REQUEST FOR QUALIFICATIONS

ARCHITECTURAL / ENGINEERING / CONSULTING SERVICES
State of Colorado
Colorado Mesa University

Notice Number: CMU 2889
Project Number: 1081-27-1
Project Title: North Avenue Improvements
Estimated Project Cost: $2,037,301

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I. NOTICES

1. For State Public Works C.R.S. §8-17-101 - Colorado labor shall be employed to perform at least 80% of the work. Colorado labor means any person who is a resident of the state of Colorado at the time of the Public Works project.

2. All respondents accept the conditions of this RFQ, including but not limited to, the following:

    a. All submittals shall become the property of the State of Colorado and will not be returned.

    b. Late submittals shall not be evaluated.

    c. The State reserves the right to reject any or all submittals on the basis of being unresponsive to this RFQ or for failure to disclose requested information.

    d. The State shall not be liable for any costs incurred by respondents in the preparation of submittals and proposals nor in costs related to any element of the selection and contract negotiation process.

    e. Any restriction as to the use of submitted materials must be clearly indicated as proprietary. The requested limitation or prohibition of use or release shall be identified in writing on a cover sheet. Blanket claims of proprietary submittals will not be honored. Fee proposals will be considered proprietary.

    f. The respondent has reviewed Appendix B and by responding has agreed that the terms and conditions of the sample Architect/Engineer/Consultant Contract are expressly workable without reservation.

3. The respondent has reviewed Appendix B and by responding has agreed that the terms and conditions of the sample Architect/Engineer/Consultant Contract are expressly workable without reservation. Any exceptions to the contract must be communicated formally in writing before the solicitation closes. Bearing in mind any and all exceptions may be considered non-negotiable.

4. Per C.R.S. §24-92-117, a public construction project in the amount of five hundred thousand dollars or more shall be subject to the Buy Clean Colorado (BCCO) Act program requirements. The BCCO Act requires the Office of the State Architect to establish a maximum acceptable global warming potential (GWP) limit for each category of eligible materials, which include asphalt and asphalt mixtures, cement and concrete mixtures, glass, post-tension steel, reinforcing steel, structural steel, and wood structural elements. For any solicitation for a contract for the design of an eligible project, a State Agency or institution shall require the designer who is awarded the contract to include in project specifications when final construction documents are released, a current Environmental Product Declaration (EPD) that meets the maximum acceptable GWP limits for each eligible material specified for the project. A contractor that is awarded a contract for an eligible project shall not

install any eligible materials on the project until the contractor submits an EPD for each eligible material procured for the project.

5. Preference shall be given to Colorado resident vendors and for Colorado labor, as provided by law.

II. PROJECT OVERVIEW

Introduction

Colorado Mesa University proposes construction of safety and access improvements at the intersection of North Avenue and 9th Street at the mid-point of the south boundary of campus. The improvements may include a new intersection, installation of a signal at 9th Street, removal of the signal at 10th Street, closure of existing access points, restriction of intersections utilizing new medians, and associated pedestrian improvements.

The improvements will align with the Colorado Mesa University master plan and the City of Grand Junction goals for the pedestrian corridor. The relocation of the intersection will address numerous transportation safety deficiencies and be designed in accordance with transportation engineering standards of both the Colorado Department of Transportation (CDOT) and City of Grand Junction.

The Estimated Construction cost for this project is $2,429,016.

Design is projected to begin in December 2026 with final project completion anticipated prior to the start of the fall semester which begins the first week of August, 2027. The final schedule for the project will be developed with the AE and teams, in consultation with CMU, CDOT, and the City of Grand Junction.

Background

The North Avenue Corridor was constructed decades ago and has numerous access points and City Streets that are known safety hazards according to crash history and a recent fatality at the intersection of 10th and North Avenue. As CMU develops, eliminating access points and aligning new access points within CDOT, City of Grand Junction, and the standard of care for current engineering standards provides a catalyst to improve the safety of the transportation corridor. In addition, multi-modal access will be enhanced and connected to the north end of the 9th Street pedestrian improvement project planned by the City of Grand Junction. This new intersection will be the main south entrance to the future CMU campus expansion and Formation District.

