



AIA[®]

Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the ____ day of _____ in the year Two Thousand and

BETWEEN the Architect's client identified as the Owner:

Capitol Region Education Council
111 Charter Oak Avenue
Hartford, CT 06106

and the Architect:

for the following Project:

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in
(Paragraphs deleted)

(i) this Article 1; (ii) that certain Request for Qualifications/Proposals for Architectural Services for _____ issued by the Owner for the Project, a copy of which is attached hereto as **Exhibit A** and made a part hereof (the "RFQ/P"); and (iii) that certain document prepared by the Architect and submitted to the Owner in response to the RFQ/P dated _____ and entitled "Qualifications/Proposal _____" (the "Architect Proposal"). To the extent of conflicts between the terms and conditions of the RFQ/P and the Architect Proposal, the terms and conditions of the RFQ/P shall govern and prevail.

§ 1.2 The Owner's anticipated dates for commencement of design services and Project completion are set forth below:

.1 Commencement of design services date: _____

(Paragraph deleted)

.2 Project completion date: _____

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation as provided in this Agreement.

§ 1.4 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or any other AIA document or provision, the reference refers to that document or provision as amended by the Owner and, if applicable, any other party to such document, and as amended and supplemented by other provisions of the Contract Documents. Notwithstanding the foregoing, a copy of the AIA Document A201-2007 as amended by the Owner for

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the Project is attached here to as **Exhibit B** and made a part hereof and all references in this Agreement to AIA Document A201–2007 shall mean the document attached hereto as **Exhibit B**.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect's Services consist of the services the Architect is required to perform under this Agreement, and, unless inconsistent with the instructions, guidance, and direction of the Owner, all professional services usually and customarily performed in conjunction with, and in furtherance of, such services.

§ 2.2 The Architect shall be responsible for the performance of the Architect's Services as an independent contractor and in a good and workmanlike manner (i) consistent with this Agreement; (ii) consistent with the instructions, guidance and direction of the Owner; (iii) consistent with the highest prevailing applicable professional or industry standards; (iv) consistent with sound architectural practices; and (v) as expeditiously as is consistent with such professional skill and care, the orderly progress of the Project, the instructions of the Owner and this Agreement (the standards of this Section § 2.2 shall be referred to herein as the "Architect's Standard of Care").

§ 2.2.1 The Architect shall exercise the Architect's Standard of Care in performing all aspects of the Architect's Services. All references in this Agreement or in the Contract Documents to the knowledge, inference, reliance, awareness, determination, belief, observation, recognition or discovery of the Architect or reference to any similar term shall include the knowledge, inference, reliance, awareness, determination, belief, observation and recognition the Architect would have obtained upon the exercise of the Architect's Standard of Care.

§ 2.3 The Architect shall be responsible for the performance of the Architect's Services in compliance with all applicable laws, rules, regulations, ordinances, codes, orders and permits of all federal, state and local government bodies, agencies, authorities and courts having jurisdiction over the Project and with the Conditions as defined in Subsection 2.3.1.

§ 2.3.1 The "Conditions" are all statutory and regulatory requirements and all guidelines and standards imposed on the Project by the Agencies, as defined in Sections 2.3.2 and 2.3.3.

§ 2.3.2 The "Agencies" are the Owner, the Department of Education of the State of Connecticut, including, without limitation, the Bureau of School Facilities (the "Department") and all other governmental authorities having regulatory or administrative jurisdiction over the Project and all representatives or designees of the Department or such other governmental authorities. The term "Agencies" shall also include any individuals or entities designated by the Department or such other governmental authorities or by the Owner to monitor or oversee compliance of the Project's energy and environmental design with the requirements of the Department or such other governmental authorities.

§ 2.3.3 The term "Agencies" shall also include any individual or entity not described in Section 2.3.2 from whom the Owner intends to request certification of the Project's energy and environmental design, to the extent the Architect is required, under this Agreement, to provide services relating to such certification.

§ 2.3.4 The Architect understands that performance of the Architect's Services will require communication with the Agencies and with individuals designated by the Agencies, and the Architect will, at no additional cost to the Owner, so communicate and take all steps reasonably necessary to ensure compliance with the Conditions.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the types and amounts of insurance specified in this Section § 2.5. The Architect shall maintain such insurance until five (5) years after Substantial Completion, or for any other period specified in this Agreement. The Architect shall require its consultants and subcontractors to maintain the same types of insurance the Architect is required to maintain under this Agreement, in amounts approved by the Owner. The Owner shall be named an additional insured on the Commercial General Liability and Automobile Liability insurance of the Architect and its subcontractors and consultants. Before commencing the Architect's Services, the Architect shall file with the Owner certificates of insurance for the required insurance and shall update such certificates throughout the duration of this Agreement and during any additional period specified in this Agreement.

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Certificates of professional liability insurance shall bear the endorsement 'Not to be canceled without thirty (30) days' prior written notice to Owner.

All subcontractors are subject to the same requirements. It is your responsibility to be sure that subcontractors provide acceptable evidence of insurance.

Architect's general liability policy must be endorsed with ISO Endorsement CG 20 26 0704 (or equivalent) or ISO Endorsement CG 20 33 07 04 (or equivalent), and ISO Endorsement CG 20 37 07 04 (or equivalent). These form numbers must be specifically referenced on the certificate of insurance. If Architect's insurance company uses another form to provide Owner with additional insured status on Architect's policies, copies of those forms must be provided in advance with the certificate for review and approval by Owner.

Evidence of compliance with these requirements is with the ACCORD form 25, "Certificate of Liability Insurance". Certificates shall be sent to the following address: Capitol Region Education Council, 111 Charter Oak Avenue, Hartford, CT 06106.

The following is a list of the types and amounts of insurance coverage required of the Architect under this Agreement:

.1 COMMERCIAL GENERAL LIABILITY: \$1,000,000 per occurrence/\$2,000,000 aggregate bodily injury/property damage. The CGL policy must include coverage for: liability from premises and operations; liability from products or completed operations; liability from actions of independent contractors and liability assumed by contract.

.2 AUTOMOBILE LIABILITY: \$1,000,000 per accident for bodily injury/property damage, including hired and non-owned vehicles.

.3 WORKERS' COMPENSATION: Statutory.

.4 PROFESSIONAL LIABILITY

.1 Minimum coverage for each occurrence: \$2,000,000

.2 Minimum annual coverage: \$5,000,000

.3 Maximum deductible: \$100,000

.4 Extended reporting period for five (5) years following the date of Substantial Completion

.5 Umbrella Policy: As per the terms of the RFQ/P

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those services described in Article 3 and, unless inconsistent with the instructions, guidance, and direction of the Owner, all professional services usually and customarily performed in conjunction with, and in furtherance of, those services including, but not limited to, structural, mechanical, and electrical engineering services.

§ 3.1.1 The Architect shall manage the Architect's Services, consult with the Owner and the Agencies, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate the Architect's Services with those services provided by the Owner and the Owner's consultants. Unless notified otherwise by the Owner in writing, the Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 Within ten (10) days after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's Services. Said schedule shall be timed to obtain all required State Department of Education approvals no later than _____. Said schedule assumes that the Owner shall obtain third party review of the proposed construction documents. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by the Agencies. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction. Time is of the essence in this Agreement and the Architect will be bound by the schedule and will not deviate from or adjust the schedule without the Owner's express written consent which consent the Owner shall not unreasonably withhold for deviations or adjustments to the extent necessary due to factors outside the Architect's control. The Architect shall update the schedule to incorporate any deviations or adjustments approved by the Owner and shall provide the Owner with such updated schedule.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without notice to the Architect or to which the Architect has timely objected in writing, which objection shall include an explanation of such objection.

§ 3.1.5 The Architect shall, at appropriate times, consult with the Agencies whose approval of the Construction Documents is necessary for the successful funding and completion of the Project and with the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such the Agencies and by the entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of the Agencies.

§ 3.2 SECTION OMITTED

§ 3.3 SCHEMATIC DESIGN PHASE SERVICES

(Paragraphs deleted)

§ 3.3.1 The Schematic Design Phase shall commence upon written notice by the Owner to the Architect.

§ 3.3.2 The Architect shall review the program, schedule, budget for the Cost of the Work, proposed procurement or delivery method, and other Initial Information furnished by the Owner; the Project site; information furnished for, and produced during, the Pre-Approval Services, the local approval process, and the approval for funding from the Department; all applicable laws, codes and regulations; and the Conditions (all the foregoing referred to herein as the "Schematic Design Phase Information"). The Architect shall, as required, consult with the Agencies on an ongoing basis during the Schematic Design Phase.

