Standard Contract

Contract No. \_\_\_\_\_\_\_\_\_\_\_\_

Project No. \_\_\_\_\_\_\_\_\_\_\_\_\_

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between the Board of Trustees of \_\_\_\_\_\_\_\_\_\_\_, a body having corporate powers under the laws of the State of \_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the "Owner," and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the "Architect."

WITNESSETH:

RECITALS:

NOW, THEREFORE, Owner and Architect, for and in consideration of their mutual promises and for other valuable consideration, the receipt whereof is hereby acknowledged, hereby agree as follows:

1.0Architect's Agreement

The Architect agrees to provide professional services for the project as herein set forth.

2.0Compensation for Architect's Services

The Owner agrees to pay Architect as compensation for his services:

2.1For Basic Services, as described in paragraph 3.1.

2.2For Additional Services, as described in paragraph 3.2.

a.Hourly billing rates of principal Architect and staff will be in accordance with Exhibit C, attached.

b.Hourly billing rates for consultants shall be consultants' billing rate plus 10 percent.

3.0Architect's Services

3.1Basic Services. The Architect's Basic Services consist of the five phases described in paragraph 3.1 and include normal architectural, structural, mechanical, electrical, acoustical, civil engineering, interior finishes, and estimating services.

Normal design services are defined as all those required, or which can be reasonably inferred as being required, from the Owner's description of the Project, prior to the Owner's approval of the Schematic Design Phase.

The Architect acknowledges receipt of the Owner's manual entitled "Facility Design Standards." The Architect agrees that he will follow such manual except when given written authorization by Owner to vary therefrom. Material prepared and submitted by the Architect shall follow the format stipulated in said manual unless modified by the terms of this Agreement.

The Architect shall examine the Owner's existing facilities and shall assure a proper correlation between existing and new construction. Based on information supplied by the Owner, the Architect shall provide for the proper fit of equipment and materials furnished by the Owner.

The Architect shall attend such meetings with the Owner as may be reasonably necessary for the Project. These include, but are not necessarily limited to, Project meetings, conferences, and meetings of the \_\_\_\_\_\_\_\_\_\_\_\_ committees.

The Architect's Basic Services also include (1) responsibility to seek and resolve code interpretations; (2) provide design information involving the environmental impact of the Project; (3) securing reviews, revisions and approvals of authorities having jurisdiction over the Project; (4) furnishing drawings, specifications, and applications for reviews required by governmental jurisdiction; (5) assisting the Owner in the preparation of time schedules for the Project; (6) if requested, preparing monthly progress reports for the Owner; (7) keeping, preparing, and transmitting minutes of meetings between Owner, Architect, and Contractor; and (8) taking directions only from Owner's designated Project Manager and advising other employees of the Owner who may attempt to give him directions that direction must be given only by Owner's Project Manager.

The Architect shall appoint a local authorized representative who shall be accepted by the Owner in writing and who shall be available to the Owner as required for the proper performance of all matters relating to the Project. Minimum participation of members of the Architect's firm shall be to the extent indicated on Exhibit A attached hereto and made a part of this Agreement. Any changes in assignment or replacement of personnel listed in Exhibit A shall be done only with the prior written consent of the Owner.

The Architect agrees to retain and use the Professional consultants listed in Exhibit B and Architect shall be responsible for their work. No change shall be made in the list in Exhibit B except with the prior written consent of the Owner. The Owner reserves the right to require the Architect's consultants to attend the meetings referred to above and to provide such data and design information to him, as may be reasonably necessary, in connection with the Project.

The Architect will retain the specialized services of a cost consultant acceptable to the Owner without additional compensation.

a.Schematic Design Phase

The Architect shall consult with the Owner or the Owner's designated representatives to ascertain the requirements of the Project and shall review the understanding of such requirements with the Owner. Such consultation shall include a preliminary evaluation of the program and the Project budget requirements, each in terms of the other, and a review with the Owner of alternative approaches for design and construction of the Project.

Based on mutually agreed upon program and budget requirements, the Architect shall prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and relationship of the Project components for approval by the Owner. Such Schematic Design Studies shall indicate site conditions, plan arrangements, and the general scope and character, and shall be of a scale and kind suitable for formal presentation to Owner's Board of Trustees, as indicated in the Owner's Facility Design Standards.

