basic Services provided pursuant to the Exhibit B.

6.4.3 Extensive Change Orders. Preparing Drawings, Specifications, cost estimates, and other documents and supporting data in connection with Change Orders beyond those services to be reasonably provided as Basic Services, pursuant to Exhibit B.

6.4.4 Partnering and Scheduling Consultants. Serving as a partnering or construction scheduling consultant or providing such consulting services.

6.4.5 Perspectives, Models, Renderings. Preparing professional perspectives, physical models, or renderings, which are not otherwise useful or necessary to the Criteria A/E in providing the Basic Services required hereunder and which are provided at the prior written request of the Contracting Authority in consultation with the Owner.

6.4.6 Grant Applications. Preparing applications and supporting documents for governmental grants, loans, or advances.

6.4.7 Special Studies. Providing planning services, site evaluations, environmental studies, or comparative studies of prospective sites, preparing special surveys, studies, and submissions required under Applicable Law.

6.4.8 Surveys. Providing surveying services, including land surveys and rights-of-way studies.

6.4.9 Investigation of Conditions for New Construction. Providing services for new construction to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

6.4.10 Constructability and Cost Analyses. Preparing extensive analyses of the construction feasibility of the Project or of owning and operating costs, or preparing detailed quantity surveys or inventories of material, equipment, and labor beyond those services to be reasonably provided as Basic Services in Exhibit B.

6.4.11 Off-Site Services. Providing planning or design services for off-site utilities, which are not adjacent to the Project, building connections, or roadways.

6.4.12 Certain Revisions. Making revisions in Drawings, Specifications, or other Contract Documents at the request of the Contracting Authority when such revisions are inconsistent with written approvals or instructions previously given or are required by the enactment or revision of Applicable Law subsequent to the preparation of such documents.

6.4.13 Replacement Work. Providing consultation and other services in connection with replacement of any Work damaged by fire, casualty, or other incident not caused by negligence of the Criteria A/E or any Consultant.

6.4.14 Contractor Default. Providing services made necessary by a Contractor's default.

6.4.15 Additional Documents. Providing more sets of Contract Documents than the number required as Basic Services pursuant to Exhibit B.

6.4.16 Special Inspections Required by the Ohio Building Code.

6.4.16.1 The special inspections indicated in the current edition of the OBC Chapter 17 are not included as Basic Services; however, in the event such special inspections are required as a condition of the Plan Approval issued by the Building Authority having jurisdiction for the Project, the Criteria A/E shall

provide the special inspections and be compensated for such as Additional Services, and shall provide written notice to the Contractor, the Owner, and the Contracting Authority of the Special Inspection to be performed.

6.4.16.2 The Criteria A/E shall not be compensated for any such Additional Services made necessary by the act or omission of the Criteria A/E or any Consultant of the Criteria A/E.

6.4.17 Quality Assurance Testing.

6.4.17.1 General Requirements.

- 1 The Quality Assurance (“QA”) Testing services listed under Sections 6.4.17.2 through 6.4.17.10, which is not intended to be an exhaustive list, are not included as Basic Services, however, the Criteria A/E shall provide such services when identified in the Agreement Form either itself (if qualified) or through a Consultant properly licensed to perform the required inspections and all related testing services.
- 2 Unless otherwise specified in the Contract Documents, the Criteria A/E shall apply for, secure, and pay for the costs of quality assurance testing, structural testing and special inspections required under the current edition of Ohio Building Code (“OBC”) Chapter 17.
- 3 Such testing and inspections shall include geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing (e.g., medical gases testing, lead shielding, etc.); or approval required by Applicable Law.
- 4 The Criteria A/E shall identify the name or names of the Consultants it intends to use for all quality assurance and special inspections that would be reasonably anticipated for the Project and shall provide a Schedule of Fees for Typical Services for each Consultant. The Criteria A/E may include a negotiated markup for the Consultant services used.

6.4.17.2 Geotechnical Analysis. Sampling and analysis of soils and hydrologies, and subsequent reporting and recommendations, upon which architectural and engineering designs may be based. Applicable to Construction Stage observation, testing, and reporting of soils conditions, including testing for types and quality of fill material and its installation, compaction, soil density testing, caisson borings inspections, cut and fill monitoring, etc.

6.4.17.3 Environmental Testing and Analysis. Sample and analysis of existing conditions or materials for any of a variety of environmental materials, including Hazardous Materials and suspected Hazardous Materials, and subsequent reporting.

6.4.17.4 Concrete. Test for general quality, such as: slump, air entrainment, cylinder test, core test, swiss hammer.

6.4.17.5 Masonry. Includes such testing as prism tests, mortar cube, grout tests, water infiltration.

6.4.17.6 Structural Steel, Reinforcing Steel, Welding, Bolts and Connections. Includes any testing and reporting of any type of steel, including those listed above.

6.4.17.7 HVAC Systems and Controls. Includes testing and balancing of any or all HVAC components including controls systems.

6.4.17.8 Plumbing and Piping. Includes testing of water, waste, vent and process piping, and provide associated reporting.

6.4.17.9 Air and Water Testing and Balancing. Includes testing and balancing of various pneumatic and hydronic piping, and provide associated reporting.

6.4.17.10 Other. (e.g., Medical Gases testing, Lead Shielding, etc.)

END OF DOCUMENT

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