§ 3.3.3 The Architect shall review and prepare a preliminary evaluation of the elements of the Schematic Design Phase Information each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.4 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project. The Architect shall submit a written copy of the understanding to the Owner for the Owner's written approval (the "Project's Requirements").

§ 3.3.5 Based on the Project's Requirements, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.6 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other

documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. The Architect shall consult with the Agencies to determine the requirements to be incorporated in the Schematic Design Documents. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.7 The Architect shall incorporate in the Schematic Design Documents and all subsequent Design Documents the designs required to comply with those of the Conditions relating to energy and environmental design criteria and standards, and all energy and environmental design criteria and standards otherwise requested by the Owner under this Agreement. The Architect shall further consider other environmentally responsible design alternatives during the schematic phase not included in the Conditions and not otherwise requested by the Owner, such as, to the extent not included in the Conditions and not otherwise requested by the Owner, material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.3.8 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.3.9 The Architect and the Contractor shall each prepare and submit for the Owner's approval, separate written itemized estimates of the Cost of the Work prepared in accordance with Article 6 and based on the Schematic Design Documents.

§ 3.3.10 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. The Architect shall revise the Schematic Design Documents as requested by the Owner, shall transmit the revised documents to the Contractor for a revised estimate of the Cost of the Work based on such revisions and shall submit such revised Schematic Design Documents and such updated estimate for the Owner's approval.

§ 3.3.11 The Architect shall, upon the Owner's request, attend some or all conferences with the Agencies without limitation.

§ 3.4 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.4.1 The Design Development Phase shall commence upon written notice by the Owner to the Architect.

§ 3.4.2 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.3 The Architect and the Contractor shall each update their estimate of the Cost of the Work submitted to the Owner pursuant to Section 3.3.9 based on the Design Development Documents.

§ 3.4.4 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. The Architect shall revise the Design Development Documents as requested by the Owner.

(Paragraph deleted)

§ 3.5 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.5.1 The Construction Documents Phase shall commence upon the Owner's written notice to the Architect.

§ 3.5.2 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work including all information required to obtain all permits, certifications, and approvals necessary to complete the Project. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.7.4.

(Paragraphs deleted)

§ 3.5.3 The Architect shall incorporate into the Construction Documents the design requirements of the Agencies.

(Paragraphs deleted)

§ 3.5.4 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of the following: (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, bidding requirements and sample forms.

§ 3.5.5 Any design errors or omissions in the Construction Documents furnished by the Architect will be promptly corrected by the Architect at no cost to the Owner, and the Architect will indemnify the Owner for all third party claims, suits and damages, if any, resulting from the Architect's negligent acts, errors or omissions. The Owner's approval, acceptance, use of, or payment for, all or any part of the Architect's Services hereunder or of the Project itself shall in no way alter the Architect's obligations or the Owner's rights hereunder. If, due to the Architect's negligence, omission or failure to perform in accordance with the terms of this Agreement, a required item or component of the Project is omitted from the Construction Documents or if, due to such negligence, omission or failure, the Construction Documents must be modified through a Change Order, the Architect shall be responsible for paying the cost required to add or modify such item or component to the Project, excluding the reasonable cost that would have been incurred by the Owner at the time of the original bid for such Project item or component to the extent that such item or component would have been required and included in the original Construction Documents. In no event shall the Owner pay more than once for an item or component of the Project.

§ 3.5.6 The Architect shall assist the Owner in obtaining the necessary approvals to begin the Bidding Phase. Such assistance shall include attending some or all meetings with the Agencies without limitation, producing any documents and providing any services reasonably required of the Architect and requested of the Owner by the Agencies, and, upon the Owner's written approval, making any adjustments to the Construction Documents requested by the Agencies.

§ 3.6 BIDDING PHASE SERVICES

§ 3.6.1 The Bidding Phase shall commence upon written notice from the Owner to the Architect.

(Paragraphs deleted)

§ 3.6.2 Bidding Documents shall consist of all documents to comply with bidding requirements and the proposed Contract Documents.

(Paragraphs deleted)

§ 3.6.3 The Architect shall assist the Owner in bidding the Project by preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

(Paragraphs deleted)

§ 3.6.4 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall upon the Owner's written approval prepare and distribute addenda identifying approved substitutions to all prospective bidders.

(Paragraphs deleted)

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§ 3.6.5 In the event the bids exceed the Owner's budget for the Cost of the Work, the Architect, in consultation with the Owner and based upon the Owner's authorization regarding any adjustments in the Project requirements and the Owner's budget for the Cost of the Work, shall as part of the Architect's Basic Services make adjustments to and revised the Bidding Documents, including, without limitation, the Construction Documents, for the Owner's approval until such time as bids are obtained that comply with the Owner's budget for the Cost of the Work.

§ 3.7 CONSTRUCTION PHASE SERVICES

§ 3.7.1 GENERAL

§ 3.7.1.1 The Architect's responsibility to provide Construction Phase Services commences upon written notice from the Owner to the Architect and terminates, except to the extent otherwise provided in this Agreement, on the date that is six months after the date of occupancy.

§ 3.7.1.2 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007. Modifications or supplements made to such General Conditions of the Contract for Construction by the Owner or Contractor shall, to the extent such modifications or supplements may affect the Architect's rights and responsibilities and are inconsistent with this Agreement, be subject to the Architect's reasonable approval, which approval shall not be unreasonably withheld, conditioned or delayed. In the event of a conflict between the provisions of the AIA Document A201™–2007 and this Agreement regarding the rights and responsibilities of the Architect, the provisions of this Agreement shall govern.

§ 3.7.1.3 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents; provided, however, that nothing herein shall absolve the Architect of responsibility for means, methods, techniques, sequences or procedures specified in the Contract Documents or otherwise specified by the Architect. The Architect shall be responsible for the Architect's negligent acts or omissions and for the negligent acts or omissions of the Architect's consultants and subcontractors and for the failure of the Architect, and the Architect's consultants and subcontractors to comply with the requirements of this Agreement, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of any other persons or entities performing portions of the Work, including the Contractor and the Contractor's subcontractors.

§ 3.7.1.4 At the conclusion of the Construction Phase and based upon information furnished by the Contractor, the Architect shall prepare and furnish to the Owner a complete record of set drawings and specifications depicting the Project as modified during construction, in CADD format acceptable to the Owner. In addition, the Architect shall deliver to the Owner a complete set of Construction Documents in CADD format acceptable to the Owner.

§ 3.7.2 EVALUATIONS OF THE WORK

§ 3.7.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, but no less than twice weekly, including regularly scheduled site meetings and visits, to become familiar with the progress and quality of the portion of the Work completed, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and inform the Owner in writing of (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

(Paragraph deleted)

§ 3.7.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractor, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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(Paragraph deleted)

§ 3.7.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness typically within seven days.

§ 3.7.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of those interpretations or decisions rendered in good faith and that were necessitated by a reason other than an act or omission of the Architect. The Architect's decisions on matters relating to aesthetic effort shall be final if consistent with the intent expressed in the Contract Documents.

(Paragraph deleted)

§ 3.7.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

(Paragraph deleted)

§ 3.7.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

(Paragraph deleted)

§ 3.7.3.1 The Architect shall review the amounts due the Contractor and shall certify and issue certificates in such amounts as the Architect determines to be due. Such certifications by the Architect shall be recommendations only, subject to the Owner's approval for payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.7.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect in writing at the time of certification.

§ 3.7.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors or material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

(Paragraph deleted)

§ 3.7.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.7.4 SUBMITTALS

(Paragraph deleted)

§ 3.7.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.7.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of assuring conformity with information given and the design concept expressed in the Contract Documents. The Architect shall return duplicate submittal copies to the Contractor in such number as the Contractor requires. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or

systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, of those construction means, methods, techniques, sequences or procedures that are not specified in the Contract Documents or otherwise specified by the Architect. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(Paragraph deleted)

§ 3.7.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.7.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness, typically within seven days. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.7.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.7.5 CHANGES IN THE WORK

§ 3.7.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect shall review proposed changes in the Work and Change Orders for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.7.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.7.6 PROJECT COMPLETION

§ 3.7.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.7.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected and to prepare for the Owner a written list of observable items, materials, or systems that are defective or that require additional Work or replacement by the Contractor.

§ 3.7.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner in writing of the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.7.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.7.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct meetings with the Owner and the

Owner's commissioning agent to review the facility operations and performance. The number of such meetings shall be determined by the Owner as the Owner deems necessary for the Project.

§ 3.7.6.6 Upon request of the Owner, the Architect will cooperate and assist the Owner and the Department during any audit of the Project as conducted by the Owner or the Department at any time after Substantial Completion.