The Architect shall prepare a Statement of Probable Construction Cost based on area, volume, or other unit costs current at the time of such estimate. The format shall be as indicated for the Construction Cost Plan in the "Facility Design Standards" manual, and shall include the cost of the elements shown thereon, a factor for cost rise to the estimated bidding date, and a design contingency factor of 5 percent.

As a part of the Schematic Design Studies, the Architect shall prepare a general description of the building materials and the mechanical, electrical, and structural systems to be employed in the construction of the Project, which shall include electrical and mechanical performance data.

The Architect shall prepare a Tabulation of Areas showing the assignable and the gross square foot areas in the building structures of the Project as illustrated by the Schematic Design Studies.

The Architect shall submit fifteen (15) sets of the Schematic Design Studies, six (6) sets of the Statement of Probable Construction Cost, and two (2) sets of the Tabulation of Areas for approval of the Owner. The Architect and his consultants shall sign the Statement of Probable Construction Cost (Cost Plan) to indicate agreement with the data presented therein.

The Architect shall not proceed with the Design Development Phase until he has secured the Owner's written approval of the Schematic Design Studies, Statement of Probable Construction Cost and Tabulation of Areas, and the Owner's written instructions to so proceed.

b.Design Development Phase

Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program or Project Budget, the Architect shall prepare, for approval by the Owner, the Design Development Documents consisting of drawings and other documents, including outline specifications, to fix and describe the size and character of the entire Project as to kinds of materials, type of structure, mechanical and electrical systems, including electrical and mechanical performance data, and such work as may be required, including a description of the items of equipment that will be required, to be furnished under any contract for construction of the Project. The drawings shall be at the same scale as the scale to be used in the Construction Documents.

The Architect shall prepare a Revised Statement of Probable Construction Cost based upon the Design Development Documents and upon construction costs current at the time of such Revised Statement.

The Architect shall prepare a Revised Tabulation of Areas, based on the Design Development Documents, showing the assignable and the gross square foot areas in the building structures of the Project.

The Architect shall submit ten (10) sets of the Design Development Documents, six (6) sets of the Revised Statement of Probable Construction Cost, and two (2) sets of copies of the Revised Tabulation of Areas for approval of the Owner. The Architect and his consultants shall sign the Statement of Probable Construction Cost (Cost Plan) to indicate agreement with the data presented therein.

The Architect shall not proceed with the Construction Documents Phase until he has secured the Owner's written approval of the Design Development Documents, Revised Statement of Probable Construction Cost and Revised Tabulation of Areas, and the Owner's written instructions to so proceed.

c.Construction Documents Phase

Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project, or in the Project budget authorized by the Owner, the Architect shall prepare, for approval of the Owner, Construction Documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the Project, including descriptions of systems and operating and maintenance manual requirements as set forth in section 01300 of Facility Design Standards. The Owner shall assemble the contractual forms necessary for the bidding process such as the Invitation, Instructions to Bidders, Form of Proposal, Form of Contract, and General, Additional, and Special Conditions, etc. The Architect shall assist the Owner by providing the information necessary to complete the forms mentioned above and shall provide the Owner, in complete and final form, all technical documents required to obtain responsive proposals.

The Architect shall prepare a Final Statement of Probable Construction Cost based upon the Construction Documents and upon construction costs current at the time of such Final Statement.

The Architect shall prepare a Final Tabulation of Areas, based upon the construction documents, showing the assignable and gross square foot areas in the building structures of the Project.

The Architect shall submit ten (10) sets of the Final Statement of Probable Construction Cost, and two (2) sets of the Final Tabulation of Areas and electrical and mechanical performance data and calculations for the approval of the Owner. The Architect and his consultants shall sign the Statement of Probable Construction Cost (Cost Model) to indicate agreement with the data presented therein.

The Architect shall assist the Owner in securing approvals of governmental authorities having jurisdiction over the Project, including Building Department, Fire Marshal, and Health Department Plan reviews.

The Architect shall not proceed further under this contract until he has received the Owner's written approval of the Construction Documents, the Final Statement of Probable Construction Cost, and the Owner's written instructions to so proceed.