Considerations for the North Avenue Improvements design should include:

a. Intersection traffic operations analysis
b. Traffic signal progression analysis
c. Installation of a new north south intersection at 9th street.
d. Installation of a traffic signal at 9th street, considering possible relocation of lighting infrastructure at 10th street.
e. Removal and possible relocation of the 10th street lighting infrastructure.
f. Design of new lighting infrastructure at 9th street.
g. Closure of Cannell Street.

h. Access restriction design at north existing commercial properties.
i. Design of accompanying multi model facilities.
j. Concept design level drawings for permit submittal.
k. Coordination with Traffic Engineering Consultant currently conducting Traffic Impact Study. Traffic Impact Study will be excluded from this scope of services.
l. Relocation of utilities.
m. Level B utilities, Level C utilities, and level D utilities location.
n. Possible subsurface utility engineering (SUE) if the design impacts trigger this Colorado statutory requirement.
o. Site survey including topography, physical features, right-of-way locations and survey of (m.)
p. Coordination with geotechnical engineer for subgrade conditions for possible light pole foundations, geotechnical engineering excluded from this scope.

The preferred design excludes (n), however, this scope may be required and will be determined during the concept planning phase.

Colorado Mesa University anticipates using a Design Bid Build (D/B/B) approach to project delivery. The Architect/Engineer is expected to provide Basic Services as described in the sample Architect / Engineer / Consultant Agreement unless otherwise noted. It is preferred that selected firm provides all services in-house with the exception of (m.) and (o.).

The process to be used in the selection of the Architect/Engineer/Consultant is comprised of two steps. In STEP I submittals will be screened and scored as described in detail in Section X. STEP II is the Oral Interview as described in detail in Section XI. A Jury Panel of individuals who will be involved in the project and/or understand the required services associated with the project will evaluate responses to this request. Upon completion of the evaluation of the Submittals, a limited number of firms will be invited to the oral interviews.

III. MINIMUM REQUIREMENTS

Notice is hereby given to all interested parties that all firms will be required to meet all minimum requirements to be considered for this project. Interested parties should be prepared to show evidence of the following to be considered as qualified, as a minimum:

1. Not previously terminated by the State for non-performance on a State Buildings contract or procurement.

2. The consultant must have been in the same business under the same name for the last two (2) years.

3. Demonstrated design experience in projects of similar scope and complexity for at least two (2) projects each in excess of $1,000,000 (hard costs), utilizing the expertise present in their Colorado Office; and

4. The Acknowledgment and Attestation Form, Appendix C is a mandatory requirement for a respondent to be considered responsive to this RFQ Prequalification Submittal.

a. Qualifications made by a respondent in executing this form may render a submittal non-responsive as determined by the State.

5. For a respondent to be considered responsive to this RFQ, the submittal of qualifications must be posted on Bidnet/Rocky Mountain E-Purchasing System (RMEPS) website, https://www.rockymountainbidsystem.com.

IV. NON MANDATORY PRE-SUBMITTAL CONFERENCE AND SITE TOUR

To ensure sufficient information is available to firms preparing submittals, a non-mandatory pre-submittal conference has been scheduled. The intent of this conference is to tour the site and to have Colorado Mesa University staff able to discuss the project.
A non-mandatory Pre-Submission Meeting will be held at:

Building Address:	University Center (1455 N. 12th Street, 81501)
Room:	UC 222
Date/Time	October 28 / 1:00 p.m. MDT

V. SCHEDULE

The following is a tentative schedule of events for the Submittal process and an outline of the schedule for the balance of the project. All dates are subject to change and changes in the schedule will be issued via addendum.

Request for Qualifications Issued	October 15, 2026
Non-Mandatory Pre-Submittal Conference	October 28, 2026 at 1pm
Request for Clarifications Due	October 30,2026 at 1pm
Final Addendum Issued (anticipated)	November 2, 2026
Submittals Due (Prequalification: Step I)	November 5, 2026 by 1pm
Short List Announced	November 6, 2026
Oral Interviews	November 17, 2026
Selection Announced	November 19, 2026
Negotiation of Contract	November 20, 2026
Anticipated Design Start	December 1, 2026
Anticipated Construction Start/Finish	May 15, 2026 / August 1, 2027

The above schedule is tentative. Responding firms shall be notified of revisions in a timely manner by postings on the Rocky Mountain E-Purchasing System (RMEPS) website, https://www.rockymountainbidsystem.com. Respondents may elect to verify times and dates by email, but no earlier than 36 hours before the scheduled date and time.