ARTICLE 4 BASIC SERVICES AND ADDITIONAL SERVICES

§ 4.1

(Paragraphs deleted)

Notwithstanding anything to the contrary, (i) the Architect shall provide the services designated below as the responsibility of the Architect as included in the Basic Services and at no other additional cost to the Owner and (ii) any services made necessary by the act or omission of the Architect, its consultants or subcontractors shall be provided by the Architect as Basic Services, at no additional cost to the Owner.

§ 4.1.1	Programming	Owner/Architect
§ 4.1.2	Multiple preliminary designs	Architect
§ 4.1.3	Measured drawings	Architect
§ 4.1.4	Existing facilities surveys	Architect
§ 4.1.5	Site Evaluation and Planning (B203™–2007)	Architect
§ 4.1.6	Building information modeling	Architect
§ 4.1.7	Civil engineering	Architect
§ 4.1.8	Landscape design	Architect
§ 4.1.9	Architectural Interior Design (B252™–2007)	Architect
§ 4.1.10	Value Analysis (B204™–2007)	Architect/Owner/Contractor
§ 4.1.11	Detailed cost estimating	Architect/Contractor
§ 4.1.12	On-site project representation	Architect
§ 4.1.13	Conformed construction documents	Not applicable
§ 4.1.14	As-designed record drawings	Architect
§ 4.1.15	As-constructed record drawings	Architect
§ 4.1.16	Post occupancy evaluation	Owner
§ 4.1.17	Facility Support Services (B210™–2007)	Architect
§ 4.1.18	Tenant-related services	Not applicable
§ 4.1.19	Coordination of Owner's consultants	Architect
§ 4.1.20	Telecommunications/data design	Architect
§ 4.1.21	Security Evaluation and Planning (B206™–2007)	Architect
§ 4.1.22	Commissioning (B211™–2007)	Owner
§ 4.1.23	Extensive environmentally responsible design	Architect
§ 4.1.24	LEED® Certification (B214™–2007)	Architect
§ 4.1.25	Fast-track design services	Architect
§ 4.1.26	Historic Preservation (B205™–2007)	Not applicable
§ 4.1.27	Furniture, Finishings, and Equipment Design/Bid (B253™–2007)	Architect/Owner
§ 4.1.28	Land Survey Services	Owner
4.1.30	Environmental Studies and Reports	Owner
4.1.31	Owner-Supplied Data Coordination	Owner
4.1.32	Schedule Development and Monitoring	Owner
4.1.33	Construction Management	Contractor
4.1.34	Special Inspections	Architect
4.1.35	Traffic Report & STC Submission	Architect
4.1.36	Wetland Delineation	Architect
4.1.37	Color Renderings	Architect
4.1.38	Implement Re-check Comments	Architect

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4.1.39	Preparation of the Statement of Special Inspection	Architect

§ 4.2 Section Omitted.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. The Architect shall perform all services requested by the Owner. Services requested by the Owner or recognized to be necessary after execution of this Agreement are presumed to be included within Basic Services unless clearly shown to not be so included. Notwithstanding the foregoing, If the Architect believes a service requested by the Owner or recognized to be necessary after execution of this Agreement is an Additional Service, prior to such performance, the Owner and the Architect, solely after notice from the Architect, given within five (5) days of the Owner's request, shall meet to determine if such services are within the Basic Services or Additional Services. If the Architect fails to submit such notice, the Architect shall be deemed to have waived any right to additional compensation for such services and the same shall be deemed part of the Basic Services.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, to the extent such services are not included in the Basic Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services to the extent not included in the Basic Services, until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .3 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

(Paragraph deleted)

- .4 Preparation of the design and documentation for significant alternate bid or proposal requests proposed by the Owner;

(Paragraph deleted)

- .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .6 Evaluation of the qualifications of bidders or persons providing proposals; or
- .7 Consultation concerning replacement of Work resulting from fire or other cause during construction.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services and, to the extent not included in the Basic Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or

- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 90 days after the date of Substantial Completion of the Work.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner. Nothing herein shall absolve the Architect of its responsibility under this Agreement to carry out the services listed below whenever appropriate and as necessary:

- .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor as required by Owner.
- .2 Visits to the site by the Architect over the duration of the Project during construction as required by Owner but not less than twice per week.
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents, as required by Owner.
- .4 Two (2) inspections for any portion of the Work to determine final completion, as required by Owner.

(Paragraph deleted)

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information to the extent necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 If necessary, the Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

(Paragraph deleted)

§ 5.5 The Owner shall furnish services, when reasonably requested by the Architect, which request shall include a written explanation of the need for such services, of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. Upon the agreement of the Owner, the Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates to the satisfaction of the Owner that

they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service provided, however, that the Owner shall have no obligation to investigate for the purpose of becoming aware of faults, defects, errors, omissions or inconsistencies.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement or obtain the Architect's approval of those provisions of the Contract for Construction that affect the duties and responsibilities of the Architect, which approval the Architect shall not unreasonably withhold, condition or delay. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.13 Notwithstanding anything to the contrary in this Agreement, the Owner's provision, review and approval of any and all documents or other matters required herein shall be for the purpose of providing the Architect with information as to the Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy and completeness of such documents and shall in no way create any liability on the part of the Owner for errors, inconsistencies or omissions in any approved documents, nor shall any such review and approval alter the Architect's responsibilities hereunder or with respect to such documents.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as provided in this Agreement. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect and Contractor, represent the Architect's and Contractor's judgments as professionals. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect; provided, however, that within the Architect's standard of care the Architect shall be responsible for any overrun of the Cost of the Work caused by the unreasonable act or omission of the Architect, its consultants, or subcontractors, or caused by factors of which the Architect was aware but failed to consider in estimating or updating the Cost of the Work.

(Paragraph deleted)

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§ 6.4 Except as provided in Section 6.1, if the Bidding Phase has not commenced within 120 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time during any phase of the Architect's Services the Contractor's estimate of the Cost of the Work deviates from the Cost of the Work most recently approved by the Owner, the Owner may terminate this Agreement, such termination being a termination for cause. If the Owner does not so terminate the Agreement upon such deviation, the Architect shall, upon the Owner's request, provide a written explanation of the deviation and propose design changes that would bring the Project within the Cost of the Work.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid proposal, the Owner shall:

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.3;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget if adjusted under Section 6.6.1. If the Owner chooses to proceed under Section 6.6.2, the Architect shall provide rebid services for additional compensation which shall not exceed twenty thousand dollars (\$20,000) unless the parties agree to a higher sum based on the facts and circumstances of the rebid. The scope of such rebid services shall be the same as the scope of the services provided under Section 3.6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 All plans, drawings, specifications, models, reports and other materials and work product prepared or furnished by the Architect or on its behalf, including such materials and work product as are produced by the Architect's subcontractors and consultants, pursuant to this Agreement (collectively, the "Instruments of Service") are and shall be the property of the Owner and the Department, free and clear of any claim or retention of rights thereto by the Architect and the Architect's subcontractors and consultants. The Instruments of Service cannot be used by the Architect or the Architect's subcontractors or consultants for any purpose beyond the scope of this Agreement without the prior written consent of the Owner.

§ 7.2 All Instruments of Service may be used by the Owner, in whole or in part, or in modified form, for any purpose, including the completion of development of the Project and for future renovation, maintenance, repair or replacement.

§ 7.3 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as a publication in derogation of either party's rights.

(Paragraph deleted)

§ 7.4 If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

7.5 In the event the Owner uses the Instruments of Service for any other project involving a separate building in a different location not in any way related to State Project No. _____ without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. It is understood and agreed that this section shall not apply to any building on any site built or constructed for State Project No. _____.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period set forth in Section 52-584a of the Connecticut General Statutes, as may be amended.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

(Paragraph deleted)

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be

(Paragraphs deleted)

arbitration pursuant to Section 8.3 of this Agreement

(Paragraphs deleted)

§ 8.3 ARBITRATION

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by

the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement, provided that any arbitration proceedings under this Agreement shall be brought in Hartford, Connecticut. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 The Architect may, upon thirty (30) days notice to the Owner, terminate or suspend this Agreement upon the Owner's failure to perform in accordance with this Agreement, including the failure, without cause, to make a payment to the Architect required under this Agreement. The notice of termination or suspension must state with specificity the means by which the Owner may cure its nonperformance and the Architect may not terminate or suspend this Agreement if, within thirty (30) days of such notice, the Owner substantially takes such curative measures.