After receiving the approval and instructions referred to above, the Architect shall provide the Owner with ten (10) copies of the specifications and drawings. The Owner shall assemble the bid packages using his contractual documents together with the specifications and drawings provided by the Architect.

d.Bidding or Negotiating Phase

The Architect, following receipt of the approval and instructions referred to above, shall assist the Owner in obtaining bids or negotiated proposals for the construction of the Project, and in awarding and preparing contracts for construction.

e.Construction Phase

The Construction Phase will begin with the award of the contract for construction and will terminate when all of the services to be performed hereunder have been completed.

The Architect shall assist the Owner in the administration of the contract for construction and shall do all things and make all decisions provided in said contract to be done or made by the Architect and as set forth herein.

The Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions from the Owner to the Contractor shall be forwarded concurrently to the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in the Contract Documents and as provided herein.

The Architect shall at all times have access to the "Work" (as defined in the Contract for Construction) wherever it is in preparation or progress.

The Architect shall visit the site at intervals appropriate to the stage of construction, but not less frequently than once each week, to become generally familiar with the progress and quality of the Work and to determine in general if the Work is proceeding 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 such on-site observations, the Architect shall keep the Owner informed of the progress of the Work and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. The Architect shall prepare and distribute minutes of the weekly job site meetings.

The Architect shall not be responsible for and shall not have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work. The Architect shall not be responsible for or have control or charge over the acts or omissions of the contractor, subcontractors, or any of their agents or employees, or any other persons performing any of the Work, and shall not be responsible for the failure of any of them to carry out the Work in accordance with the Contract Documents.

The Architect shall determine the amounts owing to the Contractor based on the on-site observations and on evaluation of the Contractor's Application for Payment, and shall issue Certificates of Payment in such amounts, as provided in the Contract Documents.

The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner, based on the Architect's observations at the site as provided above and the data comprising the Contractor's Application for Payment that the Work has progressed to the point indicated; that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, has reviewed the construction means, methods, techniques, sequences, or procedures, or has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.

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

All 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. In the capacity of interpreter and judge, the Architect shall endeavor to secure faithful performance by both the Owner and the Contractor, shall not show partiality to either, and shall not be liable for the result of any interpretation or decision rendered in good faith in such capacity. The Architect shall make all revisions and changes to the Contract documents to correct errors, conflicts, and omissions unless attributable to information furnished by the Owner. Clarification and additional details required to further define the intent of the documents in order to accomplish the Work of the Construction Contract shall be considered part of the Architect's administration of the Construction Phase and are not considered as Additional Service.

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

The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the Architect's reasonable opinion, it is necessary or advisable for the proper implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed, or completed. Any costs incurred due to the Architect's rejection of Work shall not be the responsibility of the Architect.

The Architect shall review and approve or take other appropriate action upon Contractor's submittal such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

The Architect shall secure proposals from the Contractor and prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time, and not inconsistent with the intent of the Contract Documents.

If at any time during the construction of the Work, the Contractor fails to follow the Architect's instructions, the Architect shall promptly notify the Owner in writing of such failure, giving details of the nature of the instructions and the circumstances of the Contractor's failure to follow the instructions.

The Architect shall obtain, review, and approve construction schedules required in the Contract Documents to be furnished by the Contractor. Not less frequently than once each calendar month, the Architect shall ascertain the Contractor's compliance with such approved schedules, and shall notify the Owner of all instances of the Contractor's failure to comply with such schedules.

The Architect shall conduct inspections to determine the Date of Substantial Completion and shall issue a Certificate of Substantial Completion not later than three (3) consecutive days after such date. The Architect shall submit to the Owner and the Contractor a written list of items of the Work still requiring completion or correction at the Date of Substantial Completion.

The Architect shall conduct inspections to determine when the Work is completed and acceptable under the Contract Documents and recommend to the Owner acceptance of the Work. Upon concurrence, the Owner shall promptly issue a Notice of Acceptance which shall establish the date of completion, and file a Notice of Completion with the County Recorder's office. The Architect shall then issue a final Certificate of Payment in accordance with the Contract Documents.

The Architect shall secure from the Contractor, review, and recommend acceptance by the Owner of all written warranties, operating manuals, instructions, and related documents required by the Contract Documents to be furnished to the Owner by the Contractor.

The Architect shall select finish materials and colors to be incorporated in the Work and shall prepare schedules of such materials and colors for the Owner's approval.