VI. QUESTIONS, CLARIFICATIONS AND ADDENDA

Owner initiated changes to this RFQ will be issued under numerically sequenced addenda on Bidnet/Rocky Mountain E-Purchasing System (RMEPS), https://www.rockymountainbidsystem.com.

Questions and requests for clarification regarding this project shall be submitted before the deadline listed in the above schedule on Bidnet/Rocky Mountain E-Purchasing System (RMEPS), https://www.rockymountainbidsystem.com..

Communication regarding the project during the procurement, outside of this submission process or scheduled procurement milestones is not permitted.

VII. POINT OF CONTACT/CLARIFICATION

Name:	Breanne Meier, Director of Campus Procurement
Agency:	Colorado Mesa University
Email Address:	bmeier@coloradomesa.edu
Phone:	970-248-1417

VIII. SUBMITTALS OF QUALIFICATIONS

1. This RFQ document, it's appendices, and any written addenda issued prior to the closing of the solicitation, and written clarifications shall serve as the only basis for the submittal.

2. All submittals must comply with the following items, a through g. The State retains the right to waive any minor irregularity, or requirement should it be judged to be in the best interest of the State.

    a. Qualifications shall be formatted and tabbed in the exact form and numeric sequence of the Evaluation Form (1 through 6) in Appendix A. A single-page cover letter addressed to Breanne Meier, Director of Campus Procurement, Colorado Mesa University, outlining the firm(s) qualifications is required at the front of the submittal. (Not counting the cover letter and required Acknowledgement and Attestation form, the entire submittal is to be no more than 30 pages, single sided, on 8 ½' x 11" sized paper in portrait format, with least 12 font. No physical submittals.

    b. Qualifications shall be evaluated in accordance with criteria as indicated in PREQUALIFICATION SUBMITTAL CRITERIA and ranked on the corresponding Evaluation Form in Appendix A.

    c. Response to all items shall be complete.

    d. All references shall be current and relevant.

    e. Complete and execute the Appendix C: Acknowledgment and Attestation Form and submit at the back of the Qualification Submittal.

    f. An electronic copy of the qualification package, submitted via Bidnet/Rocky Mountain E-Purchasing System (RMEPS), https://www.rockymountainbidsystem.com is due November 5, 2026 and shall be received no later than 1:00 PM (MDT).

    g. Late submittals or any other submittals not posted to Bidnet/Rocky Mountain E-Purchasing System will be rejected without consideration. The State of Colorado assumes no responsibility for costs related to the preparation of submittals.

IX. METHOD OF SELECTION AND AWARD

A. Short List

1. From the submittals received, a short list of qualified respondents shall be identified using the scoring indicated on the enclosed Evaluation Form, Appendix A.

2. Firms failing to meet the minimum required qualifications will not receive further consideration.

B. Oral Interview

1. Mandatory oral interviews shall be conducted for the short-listed firm(s) only. Interview times and location will be arranged Colorado Mesa University and all short-listed firms will be notified in advance. At the option of the State, a visit to the short-listed firm(s) managing home office and/or representative field office may be required.

C. Method of Selection and Award

1. Submittals will be evaluated by a panel of individuals selected in accordance with state policies. The panel will review and score the submittals. Firms ranked the highest will be invited to an oral interview. It is anticipated no fewer than three (3) or no more than four (4) will be interviewed.

X. EVALUATION OF QUALIFICATIONS

A. PREQUALIFICATION SUBMITTAL CRITERIA

Firms will be judged not only on their past experience for the type of work involved, but also on their ability to address issues critical to the success of the project requirements outlined in this RFQ document. The primary focus of the prequalification evaluation will be the firm(s) capability.

1. PROJECT TEAM

Identify the project principal, the project manager, key staff and subconsultants. Present a brief discussion regarding how the team's qualifications and experience relate to the specific project.

- Qualifications and relevant individual experience.
- Unique knowledge of key team members relating to the project.
- Experience on projects as a team.
- Key staff involvement in project management and on-site presence.
- Time commitment of key staff.
- Qualifications and relevant subconsultant experience.