§ 9.2 If the Owner suspends the Project, for ninety (90) consecutive days for reasons unrelated to a fault of the Architect, the Architect shall be compensated for services fully and satisfactorily performed by the Architect prior to notice of such suspension and, upon such suspension by the Owner or upon the Owner's suspension of the project for more than 120 cumulative days, the Architect may terminate this Agreement by giving not less than thirty (30) days' written notice to the Owner and upon the Owner's failure to resume the Project within such thirty (30) day period.

§ 9.3 The Owner may terminate this Agreement for cause as provided in this Agreement or upon the Architect's material failure to perform in accordance with the terms of this Agreement. Such termination by the Owner for cause shall be upon not less than seven days' written notice.

§ 9.4 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.5 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

(Paragraphs deleted)

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Connecticut.

§ 10.2 Unless otherwise stated in this Agreement, terms in this Agreement shall have the same meaning as those in AIA Document A201–2007.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute, or obtain execution from the Architect's subcontractors or consultants, certificates and consents required to facilitate assignment to a lender, the proposed language of such certificates shall be submitted to the Architect for review a reasonable amount of time prior to the requested dates of execution. Should the Owner request the Architect to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement, such certifications may be limited to the best of the Architect's knowledge.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect. The Owner shall be a third party beneficiary of each of the Architect's agreements with its consultants and subcontractors.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. Any confidential information obtained by the Architect from the Owner may not be used, published, distributed, sold or divulged by the Architect or the Architect's subcontractors or consultants for such party's own purposes or for the benefit of any person, firm, corporation or other entity, without the prior written consent of the Owner. Any information obtained by the Architect or the Architect's subcontractors or consultants that is designated by the Owner in accordance with applicable law as confidential shall not be disclosed to any other parties without the prior written consent of the Owner.

§ 10.8 The Architect hereby agrees, to the extent permitted by law, to indemnify and hold harmless the Owner and its officials, employees and representatives against and from any claims, suits and/or legal actions of any type by third parties, including without limitation claims for loss of or damage to property, personal or bodily injury, including death, and claims for losses of any type, and from all judgments or decrees recovered therefore and from all expenses for defending such claims, suits or legal actions, including without limitation court costs and attorneys fees, which result or arise from the negligent acts or omissions, breaches, errors, torts or other improper unauthorized and/or unlawful acts or omissions of the Architect, its employees, agents, contractors or representatives, and/or design defects or breaches of warranty in, caused by, or related to the Project documents. The Architect shall properly correct or remedy any defects or problems caused by or related to any of the above, to the extent possible at no cost to the Owner.

§ 10.9 The Architect shall comply with all local, state and federal laws, rules and regulations applicable to the Architect, including without limitation those relating to equal opportunity, labor, wages, employment and requirements of state loans, grants, funding or approvals.

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ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3 and for Additional Services designated in Section 4.1 as being the responsibility of the Architect, the Owner shall compensate the Architect
(Paragraphs deleted)
in a stipulated lump sum amount as set forth in Section 11.5 and the Cost Proposal (as such term is hereinafter defined).

§ 11.2
(Paragraphs deleted)
Section Omitted.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect
(Paragraphs deleted)
on an hourly rate basis in accordance with the Cost Proposal.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.3, shall be the amount invoiced to the Architect plus 1.10%.

§ 11.5 Compensation for Basic Services shall be a stipulated lump sum in an amount equal to _____ and NO/100 Dollars (\$ _____) and the compensation for each phase of services based upon such stipulated lump sum shall be as set forth in the Architect's cost proposal, a copy of which cost proposal is attached hereto as **Exhibit C** and made a part hereof (the "Cost Proposal").
(Table deleted)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid proposal, or (2) if no such bid is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth
(Paragraphs deleted)
on the Cost Proposal. The rates set forth on the Cost Proposal shall not be adjusted during the Project unless approved in writing by Owner.
(Table deleted)

§ 11.8 NO COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 There shall be no reimbursable expenses due the Architect in addition to compensation for Basic and Additional Services and
(Paragraphs deleted)
all such expenses to the extent incurred by the Architect and/or the Architect's consultants directly related the Project shall be at the Architect's sole cost and expense.

(Paragraph deleted)

§ 11.9
(Paragraphs deleted)

PAYMENTS TO THE ARCHITECT

(Paragraphs deleted)

§ 11.9.1 An initial payment of Zero Dollars (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate of six percent (6%) per annum.

§ 11.9.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times or at any time such records are lawfully requested by a government authority.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 The Architect shall as part of the Architect's Basic Services engage an environmental consultant approved by the Owner to perform environmental investigations of the Project site. The Owner shall be responsible, if applicable and necessary, for the safe removal and disposal of all hazardous or toxic substances, products and materials related to this Project and shall, to the fullest extent permitted by law, indemnify and hold harmless the Architect, its officers, directors, shareholders, employees, agent and consultants from and against any and all claims, suits, demands, liabilities, losses and costs, including but not limited to reasonable attorney's fees and defense costs, resulting and accruing to any and all persons, firms and any other legal entity, caused by, arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any hazardous toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability, or statutory liability of any other cause of action. The environmental consultant will name the Owner and Architect as additional insureds on its insurance policy. If the Architect becomes aware of hazardous materials, or the potential presence of hazardous materials, the Architect shall immediately report that information to the Owner.

§ 12.2 The Architect and the Contractor shall each be responsible for preparing and submitting for the Owner's approval (i) a written itemized estimate of the Cost of the Work based upon the Schematic Design Documents; and (ii) an update of such estimates based upon the Design Development Documents.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect, as amended;
- .2 Architect Proposal; and
- .3 Other documents:

Exhibit A – RFQ/P;
Exhibit B – AIA Document A201–2007, as amended; and
Exhibit C – Cost Proposal.

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

OWNER

ARCHITECT

CAPITOL REGION EDUCATION COUNCIL

By:

By:

(Signature)

(Signature)

Name: Bruce Douglas

Name:

Title: Executive Director

Title:

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Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
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PAGE 1

AGREEMENT made as of the ____ day of _____ in the year Two Thousand and _____
(In words, indicate day, month and year.)

...

(Name, legal status, address and other information)

Capitol Region Education Council
111 Charter Oak Avenue
Hartford, CT 06106

...

(Name, legal status, address and other information)

...

(Name, location and detailed description)

PAGE 2

§ 1.1 This Agreement is based on the Initial Information set forth in ~~this Article 1 and in optional Exhibit A, Initial Information:~~

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

(i) this Article 1; (ii) that certain Request for Qualifications/Proposals for Architectural Services for _____ issued by the Owner for the Project, a copy of which is attached hereto as **Exhibit A** and made a part hereof (the "RFQ/P"); and (iii) that certain document prepared by the Architect and submitted to the Owner in response to the RFQ/P dated _____ and entitled "Qualifications/Proposal _____" (the "Architect Proposal"). To the extent of conflicts between the terms and conditions of the RFQ/P and the Architect Proposal, the terms and conditions of the RFQ/P shall govern and prevail.

...

§ 1.2 The Owner's anticipated dates for commencement of ~~construction and Substantial Completion of the Work~~ design services and Project completion are set forth below:

.1 ~~Commencement of construction date:~~
design services date: _____

...

.2 ~~Substantial Completion date:~~

.2 Project completion date: _____

...

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's ~~compensation.~~ compensation as provided in this Agreement.

§ 1.4 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or any other AIA document or provision, the reference refers to that document or provision as amended by the Owner and, if applicable, any other party to such document, and as amended and supplemented by other provisions of the Contract Documents. Notwithstanding the foregoing, a copy of the AIA Document A201-2007 as amended by the Owner for the Project is attached here to as **Exhibit B** and made a part hereof and all references in this Agreement to AIA Document A201-2007 shall mean the document attached hereto as **Exhibit B**.

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§ 2.1 ~~The Architect shall provide the professional services as set forth in this Agreement.~~ Architect's Services consist of the services the Architect is required to perform under this Agreement, and, unless inconsistent with the instructions, guidance, and direction of the Owner, all professional services usually and customarily performed in conjunction with, and in furtherance of, such services.

§ 2.2 ~~The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances.~~ The Architect shall perform its services be responsible for the performance of the Architect's Services as an independent contractor and in a good and workmanlike manner (i) consistent this Agreement; (ii) consistent with the instructions, guidance and direction of the Owner; (iii) consistent with the highest prevailing applicable professional or industry standards; (iv) consistent with sound architectural practices; and (v) as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. care, the orderly progress of the Project, the instructions of the Owner and this Agreement (the standards of this Section § 2.2 shall be referred to herein as the "Architect's Standard of Care").