Upon completion of construction of the Work, the Architect shall deliver to the Owner a set of legible reproducible record drawings which shall show, based upon data furnished by the Contractor and others, all construction changes in the Work and the final locations of all mechanical equipment, utility lines, ducts, and outlets appropriately noted. From the revised tracings the Architect will provide the Owner with one set of reproducible record drawings which shall be of a quality at least equal to sepia line drawings. If reproducibles of a better quality are requested by the Owner, the Owner shall reimburse the Architect for the difference in cost between sepia line reproducibles and the cost of those of a better quality. In addition to such reproducible record drawings, the Architect shall deliver two (2) sets of prints of the record drawings at one-half the original scale. Submitted material shall be clearly marked "Record Drawings" and dated.

Upon completion of construction of the Work, the Architect shall deliver to the Owner two (2) copies of the specifications annotated to show clearly all changes, revisions, and substitutions that have been approved by the Architect during construction of the Work. In the event of a specification that allows the Contractor to elect one of several brands, makes or types of material or equipment, the annotations shall show which of the allowable items the Contractor furnished. The Architect shall, at the time of submitting these copies of the Specifications, attach two copies of the final calculation sheets for the structural, mechanical, and electrical portions of the Work which were prepared during the design phases.

During all periods of guarantee of the Work provided for in the Contract for Construction, the Architect shall act as the Owner's representative for the purposes of securing correction of any and all defects and deficiencies covered by guarantees and shall make a Guarantee Inspection of the Project immediately prior to the expiration of any guarantee period and shall report to the Owner, in writing, the details of all observed defects and deficiencies covered by such guarantee.

3.2Additional Services. The following services are not covered in paragraph 3.1. Such Additional Services will be paid for by the Owner in addition to compensation for the Architect's Basic Services, provided that such Additional Services have been authorized in writing by the Owner prior to their performance.

a.Providing comparative studies of prospective sites.

b.Providing, for existing structures, building surveys, measurements, and descriptions; structural engineering review and analysis of existing buildings; programming; and analysis of demolition and testing.

c.Providing consultation concerning replacement of any Work damaged by fire or other causes during construction, and furnishing professional services of the type set forth in paragraph 3.1 as may be required in connection with the replacement of such damaged Work.

d.Providing professional services made necessary by the default of the Contractor in the performance of the Contract for Construction.

e.Providing prolonged Contract Administration after the Contract Time (as defined in the Contract for Construction) has been exceeded by more than sixty (60) days due to no fault of the Architect; provided, however, that Architect shall not be paid for such prolonged Contract Administration in the event the Contract Time is prolonged because of additions to the Work in connection with which the Architect is compensated under the other provisions of the Agreement.

f.Providing services in connection with the selection of movable furnishings and graphics other than building and room identification.

g.Preparing items or performing services for the Owner's public relations or fund-raising purposes. Such items include brochures, graphics, and detailed models, as differentiated from drawings or study models normally furnished by the Architect in the process of developing design.

h.Providing extraordinary services in connection with any public hearing, arbitration proceedings, or proceedings of a court of record.

i.Making revisions to previously approved drawings, specifications, or documents to accomplish changes requested by the Owner and preparing Change Orders to accomplish such revisions.

j.Providing alternate designs or arrangements requested by the Owner if such alternates are requested by the Owner subsequent to approval of the Schematic Design Cost Model.

k.Providing Additional Services in order that construction can be accomplished by means of other than one basic construction contract, i.e., phased construction.

4.0The Owner's Responsibilities

The Owner shall designate to the Architect in writing the representatives authorized to act for it under this agreement.

The Owner shall examine documents submitted by the Architect, render decisions, and advise the Architect as promptly as possible in order to avoid unreasonable delay in the progress of the Architect's Work. It is agreed and understood that as a \_\_\_\_\_\_\_\_\_\_\_\_, Owner must secure approvals from various component groups within the \_\_\_\_\_\_\_\_\_\_\_\_ and that delays in securing such approvals may occasionally be incurred.

The Owner shall observe the procedure of issuing instructions to the Contractor only through the Architect.

The Owner shall furnish the following (when applicable):

a.A written statement of the requirements for the Project.

b.Copies of the Owner's manuals entitled "Facility Design Standards."

c.Such information regarding utility services and site features related to the Project as are available from the Owner's records.

d.The services of a soils engineer, when such services are deemed necessary by the Architect. Such services shall include test borings, taking of soil samples, testing and analysis of soil in the laboratory and in situ, recommendations concerning soil bearing values, other necessary operations for determining subsoil conditions, testing of engineered fill and compacted soil during construction, and reports setting forth the findings of the soil engineer's tests and analyses.

e.Structural, mechanical, chemical, and other laboratory tests, inspections, and reports necessary to determine the acceptability of the contractor's Work.