2. FIRM/TEAM CAPABILITIES

Organization charts and graphs depicting your capacity may be included.

- Are the lines of authority and coordination clearly identified?
- Are essential management functions identified?
- Are the functions effectively integrated? (e.g., subconsultants' role delineated)?
- Current and projected work load.

3. PRIOR EXPERIENCE

Include the name and current telephone number of the owner's project manager for every project listed.

- Experience of the key staff and firm with projects of similar scope and complexity.
- Demonstrated success on past projects of similar scope and complexity.
- References.

4. PROJECT APPROACH

   For the project and services outlined in the RFQ document, describe how you plan to accomplish the following project control and management issues:

   - Budget Methodology / Cost Control
     a. Establish and maintain estimates of probable cost within owner's established budget.
     b. Control consultant contract costs
     c. Coordinate value engineering activities
     d. Budget Considerations
   - Quality Control Methodology
     a. Insure State procedures are followed
     b. Improve energy efficiency through the use of an integrated design process, life cycle costing, the use of an energy standard (current OSA energy code) and the specification of energy efficient materials, systems, and equipment
     c. Reduce embodied carbon emissions by utilizing and submitting Environmental Product Declarations (EPDs) that meet the OSA's maximum acceptable global warming potential (GWP) limits
     d. Insure the project is designed for durability and maintainability
   - Schedule
     a. Manage the required work to meet the established schedule

5. EQUITY, DIVERSITY AND INCLUSION
   a. Describe how your firm is incentivized to hire and promote diverse individuals
   b. Describe how <u>your team</u> attempts to partner with Service-Disabled Veteran Owned Small Businesses or historically disadvantaged businesses

6. WORK LOCATION

   Describe where the prime and subconsultants will do the key work elements of this project.

a. Proximity of firms office as it may affect coordination with the State's project manager and the potential project location.

b. Firm's familiarity with the project area.

c. Knowledge of the local labor and material markets.

XI. ORAL INTERVIEWS EVALUATION CRITERIA

(Note that the primary focus of the Oral Interview will be the proposed project management team members' capabilities).

It is anticipated that oral interviews will be conducted on November 5, 2026. Interviews will be conducted at the University Center. Room number and address will be communicated in correspondence with short-listed firms. The time for interviews is to be determined. Key personnel from the firm and major consultants who will be directly involved with the project should attend the interview. The interview panel will, in particular, be interested in knowing about the specific project approach proposed and in meeting the individuals who will act as the primary contacts with Colorado Mesa University.

1. PROJECT TEAM
2. TEAM CAPABILITIES
3. PRIOR EXPERIENCE
4. PROJECT APPROACH
5. EQUITY, DIVERSITY, AND INCLUSION
6. WORK LOCATION

Appendix A: Evaluation Forms

Appendix A1: Prequalification Submittal/Evaluation Form
Appendix A2: Oral Interview Evaluation Form
Appendix A3: Submittal and Interview Ranking Matrix

Appendix B: Architect/Engineer/Consultant Contract (Standard)

Appendix C:

ACKNOWLEDGEMENT AND ATTESTATION FORM

By responding to this RFQ, the respondent(s) certify that they have reviewed the Agreement and its Exhibits contained herein, and is familiar with their terms and conditions and finds them expressly workable without change or modification.

We certify and declare that the foregoing is true and correct.

Subscribed on _____ at _____,
Date City

_____, State of _____.
County State

_____ _____
Corporate Officer Signature Date

_____ _____
Secretary Date

Note: Use full corporate name and attach corporate seal here.

Offeror Acknowledges Receipt of Addendum No. _____, _____, _____, _____ (Addenda MUST be acknowledged)

(SEAL)

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

APPENDIX A1: PREQUALIFICATION SUBMITTAL EVALUATION FORM

CMU 2889 North Ave Improvements

Name of Firm:_____
Name of Project: _____
Evaluator No:_____
Date:_____

RFQ REFERENCE MINIMUM REQUIREMENTS Y ____ N ____

If the minimum requirements (including letter from surety) have not been met, specify the reason(s):

_____
_____

Acknowledgment and Attestation included: Y ____ N ____

INSTRUCTIONS:

1. Criteria: Agencies/Institutions are encouraged to include additional criteria that reflect unique characteristics of the project under each category to help determine the submitter's overall qualifications.
2. Weights: Agency/Institutions to assign weights, using whole numbers, to all criteria on evaluation forms for inclusion into RFQ document and prior to evaluations.
3. Ratings: Evaluator to assess the strength of each firms qualifications and assign a numerical rating of 1 to 5 using whole numbers
4. Rating:0 = Not provided, 1 = Unacceptable, 2 = Poor, 3 = Fair, 4 = Good, 5 = Excellent
5. Total Score: Includes the sum of all criteria.