§ 2.2.1 The Architect shall exercise the Architect's Standard of Care in performing all aspects of the Architect's Services. All references in this Agreement or in the Contract Documents to the knowledge, inference, reliance, awareness, determination, belief, observation, recognition or discovery of the Architect or reference to any similar term shall include the knowledge, inference, reliance, awareness, determination, belief, observation and recognition the Architect would have obtained upon the exercise of the Architect's Standard of Care.

§ 2.3 ~~The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.~~ be responsible for the performance of the Architect's Services in compliance with all applicable laws, rules, regulations, ordinances, codes, orders and permits of all federal, state and local government bodies, agencies, authorities and courts having jurisdiction over the Project and with the Conditions as defined in Subsection 2.3.1.

§ 2.3.1 The "Conditions" are all statutory and regulatory requirements and all guidelines and standards imposed on the Project by the Agencies, as defined in Sections 2.3.2 and 2.3.3.

§ 2.3.2 The "Agencies" are the Owner, the Department of Education of the State of Connecticut, including, without limitation, the Bureau of School Facilities (the "Department") and all other governmental authorities having regulatory or administrative jurisdiction over the Project and all representatives or designees of the Department or such other governmental authorities. The term "Agencies" shall also include any individuals or entities designated by the Department or such other governmental authorities or by the Owner to monitor or oversee compliance of the Project's energy and environmental design with the requirements of the Department or such other governmental authorities.

§ 2.3.3 The term "Agencies" shall also include any individual or entity not described in Section 2.3.2 from whom the Owner intends to request certification of the Project's energy and environmental design, to the extent the Architect is required, under this Agreement, to provide services relating to such certification.

§ 2.3.4 The Architect understands that performance of the Architect's Services will require communication with the Agencies and with individuals designated by the Agencies, and the Architect will, at no additional cost to the Owner, so communicate and take all steps reasonably necessary to ensure compliance with the Conditions.

...

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost; types and amounts of insurance specified in this Section § 2.5. The Architect shall maintain such insurance until five (5) years after Substantial Completion, or for any other period specified in this Agreement. The Architect shall require its consultants and subcontractors to maintain the same types of insurance the Architect is required to maintain under this Agreement, in amounts approved by the Owner. The Owner shall be named an additional insured on the Commercial General Liability and Automobile Liability insurance of the Architect and its subcontractors and consultants. Before commencing the Architect's Services, the Architect shall file with the Owner certificates of insurance for the required insurance and shall update such certificates throughout the duration of this Agreement and during any additional period specified in this Agreement. Certificates of professional liability insurance shall bear the endorsement 'Not to be canceled without thirty (30) days' prior written notice to Owner.

All subcontractors are subject to the same requirements. It is your responsibility to be sure that subcontractors provide acceptable evidence of insurance.

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.) Architect's general liability policy must be endorsed with ISO Endorsement CG 20 26 0704 (or equivalent) or ISO Endorsement CG 20 33 07 04 (or equivalent), and ISO Endorsement CG 20 37 07 04 (or equivalent). These form numbers must be specifically referenced on the certificate of insurance. If Architect's insurance company uses another form to provide Owner with additional insured status on Architect's policies, copies of those forms must be provided in advance with the certificate for review and approval by Owner.

Evidence of compliance with these requirements is with the ACCORD form 25, "Certificate of Liability Insurance". Certificates shall be sent to the following address: Capitol Region Education Council, 111 Charter Oak Avenue, Hartford, CT 06106.

The following is a list of the types and amounts of insurance coverage required of the Architect under this Agreement:

.1 ~~General Liability~~ **COMMERCIAL GENERAL LIABILITY:** \$1,000,000 per occurrence/\$2,000,000 aggregate bodily injury/property damage. The CGL policy must include coverage for: liability from premises and operations; liability from products or completed operations; liability from actions of independent contractors and liability assumed by contract.

.2 **AUTOMOBILE LIABILITY:** \$1,000,000 per accident for bodily injury/property damage, including hired and non-owned vehicles.

.3 **WORKERS' COMPENSATION:** Statutory.

.2 — Automobile Liability, 4 **PROFESSIONAL LIABILITY**

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project, the Agencies.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES ~~SECTION OMITTED~~

~~§ 3.3 SCHEMATIC DESIGN PHASE SERVICES~~

~~§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.~~

~~§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.~~

~~§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.~~

~~§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.~~

~~§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

~~§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.~~

~~§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.~~

~~§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.~~

~~§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.~~

~~§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES~~

~~§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. The Schematic Design Phase shall commence upon written notice by the Owner to the Architect.~~

~~§ 3.3.2 The Architect shall update the estimate of the Cost of the Work, review the program, schedule, budget for the Cost of the Work, proposed procurement or delivery method, and other Initial Information furnished by the Owner;~~

the Project site; information furnished for, and produced during, the Pre-Approval Services, the local approval process, and the approval for funding from the Department; all applicable laws, codes and regulations; and the Conditions (all the foregoing referred to herein as the "Schematic Design Phase Information"). The Architect shall, as required, consult with the Agencies on an ongoing basis during the Schematic Design Phase.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. review and prepare a preliminary evaluation of the elements of the Schematic Design Phase Information each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.4 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project. The Architect shall submit a written copy of the understanding to the Owner for the Owner's written approval (the "Project's Requirements").

§ 3.3.5 Based on the Project's Requirements, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.6 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. The Architect shall consult with the Agencies to determine the requirements to be incorporated in the Schematic Design Documents. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.7 The Architect shall incorporate in the Schematic Design Documents and all subsequent Design Documents the designs required to comply with those of the Conditions relating to energy and environmental design criteria and standards, and all energy and environmental design criteria and standards otherwise requested by the Owner under this Agreement. The Architect shall further consider other environmentally responsible design alternatives during the schematic phase not included in the Conditions and not otherwise requested by the Owner, such as, to the extent not included in the Conditions and not otherwise requested by the Owner, material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.3.8 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.3.9 The Architect and the Contractor shall each prepare and submit for the Owner's approval, separate written itemized estimates of the Cost of the Work prepared in accordance with Article 6 and based on the Schematic Design Documents.

§ 3.3.10 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. The Architect shall revise the Schematic Design Documents as requested by the Owner, shall transmit the revised documents to the Contractor for a revised estimate of the Cost of the Work based on such revisions and shall submit such revised Schematic Design Documents and such updated estimate for the Owner's approval.

§ 3.3.11 The Architect shall, upon the Owner's request, attend some or all conferences with the Agencies without limitation.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES DESIGN DEVELOPMENT PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare

~~Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. The Design Development Phase shall commence upon written notice by the Owner to the Architect.~~

~~§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project. Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

~~§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms. The Architect and the Contractor shall each update their estimate of the Cost of the Work submitted to the Owner pursuant to Section 3.3.9 based on the Design Development Documents.~~

~~§ 3.4.4 The Architect shall update the estimate for the Cost of the Work, submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. The Architect shall revise the Design Development Documents as requested by the Owner.~~

~~§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.~~

~~§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES~~ CONSTRUCTION DOCUMENTS PHASE SERVICES

~~§ 3.5.1 GENERAL~~

~~The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. The Construction Documents Phase shall commence upon the Owner's written notice to the Architect.~~

~~§ 3.5.2 COMPETITIVE BIDDING~~ Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work including all information required to obtain all permits, certifications, and approvals necessary to complete the Project. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.7.4.

~~§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.~~

~~§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by~~

- ~~1 — procuring the reproduction of Bidding Documents for distribution to prospective bidders;~~

- ~~.2 — distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;~~
- ~~.3 — organizing and conducting a pre bid conference for prospective bidders;~~
- ~~.4 — preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and~~
- ~~.5 — organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.~~

~~§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.~~

~~§ 3.5.3 NEGOTIATED PROPOSALS The Architect shall incorporate into the Construction Documents the design requirements of the Agencies.~~

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by~~

- ~~.1 — procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~.2 — organizing and participating in selection interviews with prospective contractors; and~~
- ~~.3 — participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

~~§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

~~§ 3.5.4 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of the following: (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, bidding requirements and sample forms.~~

~~§ 3.5.5 Any design errors or omissions in the Construction Documents furnished by the Architect will be promptly corrected by the Architect at no cost to the Owner, and the Architect will indemnify the Owner for all third party claims, suits and damages, if any, resulting from the Architect's negligent acts, errors or omissions. The Owner's approval, acceptance, use of, or payment for, all or any part of the Architect's Services hereunder or of the Project itself shall in no way alter the Architect's obligations or the Owner's rights hereunder. If, due to the Architect's negligence, omission or failure to perform in accordance with the terms of this Agreement, a required item or component of the Project is omitted from the Construction Documents or if, due to such negligence, omission or failure, the Construction Documents must be modified through a Change Order, the Architect shall be responsible for paying the cost required to add or modify such item or component to the Project, excluding the reasonable cost that would have been incurred by the Owner at the time of the original bid for such Project item or component to the extent that such item or component would have been required and included in the original Construction Documents. In no event shall the Owner pay more than once for an item or component of the Project.~~

~~§ 3.5.6 The Architect shall assist the Owner in obtaining the necessary approvals to begin the Bidding Phase. Such assistance shall include attending some or all meetings with the Agencies without limitation, producing any documents and providing any services reasonably required of the Architect and requested of the Owner by the Agencies, and, upon the Owner's written approval, making any adjustments to the Construction Documents requested by the Agencies.~~

~~§ 3.6 CONSTRUCTION PHASE SERVICES BIDDING PHASE SERVICES~~

~~§ 3.6.1 GENERAL The Bidding Phase shall commence upon written notice from the Owner to the Architect.~~

~~§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™ 2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201 2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~

~~§ 3.6.1.2~~ The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

~~§ 3.6.1.3~~ Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

~~§ 3.6.2~~ EVALUATIONS OF THE WORK Bidding Documents shall consist of all documents to comply with bidding requirements and the proposed Contract Documents.