The Owner may employ Project Construction Coordinators and other employees to make on-site observations of the Work during construction. Such employees will consult with the Architect concerning problems which arise in connection with the Work. If any such employee observes or otherwise becomes aware of any fault or defect in the Work or nonconformance with the Contract Documents, he will give prompt notice thereof to the Architect, but the employment of such representatives by the Owner shall in no way relieve the Architect of responsibility for the performance of any of the Architect's services required under this Agreement.

The Owner shall pay for statutory fees required for securing approval of authorities having jurisdiction over the project.

5.0Construction Cost

Construction Cost means the Total Cost shown on the Construction Cost Plan approved by the Owner at the completion of the Schematic Design Phase. It includes the cost of the building, built-in equipment, site development, a 5 percent design contingency, and a provision for construction cost escalation to the time projected for award of the construction contract.

If, after the Schematic Designs are approved by the Owner, and providing that no major changes in scope are made by the Owner thereafter, the actual Construction Cost as determined by the lowest bona fide bid received for the Project, or any combination of bids and estimates for portions of the Project, exceed the Statement of Probable Construction Cost approved by the Owner at the completion of the Schematic Design Phase, the Architect shall, at the Owner's sole option, modify the drawings and specifications as necessary to bring the Construction Cost within this limit at no additional cost to the Owner.

In order to bring the Project within the Probable Construction Cost, the Architect shall be permitted to make reasonable adjustments in the Construction Documents with the concurrence of the Owner as to the selection of materials, equipment, component systems, and types of construction. The Architect may also include in the Construction Documents alternate bids to adjust the Probable Construction Cost to this limit.

If the Bid Price, reduced by exercising all drawn deduction alternatives approved by Owner, exceeds the Construction Budget, Architect promptly, after consultation with Owner and Construction Manager, shall modify the drawings and specifications at its sole cost to reduce the Construction Cost such that the revised Bid Price is within the Construction Budget. Architect shall evaluate in writing the impact of each modification, which shall be subject to Owner's approval.

6.0Reimbursable Expenses

Reimbursable expenses are in addition to compensation for Basic and Additional Services and include actual expenditures made by the Architect, his employees, or his consultants in the interest of the Project for the incidental expenses listed in the following subparagraphs:

a.Expense of transportation and living when traveling in connection with the Project, provided that such travel is outside the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and has the specific prior written authorization of the Owner. Air travel shall be by means other than first class and by the most direct available route.

b.Furnishing copies of Construction Documents requested by the Owner in addition to those furnished under Basic Services.

c.If authorized in advance in writing by the Owner, reimbursement for the expense of models for the owner's use, and fees of special consultants for other than the normal structural, mechanical, electrical, acoustical, civil engineering, estimating, interior finishes, and landscape design as defined in paragraph 3.1.

d.Other direct costs related to the Project which are specifically authorized in writing by the Owner prior to incurring such cost.

7.0Payments to the Architect

The Owner shall make payments to the Architect not more often than monthly on account of compensation for Basic Services and shall be in proportion to services performed within each phase of the performance of the Architect's services hereunder in an amount sufficient to increase the total of all payments made to the following percentages of the total compensation to be paid to the Architect hereunder for Basic Services:

Schematic Design Phase completed \_\_\_\_\_\_%

Design Development Phase completed \_\_\_\_\_\_%

Construction Documents Phase fully completed\_\_\_\_\_\_%

Bidding or Negotiation Phase completed \_\_\_\_\_\_%

During the Construction Phase, monthly

progress payments in relation to construction

work completed, but to a total aggregate of not

to exceed, at the Date of Substantial Completion 98%

Upon the completion of all services 100%

Payments for Additional Services of the Architect as defined in paragraph 3.2 and for Reimbursable Expenses as defined in article 6.0 shall be made upon presentation and verification of the Architect's invoice containing a statement of services rendered.

Architect's invoices shall be submitted in triplicate and shall be addressed to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Invoices shall indicate the total of previous invoices and the unbilled balance on the contract. Invoices will be paid within thirty (30) calendar days from receipt of such invoice.