1. PROJECT TEAM

Weight	X	Rating	=	Score
25	x	_____	=	_____

- ☐ Qualifications and Relevant individual experience
- ☐ Unique knowledge of key team members
- ☐ Experience on projects as a team
- ☐ Key staff involvement in project management and on-site presence
- ☐ Time commitment of key staff
- ☐ Qualifications and relevant subconsultant experience

2. FIRM/TEAM CAPABILITIES

Weight	X	Rating	=	Score
20	X	_____	=	_____

- ☐ Are the lines of authority and coordination clearly defined?
- ☐ Are essential management functions identified?
- ☐ Are the functions effectively integrated? (e.g., subconsultants' role delineated)?

- ☐ Current and projected work load.

3. PRIOR EXPERIENCE — Weight X Rating = Score
   - ☐ Experience of key staff and firm with projects of similar scope and complexity
   - ☐ Demonstrated success on past projects of similar scope and complexity
   - ☐ References

   __25__ X _____ = _____

4. PROJECT APPROACH — Weight X Rating = Score
   - ☐ Budget Methodology / Cost Control
   - ☐ Quality Control Methodology
   - ☐ Schedule

   10 X _____ = _____

5. EQUITY, DIVERSIY AND INCLUSION — Weight X Rating = Score
   - ☐ Incentives and promotion of diverse individuals
   - ☐ Partnering with SDVOSB or other disadvantaged businesses

   5 X _____ = _____

6. WORK LOCATION — Weight X Rating = Score
   - ☐ Location of prime and subconsultants
   - ☐ Familiarity with project area
   - ☐ Knowledge of local labor and material markets

   15 X _____ = _____

Total Score: _____

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

APPENDIX A2: ORAL INTERVIEW EVALUATION FORM

CMU 2889 North Ave Improvements

INSTRUCTIONS/EXAMPLE:

1. Criteria: Agencies/Institutions are encouraged to include additional criteria that reflect unique characteristics of the project under each category to help determine the submitter's overall qualifications.
2. Weights: Agency/Institutions to assign weights, using whole numbers, to all criteria on evaluation forms for inclusion into RFQ document and prior to evaluations.
3. Ratings: Evaluator to assess the strength of each firms qualifications and assign a numerical rating of 0 to 5 with 5 being the highest rating. (Use whole numbers), 0 is missing information.
4. Total Score: Includes the sum of all criteria. Note: a passing score (as a percentage of the total points available) is optional and should be assigned by the agency/institution prior to evaluation.

CRITERIA	Weight	X	Rating	=	Score
1. PROJECT TEAM	25	x		=	
2. TEAM CAPABILITIES	20				
3. PRIOR EXPERIENCE	25				
4. PROJECT APPROACH	10				
5. EQUITY, DIVERSITY, AND INCLUSION	5				
6. WORK LOCATION	15				
TOTAL SCORE					

APPENDIX A3: PREQUALIFICATION AND ORAL INTERVIEW RANKING MATRIX

CMU 2889 North Ave Improvements

QUALIFICATION BASED SELECTION
(Use this form to rank and determine the most qualified architectural/engineering/consulting services firm for both the preliminary and interview evaluations.)

FIRM NAME	QUALIFICATIONS						QUALS SCORE	RANK
	EVAL #1	EVAL #2	EVAL #3	EVAL #4	EVAL #5	EVAL #6		

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD (D/B/B)

(STATE FORM SC-5.1)

State Agency
Colorado Mesa University
Department I.D.
Insert Department identification
Contract I.D. Number
Insert CMS number or other contract number
Project Number
1081-27-1
Project Name
CMU 2889 North Avenue Improvements
Consultant Name
Insert Consultant's full Legal Name including "Inc.", "LLC" etc.