~~§ 3.6.2.1~~ The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

~~§ 3.6.2.2~~ The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

~~§ 3.6.2.3~~ The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

~~§ 3.6.2.4~~ Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

~~§ 3.6.2.5~~ Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

~~§ 3.6.3~~ CERTIFICATES FOR PAYMENT TO CONTRACTOR The Architect shall assist the Owner in bidding the Project by preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

~~§ 3.6.3.1~~ The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents.

The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

~~§ 3.6.3.2~~ The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

~~§ 3.6.3.3~~ The Architect shall maintain a record of the Applications and Certificates for Payment.

~~§ 3.6.4~~ SUBMITTALS The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall upon the Owner's written approval prepare and distribute addenda identifying approved substitutions to all prospective bidders.

~~§ 3.6.4.1~~ The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

~~§ 3.6.4.2~~ In accordance with the Architect approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

~~§ 3.6.4.3~~ If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

~~§ 3.6.4.4~~ Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

~~§ 3.6.4.5~~ The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

~~§ 3.6.5~~ CHANGES IN THE WORK In the event the bids exceed the Owner's budget for the Cost of the Work, the Architect, in consultation with the Owner and based upon the Owner's authorization regarding any adjustments in the Project requirements and the Owner's budget for the Cost of the Work, shall as part of the Architect's Basic Services make adjustments to and revised the Bidding Documents, including, without limitation, the Construction Documents, for the Owner's approval until such time as bids are obtained that comply with the Owner's budget for the Cost of the Work.

§ 3.7 CONSTRUCTION PHASE SERVICES

§ 3.7.1 GENERAL

§ 3.7.1.1 The Architect's responsibility to provide Construction Phase Services commences upon written notice from the Owner to the Architect and terminates, except to the extent otherwise provided in this Agreement, on the date that is six months after the date of occupancy.

§ 3.7.1.2 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007. Modifications or supplements made to such General Conditions of the Contract for Construction by the Owner or Contractor shall, to the extent such modifications or supplements may affect the Architect's rights and responsibilities and are inconsistent with this Agreement, be subject to the Architect's reasonable approval, which approval shall not be unreasonably withheld, conditioned or delayed. In the event of a conflict between the provisions of the AIA Document A201™–2007 and this Agreement regarding the rights and responsibilities of the Architect, the provisions of this Agreement shall govern.

§ 3.7.1.3 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents; provided, however, that nothing herein shall absolve the Architect of responsibility for means, methods, techniques, sequences or procedures specified in the Contract Documents or otherwise specified by the Architect. The Architect shall be responsible for the Architect's negligent acts or omissions and for the negligent acts or omissions of the Architect's consultants and subcontractors and for the failure of the Architect, and the Architect's consultants and subcontractors to comply with the requirements of this Agreement, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of any other persons or entities performing portions of the Work, including the Contractor and the Contractor's subcontractors.

§ 3.7.1.4 At the conclusion of the Construction Phase and based upon information furnished by the Contractor, the Architect shall prepare and furnish to the Owner a complete record of set drawings and specifications depicting the Project as modified during construction, in CADD format acceptable to the Owner. In addition, the Architect shall deliver to the Owner a complete set of Construction Documents in CADD format acceptable to the Owner.

§ 3.7.2 EVALUATIONS OF THE WORK

§ 3.7.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, but no less than twice weekly, including regularly scheduled site meetings and visits, to become familiar with the progress and quality of the portion of the Work completed, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and inform the Owner in writing of (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.7.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractor, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.7.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness typically within seven days.

§ 3.7.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of those interpretations or decisions rendered in good faith and that were necessitated by a reason other than an act or omission of the Architect. The Architect's decisions on matters relating to aesthetic effort shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.6 PROJECT COMPLETION

§ 3.7.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

~~§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.~~

§ 3.7.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

~~§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.~~

§ 3.7.3.1 The Architect shall review the amounts due the Contractor and shall certify and issue certificates in such amounts as the Architect determines to be due. Such certifications by the Architect shall be recommendations only, subject to the Owner's approval for payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.7.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect in writing at the time of certification.

§ 3.7.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors or material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

~~§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.~~

§ 3.7.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.7.4 SUBMITTALS

~~§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2)~~

~~affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.~~

§ 3.7.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.7.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of assuring conformity with information given and the design concept expressed in the Contract Documents. The Architect shall return duplicate submittal copies to the Contractor in such number as the Contractor requires. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, of those construction means, methods, techniques, sequences or procedures that are not specified in the Contract Documents or otherwise specified by the Architect. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

~~§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.~~

§ 3.7.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.7.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness, typically within seven days. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

ARTICLE 4 — ADDITIONAL SERVICES

§ 3.7.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.7.5 CHANGES IN THE WORK

§ 3.7.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect shall review proposed changes in the Work and Change Orders for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.7.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.7.6 PROJECT COMPLETION

§ 3.7.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.7.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected and to prepare for the Owner a written list of observable items, materials, or systems that are defective or that require additional Work or replacement by the Contractor.

§ 3.7.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner in writing of the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.7.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.7.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct meetings with the Owner and the Owner’s commissioning agent to review the facility operations and performance. The number of such meetings shall be determined by the Owner as the Owner deems necessary for the Project.

§ 3.7.6.6 Upon request of the Owner, the Architect will cooperate and assist the Owner and the Department during any audit of the Project as conducted by the Owner or the Department at any time after Substantial Completion.

ARTICLE 4 BASIC SERVICES AND ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. *(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Notwithstanding anything to the contrary, (i) the Architect shall provide the services designated below as the responsibility of the Architect as included in the Basic Services and at no other additional cost to the Owner and (ii) any services made necessary by the act or omission of the Architect, its consultants or subcontractors shall be provided by the Architect as Basic Services, at no additional cost to the Owner.

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
<u>§ 4.1.1</u> Programming (B202™ 2009)		
<u>§ 4.1.2</u> Multiple preliminary designs		
<u>§ 4.1.3</u> Measured drawings		
<u>§ 4.1.4</u> Existing facilities surveys		
<u>§ 4.1.5</u> Site Evaluation and Planning (B203™ 2007)		
<u>§ 4.1.6</u> Building Information Modeling (E202™ 2008)		
<u>§ 4.1.7</u> Civil engineering		
<u>§ 4.1.8</u> Landscape design		
<u>§ 4.1.9</u> Architectural Interior Design (B252™ 2007)		
<u>§ 4.1.10</u> Value Analysis (B204™ 2007)		
<u>§ 4.1.11</u> Detailed cost estimating		
<u>§ 4.1.12</u> On-site Project Representation (B207™ 2008)		
<u>§ 4.1.13</u> Conformed construction documents		
<u>§ 4.1.14</u> As-Designed Record drawings		

§ 4.1.15	As-Constructed Record drawings		
§ 4.1.16	Post occupancy evaluation		
§ 4.1.17	Facility Support Services (B210™-2007)		
§ 4.1.18	Tenant-related services		
§ 4.1.19	Coordination of Owner's consultants		
§ 4.1.20	Telecommunications/data design		
§ 4.1.21	Security Evaluation and Planning (B206™-2007)		
§ 4.1.22	Commissioning (B211™-2007)		
§ 4.1.23	Extensive environmentally responsible design		
§ 4.1.24	LEED® Certification (B214™-2012)		
§ 4.1.25	Fast track design services		
§ 4.1.26	Historic Preservation (B205™-2007)		
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)		