8.0Construction Manager and Consultants

The Owner, at his sole discretion, may elect to employ the services of a Construction Manager prior to the start of construction work. The functions of such a Construction Manager will be to provide the Owner and Architect advice and consultation with regard to estimates of construction cost, market conditions, materials availability, timing considerations, and alternative systems as they affect the construction process.

Notwithstanding the retention of a Construction Manager, there shall be no adjustment in the Architect's fee.

9.0Insurance Requirements

Architect shall not commence Work under this contract until he has obtained all of the insurance required under this contract and such insurance has been approved by Owner. Architect shall not allow any consultant to commence Work under a subcontract until consultant(s) has obtained insurance of the types required or the Architect has insured consultant(s) under his insurance policies.

Insurance required under this paragraph is:

a.Professional errors and omissions liability insurance with limits not less than $\_\_\_\_\_\_\_\_\_\_\_.

b.Comprehensive public liability (bodily injury, property damage, and personal injury) and vehicle liability insurance with a single limit of not less than $\_\_\_\_\_\_\_\_\_\_\_\_ for a single occurrence.

c.Workers' Compensation insurance and employer's liability insurance covering all persons whom Architect may employ in carrying out the Work hereunder. Workers' Compensation insurance will be in accordance with the Workers' Compensation law of the State of \_\_\_\_\_\_\_\_\_\_\_\_.

d.The insurance arranged by the Architect and consultant(s) shall include contractual liability insurance insuring the indemnity clause(s) of the contract.

Prior to commencement of Work, hereunder, Architect shall furnish owner with certificates of insurance (or evidence of self-insurance, if appropriate, acceptable to Owner) for all insurance required in the preceding subparagraph. Comprehensive Public Liability and Vehicle Insurance shall include the following provisions:

a.For projects at \_\_\_\_\_\_\_\_\_\_\_\_, its trustees, officers, employees, and agents are included as additional insureds.

b.For projects at the \_\_\_\_\_\_\_\_\_\_\_\_, the following are included as additional insureds: \_\_\_\_\_\_\_\_\_\_\_\_ and the \_\_\_\_\_\_\_\_\_\_\_\_, their trustees, directors, officers, employees, and agents.

c.The Architect's insurance shall be primary coverage; \_\_\_\_\_\_\_\_\_ and/or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ insurance shall be excess and noncontributory.

d.Thirty (30) days' prior written notice of cancellation or material change in the insurance must be given to Owner.

e.Architect and Architect's insurance companies waive their rights of subrogation against the above listed insureds.

Architect shall indemnify, defend, and hold Owner harmless from all claims arising out of any injury to any person, including Architect's employees, agents, consultants, and representatives or damage to property occurring in, on, or about the Project, as a result of any negligence of Architect, consultant, contractor, licensee, invitee, agent, servant, or employee of Architect at, in, on, or about the Project.

10.0Examination of Records

Records of the Architect's direct personnel, consultant, and other expenses pertaining to Additional Services or Reimbursable Expenses related to the Project, and records of accounts between the Owner and the Contractor, shall be kept on generally accepted accounting principles and shall be available to the Owner or his authorized representative at mutually convenient times until the expiration of three (3) years from the Date of Final Payment under this agreement.

If this Agreement is for the provision of services with a value of $10,000 or more within a twelve-month period, then until the expiration of four years after the furnishing of any services pursuant to this Agreement, Architect shall make available, upon written request from the Secretary of the United States Department of Health and Human Services or from the United States Comptroller General, or any of their duly authorized representatives, this Agreement and such books, documents, and records of Architect as are necessary to certify the nature and extent of the reasonable cost of services to Owner. If Architect enters into an agreement with any related organization to provide services pursuant to this Agreement with a value of $10,000 or more identical in content to the first sentence of this paragraph, this paragraph shall be of force and effect only to the extent required by law.

Prior to the completion of all services herein, the Architect shall obtain the Owner's approval for the release of publicity in connection with the Project.