§ 4.1.1	Programming	<u>Owner/Architect</u>
§ 4.1.2	Multiple preliminary designs	<u>Architect</u>
§ 4.1.3	Measured drawings	<u>Architect</u>
§ 4.1.4	Existing facilities surveys	<u>Architect</u>
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	<u>Architect</u>
§ 4.1.6	Building information modeling	<u>Architect</u>
§ 4.1.7	Civil engineering	<u>Architect</u>
§ 4.1.8	Landscape design	<u>Architect</u>
§ 4.1.9	Architectural Interior Design (B252™-2007)	<u>Architect</u>
§ 4.1.10	Value Analysis (B204™-2007)	<u>Architect/Owner/Contractor</u>
§ 4.1.11	Detailed cost estimating	<u>Architect/Contractor</u>
§ 4.1.12	On-site project representation	<u>Architect</u>
§ 4.1.13	Conformed construction documents	<u>Not applicable</u>
§ 4.1.14	As-designed record drawings	<u>Architect</u>
§ 4.1.15	As-constructed record drawings	<u>Architect</u>
§ 4.1.16	Post occupancy evaluation	<u>Owner</u>
§ 4.1.17	Facility Support Services (B210™-2007)	<u>Architect</u>
§ 4.1.18	Tenant-related services	<u>Not applicable</u>
§ 4.1.19	Coordination of Owner's consultants	<u>Architect</u>
§ 4.1.20	Telecommunications/data design	<u>Architect</u>
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	<u>Architect</u>
§ 4.1.22	Commissioning (B211™-2007)	<u>Owner</u>
§ 4.1.23	Extensive environmentally responsible design	<u>Architect</u>
§ 4.1.24	LEED® Certification (B214™-2007)	<u>Architect</u>
§ 4.1.25	Fast-track design services	<u>Architect</u>
§ 4.1.26	Historic Preservation (B205™-2007)	<u>Not applicable</u>
§ 4.1.27	Furniture, Finishings, and Equipment Design/Bid (B253™-2007)	<u>Architect/Owner</u>
§ 4.1.28	Land Survey Services	<u>Owner</u>
4.1.30	Environmental Studies and Reports	<u>Owner</u>
4.1.31	Owner-Supplied Data Coordination	<u>Owner</u>
4.1.32	Schedule Development and Monitoring	<u>Owner</u>
4.1.33	Construction Management	<u>Contractor</u>
4.1.34	Special Inspections	<u>Architect</u>
4.1.35	Traffic Report & STC Submission	<u>Architect</u>
4.1.36	Wetland Delineation	<u>Architect</u>

4.1.37	Color Renderings	<u>Architect</u>
4.1.38	Implement Re-check Comments	<u>Architect</u>
4.1.39	Preparation of the Statement of Special Inspection	<u>Architect</u>

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

Section Omitted.

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§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. The Architect shall perform all services requested by the Owner. Services requested by the Owner or recognized to be necessary after execution of this Agreement are presumed to be included within Basic Services unless clearly shown to not be so included. Notwithstanding the foregoing, If the Architect believes a service requested by the Owner or recognized to be necessary after execution of this Agreement is an Additional Service, prior to such performance, the Owner and the Architect, solely after notice from the Architect, given within five (5) days of the Owner's request, shall meet to determine if such services are within the Basic Services or Additional Services. If the Architect fails to submit such notice, the Architect shall be deemed to have waived any right to additional compensation for such services and the same shall be deemed part of the Basic Services.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, to the extent such services are not included in the Basic Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services to the extent not included in the Basic Services, until the Architect receives the Owner's written authorization:

- ~~.1~~ Services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- ~~.2~~ Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- ~~.3~~ Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- ~~.4~~ ~~.3~~ Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- ~~.5~~ ~~Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~.6~~ ~~Preparation of design and documentation for~~ .4 Preparation of the design and documentation for significant alternate bid or proposal requests proposed by the Owner;
- ~~.7~~ ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- ~~.8~~ ~~Preparation for, and attendance~~ .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- ~~.9~~ ~~.6~~ Evaluation of the qualifications of bidders or persons providing proposals; or
- ~~.10~~ ~~.7~~ Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- ~~.11~~ Assistance to the Initial Decision Maker, if other than the Architect. construction.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services and, to the extent not included in the Basic Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services ~~60~~ 90 days after ~~(1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.~~ Work.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the ~~Owner.~~ Owner. Nothing herein shall absolve the Architect of its responsibility under this Agreement to carry out the services listed below whenever appropriate and as necessary:

- .1 ~~(Three (3))~~ Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor as required by Owner.
- .2 ~~(visits)~~ Visits to the site by the Architect over the duration of the Project during construction as required by Owner but not less than twice per week.
- .3 ~~(Two (2))~~ Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract ~~Documents~~ Documents, as required by Owner.
- .4 ~~(Two (2))~~ Two (2) inspections for any portion of the Work to determine final ~~completion~~ completion, as required by Owner.

§ 4.3.4 ~~If the services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.~~

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as to the extent necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 ~~The~~ If necessary, the Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

...

§ 5.5 ~~The~~ The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.5 The Owner shall furnish services, when reasonably requested by the Architect, which request shall include a written explanation of the need for such services, of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. ~~The~~ Upon the agreement of the Owner, the Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates to the satisfaction of the Owner that

they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

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~~§ 5.9~~ The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of ~~Service~~. Service provided, however, that the Owner shall have no obligation to investigate for the purpose of becoming aware of faults, defects, errors, omissions or inconsistencies.

...

~~§ 5.11~~ Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this ~~Agreement~~. Agreement or obtain the Architect's approval of those provisions of the Contract for Construction that affect the duties and responsibilities of the Architect, which approval the Architect shall not unreasonably withhold, condition or delay. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

...

~~§ 5.13~~ Notwithstanding anything to the contrary in this Agreement, the Owner's provision, review and approval of any and all documents or other matters required herein shall be for the purpose of providing the Architect with information as to the Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy and completeness of such documents and shall in no way create any liability on the part of the Owner for errors, inconsistencies or omissions in any approved documents, nor shall any such review and approval alter the Architect's responsibilities hereunder or with respect to such documents.

...

~~§ 6.2~~ The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as ~~required under Sections 5.2, 6.4 and 6.5, provided in this Agreement.~~ Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. ~~Architect and Contractor, represent the Architect's and Contractor's judgments as professionals.~~ It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by ~~the Architect~~. the Architect; provided, however, that within the Architect's standard of care the Architect shall be responsible for any overrun of the Cost of the Work caused by the unreasonable act or omission of the Architect, its consultants, or subcontractors, or caused by factors of which the Architect was aware but failed to consider in estimating or updating the Cost of the Work.

~~§ 6.3~~ In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

~~§ 6.4~~ If the Bidding or Negotiation ~~Except as provided in Section 6.1, if the Bidding Phase has not commenced within 90-120 days after the Architect submits the Construction Documents to the Owner, through no fault of the~~

Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time during any phase of the Architect's Services the Contractor's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments. ~~deviates from the Cost of the Work most recently approved by the Owner, the Owner may terminate this Agreement, such termination being a termination for cause. If the Owner does not so terminate the Agreement upon such deviation, the Architect shall, upon the Owner's request, provide a written explanation of the deviation and propose design changes that would bring the Project within the Cost of the Work.~~

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid ~~or negotiated proposal, the Owner shall~~ shall:

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.3 terminate in accordance with Section ~~9.5;~~ 9.3;

...

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as ~~adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6-~~ adjusted under Section 6.6.1. If the Owner chooses to proceed under Section 6.6.2, the Architect shall provide rebid services for additional compensation which shall not exceed twenty thousand dollars (\$20,000) unless the parties agree to a higher sum based on the facts and circumstances of the rebid. The scope of such rebid services shall be the same as the scope of the services provided under Section 3.6.

...

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. ~~All plans, drawings, specifications, models, reports and other materials and work product prepared or furnished by the Architect or on its behalf, including such materials and work product as are produced by the Architect's subcontractors and consultants, pursuant to this Agreement (collectively, the "Instruments of Service") are and shall be the property of the Owner and the Department, free and clear of any claim or retention of rights thereto by the Architect and the Architect's subcontractors and consultants. The Instruments of Service cannot be used by the Architect or the Architect's subcontractors or consultants for any purpose beyond the scope of this Agreement without the prior written consent of the Owner.~~

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. ~~Submission or distribution of Instruments of Service 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 reserved rights of the Architect and the Architect's consultants. All Instruments of Service may be used by the Owner, in whole or in part, or in modified form, for any purpose, including the completion of development of the Project and for future renovation, maintenance, repair or replacement.~~

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. ~~The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the~~

~~Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as a publication in derogation of either party's rights.~~

~~§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.~~

~~§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.~~

~~7.5 In the event the Owner uses the Instruments of Service for any other project involving a separate building in a different location not in any way related to State Project No. _____ without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. It is understood and agreed that this section shall not apply to any building on any site built or constructed for State Project No. _____.~~

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~~§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1 set forth in Section 52-584a of the Connecticut General Statutes, as may be amended.~~

...

~~§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.~~

...

~~§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)~~

~~Arbitration~~ arbitration pursuant to Section 8.3 of this Agreement

~~Litigation in a court of competent jurisdiction~~

~~Other (Specify)~~

...

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this ~~Agreement. Agreement, provided that any arbitration proceedings under this Agreement shall be brought in~~ Hartford, Connecticut. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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§ 9.1 ~~If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

The Architect may, upon thirty (30) days notice to the Owner, terminate or suspend this Agreement upon the Owner's failure to perform in accordance with this Agreement, including the failure, without cause, to make a payment to the Architect required under this Agreement. The notice of termination or suspension must state with specificity the means by which the Owner may cure its nonperformance and the Architect may not terminate or suspend this Agreement if, within thirty (30) days of such notice, the Owner substantially takes such curative measures.

§ 9.2 ~~If the Owner suspends the Project, for ninety (90) consecutive days for reasons unrelated to a fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted fully and satisfactorily performed by the Architect prior to notice of such suspension and, upon such suspension by the Owner or upon the Owner's suspension of the project for more than 120 cumulative days, the Architect may terminate this Agreement by giving not less than thirty (30) days' written notice to the Owner and upon the Owner's failure to resume the Project within such thirty (30) day period.~~

§ 9.3 ~~If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving The Owner may terminate this Agreement for cause as provided in this Agreement or upon the Architect's material failure to perform in accordance with the terms of this Agreement. Such termination by the Owner for cause shall be upon not less than seven days' written notice.~~

§ 9.4 ~~Either party The Owner may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination to the Architect for the Owner's convenience and without cause.~~

§ 9.5 ~~The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.~~

~~§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.~~

~~§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~

~~§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.~~

~~§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.State of Connecticut.~~

~~§ 10.2 Terms-Unless otherwise stated in this Agreement, terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.A201-2007.~~

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~~§ 10.4 If the Owner requests the Architect to execute certificates, execute, or obtain execution from the Architect's subcontractors or consultants, certificates and consents required to facilitate assignment to a lender, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days a reasonable amount of time prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute-Should the Owner request the Architect to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.-Agreement, such certifications may be limited to the best of the Architect's knowledge.~~

~~§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect. The Owner shall be a third party beneficiary of each of the Architect's agreements with its consultants and subcontractors.~~

...

~~§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. Any confidential information obtained by the Architect from the Owner may not be used, published, distributed, sold or divulged by the Architect or the Architect's subcontractors or consultants for such party's own purposes or for the benefit of any person, firm, corporation or other entity, without the prior written consent of the Owner. Any information obtained by the Architect or the Architect's subcontractors or consultants that is designated by the Owner in accordance with applicable law as confidential shall not be disclosed to any other parties without the prior written consent of the Owner.~~

~~§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.-The Architect hereby agrees, to the extent permitted by law, to indemnify and hold harmless the Owner and its officials, employees and representatives against and from any claims, suits and/or legal actions of any type by third parties, including without~~

limitation claims for loss of or damage to property, personal or bodily injury, including death, and claims for losses of any type, and from all judgments or decrees recovered therefore and from all expenses for defending such claims, suits or legal actions, including without limitation court costs and attorneys fees, which result or arise from the negligent acts or omissions, breaches, errors, torts or other improper unauthorized and/or unlawful acts or omissions of the Architect, its employees, agents, contractors or representatives, and/or design defects or breaches of warranty in, caused by, or related to the Project documents. The Architect shall properly correct or remedy any defects or problems caused by or related to any of the above, to the extent possible at no cost to the Owner.

§ 10.9 The Architect shall comply with all local, state and federal laws, rules and regulations applicable to the Architect, including without limitation those relating to equal opportunity, labor, wages, employment and requirements of state loans, grants, funding or approvals.

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§ 11.1 For the Architect's Basic Services described under Article 3, 3 and for Additional Services designated in Section 4.1 as being the responsibility of the Architect, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

in a stipulated lump sum amount as set forth in Section 11.5 and the Cost Proposal (as such term is hereinafter defined).

...

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Section Omitted.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

on an hourly rate basis in accordance with the Cost Proposal.

...

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (— %), or as otherwise stated below:

1.10%.

...

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, Compensation for Basic Services shall be a stipulated lump sum in an amount equal to _____ and NO/100 Dollars (\$ _____) and the compensation

for each phase of services shall be as follows:

based upon such stipulated lump sum shall be as set forth in the Architect's cost proposal, a copy of which cost proposal is attached hereto as **Exhibit C** and made a part hereof (the "Cost Proposal").

<u>Schematic Design Phase</u>	<u>percent (</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>percent (</u>	<u>%)</u>
<u>Construction Documents Phase</u>	<u>percent (</u>	<u>%)</u>
<u>Bidding or Negotiation Phase</u>	<u>percent (</u>	<u>%)</u>
<u>Construction Phase</u>	<u>percent (</u>	<u>%)</u>

Total Basic Compensation one hundred percent (100 %)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

on the Cost Proposal. The rates set forth on the Cost Proposal shall not be adjusted during the Project unless approved in writing by Owner.

<u>Employee or Category</u>	<u>Rate</u>
-----------------------------	-------------

§ 11.8 NO COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 ~~Reimbursable Expenses are~~ There shall be no reimbursable expenses due the Architect in addition to compensation for Basic and Additional Services and ~~include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:~~

- ~~.1 — Transportation and authorized out of town travel and subsistence;~~
- ~~.2 — Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
- ~~.3 — Fees paid for securing approval of authorities having jurisdiction over the Project;~~
- ~~.4 — Printing, reproductions, plots, standard form documents;~~
- ~~.5 — Postage, handling and delivery;~~
- ~~.6 — Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~.7 — Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~
- ~~.8 — Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;~~
- ~~.9 — All taxes levied on professional services and on reimbursable expenses;~~
- ~~.10 — Site office expenses; and~~
- ~~.11 — Other similar Project-related expenditures.~~ all such expenses to the extent incurred by the Architect and/or the Architect's consultants directly related the Project shall be at the Architect's sole cost and expense.

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (%) of the expenses incurred.

§ 11.9 ~~COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE~~

~~If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:~~

PAYMENTS TO THE ARCHITECT

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of (\$) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. (Insert rate of monthly or annual interest agreed upon.)~~

~~—%~~

~~§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.~~

~~§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.~~

§ 11.9.1 An initial payment of Zero Dollars (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate of six percent (6%) per annum.

§ 11.9.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times or at any time such records are lawfully requested by a government authority.

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§ 12.1 The Architect shall as part of the Architect's Basic Services engage an environmental consultant approved by the Owner to perform environmental investigations of the Project site. The Owner shall be responsible, if applicable and necessary, for the safe removal and disposal of all hazardous or toxic substances, products and materials related to this Project and shall, to the fullest extent permitted by law, indemnify and hold harmless the Architect, its officers, directors, shareholders, employees, agent and consultants from and against any and all claims, suits, demands, liabilities, losses and costs, including but not limited to reasonable attorney's fees and defense costs, resulting and accruing to any and all persons, firms and any other legal entity, caused by, arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any hazardous toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability, or statutory liability of any other cause of action. The environmental consultant will name the Owner and Architect as additional insureds on its insurance policy. If the Architect becomes aware of hazardous materials, or the potential presence of hazardous materials, the Architect shall immediately report that information to the Owner.

§ 12.2 The Architect and the Contractor shall each be responsible for preparing and submitting for the Owner's approval (i) a written itemized estimate of the Cost of the Work based upon the Schematic Design Documents; and (ii) an update of such estimates based upon the Design Development Documents.

...

- .1 AIA Document B101™–2007, Standard Form Agreement Between Owner and ~~Architect~~ Architect, as amended;
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

Architect Proposal; and

...

~~(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)~~Exhibit A – RFQ/P;
Exhibit B – AIA Document A201–2007, as amended; and
Exhibit C – Cost Proposal.

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

OWNER

ARCHITECT

CAPITOL REGION EDUCATION COUNCIL

By:

By:

(Signature)

(Signature)

Name: Bruce Douglas

Name:

Title: Executive Director

Title:

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Victor Morganthaler, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:50:08 on 02/24/2016 under Order No. 6204946249_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)