11.0Ownership and Use of Documents

Copyright in all drawings, specifications, plans, and other documents produced by Architect on behalf of Owner in connection with services rendered hereunder shall vest in Architect, but Owner shall be entitled to the originals thereof. Architect shall retain copies of all drawings and specifications for information and reference in connection with Owner's use and occupancy of the Project and services rendered by Architect hereunder. Architect shall not use the drawings, plans, or designs produced for Owner on any other project without Owner's prior written consent. Architect shall defend and indemnify Owner from any claim that such documents infringe the copyright or trade secrets of another. Owner shall own and may reproduce, distribute, and make any use of such documents whether or not the project is executed without further compensation to Architect; provided that such documents shall not be used as construction documents on other projects.

12.0Termination of Agreement

This agreement may be terminated by either party upon ten (10) calendar days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination and fail to cure the default within said period. Any notice given pursuant to this paragraph shall specify the nature of the default.

In the event of termination due to the fault of parties other than the Architect, the Architect shall be paid his compensation for services performed to the date of termination, including reimbursable expenses then due. Compensation for such services performed shall be calculated in accord with the methods and rates described in paragraph 2.2.

Notwithstanding the provisions above, the Owner may, for his convenience and at his sole discretion, at any time terminate this Agreement by the giving of written notice delivered personally or mailed to the Architect at the address set forth in this agreement. Upon receipt of such written notice, the Architect shall forthwith discontinue the rendering of all services under this Agreement.

In the event of such termination of this agreement by the Owner, reproductions of all finished or unfinished documents, data cost estimates, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Architect in connection with the Project and as part of his Work under this agreement shall, at the option of Owner, become the property of the Owner and shall be delivered to the Owner by the Architect promptly upon request by the Owner.

Notwithstanding the foregoing, the termination of this Agreement shall not relieve or release the Architect from any liability to the Owner for damages sustained by the Owner by virtue of any breach of this Agreement by the Architect, and the Owner may withhold all or any part of any payment due to the Architect upon such termination as a set-off against the amount of any such damages until such time as the exact amount of damages due the Owner from the Architect is determined.

In case this Agreement is terminated at the completion of the Schematic Design Phase the maximum obligation of the Owner to the Architect shall be $\_\_\_\_\_\_\_\_\_\_\_\_, plus such reimbursable expenses incurred and such Additional Services authorized by the Owner and performed by the Architect prior to the date of termination.

13.0Arbitration

All claims, disputes, and other matters in question between the parties to this Agreement, arising out of or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the Architect and the Owner mutually agree otherwise in writing. The provisions of this Agreement relating to arbitration shall be specifically enforceable and shall be subject to the discretion of the court as provided in the \_\_\_\_\_\_\_\_\_\_\_\_ Code of Civil Procedure. All actions brought under said Code and all actions pertaining to these arbitration provisions shall be brought in the \_\_\_\_\_\_\_ Court of \_\_\_\_\_\_\_\_\_\_\_\_ County.

Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

14.0Diligent Performance

Time shall be of the essence of this Agreement. The Architect shall be responsible for the selection and employment of such a staff and consultants as will enable him to perform his service diligently, competently, and promptly so that he will not occasion any delay in the completion of the Work.

15.0Applicable Law

This agreement shall be governed by the laws of the State of \_\_\_\_\_\_\_\_\_\_\_\_.

16.0Extent of Agreement

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 the Owner and the Architect.

17.0Successors and Assigns

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

18.0Notices

All notices in this Agreement provided to be given or made or sent, or which may be given or made or sent by wither the Architect or the Owner, shall be deemed to have fully given or made or sent when made in certified, postage prepaid, and addressed as follows:

Architect:Owner:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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The address to which any notice, demand, or other writing may be given or made or sent to any party may be changed upon written notice by such party as above provided.

19.0Quality of Service

Architect shall perform all services under this Agreement in a timely, skillful, competent, and professional manner consistent with the standards of experienced professionals engaged in the design or other Work provided for under this Agreement. Architect shall endeavor to ensure that all advice, programs, plans, specifications, recommendations, reports, and other services comply fully with all relevant federal, state, and local law, regulations, and other requirements. Architect further agrees to advise Owner of any proposed law, regulation, or other requirement known to him during the term of this Agreement, which, if adopted, would require modification of any advice, program, plan, specification, recommendation, report, or other services previously made during the course of this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first hereinabove written.

ArchitectBoard of Trustees of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I.R.S. Employer's I.D. No. or S.S. No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Exhibit A

Extent of Participation of Architect Firm Members

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Exhibit B

List of Professional Consultants

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Exhibit C

Hourly Billing Rates

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