Principal Representatives

For the State:	For Contractor:
Name	Name
Department Name	Company Name
Address Line 1	Address Line 1
Address Line 2	Address Line 2
City, State ZIP	City, State ZIP
Email	Email

ATTACHMENT 1: Architect/Engineer Agreement Terms and Conditions, SC-5.1TC

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD
(STATE FORM SC-5.1)

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed by the State Controller (or an authorized delegate) or the Colorado Mesa University per the Fiscal Rules of the individual Institution of Higher Education

Project Number/Name: 1081-27-1/ North Avenue Improvements
Contract ID No.: Insert CMS Number & Encumbrance Number

CONSULTANT
INSERT: Legal Name of Consultant

_____
By: Name & Title of Person Signing for Consultant

Date: _____

STATE OF COLORADO
Jared S. Polis, Governor
INSERT: Name of Agency or IHE
INSERT: Name & Title of Head of Agency / IHE

_____
By: Name & Title of Person Signing for Agency or IHE

Date: _____

OFFICE OF THE STATE ARCHITECT
State Buildings Program

_____
By: Name & Title of Person Signing for State Buildings

Date: _____

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

_____
By: Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval

Effective Date: _____

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD
(STATE FORM SC-5.1)

Department ID: Insert Dept. Code Contract ID #: Insert Contract ID
Project #:1081-27-1

PARTIES. THIS AGREEMENT is entered into by and between the STATE OF COLORADO, acting by and through the Colorado Mesa University hereinafter referred to as the State or Principal Representative, and Insert Contractor's full Legal Name including "Inc.", "LLC" etc. having its offices at Street address, City, State and Zip Code hereinafter referred to as the Architect/Engineer.

EFFECTIVE DATE AND NOTICE OF NONLIABILITY. This Agreement shall not be effective or enforceable until it is approved and signed by the State Controller or its designee (hereinafter called the "Effective Date"), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Architect/Engineer for any Work performed or expense incurred before the Effective Date.

Initial Expiration Date. This Agreement will expire on _____, 20___ (the "Initial Expiration Date"), which is four (4) years after the capital construction appropriate date and includes the one (1) year warranty period. The Initial Expiration Date may be extended by the mutual agreement of the Parties in order to accommodate the Project schedule, as approved by the Principal Representative. In no event shall the Initial Expiration Date or the amended expiration date supersede or contradict the dates of Substantial Completion or Final Acceptance or prohibit the completion of any warranty Work identified or in progress at the end of the one (1) year warranty period.

RECITALS:

WHEREAS, the Principal Representative intends to procure Insert Project Name as provided by the State Controller's Office hereinafter called the Project; and

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated, and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment In Fund Number Insert Fund Number Here, Account Number Insert Account Number here; and

WHEREAS, the State has **Appropriated** and the Principal Representative has been authorized to expend the total sum of Insert dollar value written in words Dollars ($___)

for this project including all professional services, construction/improvements, project contingencies, furnishings, movable equipment, reimbursable expenses and miscellaneous expenses; and

~~*(WHEREAS, funds are available for only a portion of the services defined herein, as more fully described in the funding Condition Precedent clause in Article 3.5)*~~

WHEREAS, the Principal Representative has established the **Fixed Limit of Construction Cost** in the amount of Two million, thirty-seven thousand, three hundred one Dollars ($2,037,301.00) and

WHEREAS, the ARCHITECT/ENGINEER was selected and determined to be the most qualified, and fees negotiated in accordance with the provisions of Section 24-30-1401, C.R.S. as amended, and

ENTIRE AGREEMENT – The entire contract consists of the Architect/Engineer Agreement (SC-5.1) and Attachment 1, the Architect/Engineer Terms and Conditions (SC-5.1TC) incorporated herein by reference. The ARCHITECT/ENGINEER acknowledges having reviewed and accepted the Architect/Engineer Agreement Terms and Conditions (SC-5.1TC).

NOW, THEREFORE,

The Principal Representative and the Architect/Engineer, for the considerations hereinafter set forth, agree as follows:

1 ARTICLE 1 BASIC SERVICES OF ARCHITECT/ENGINEER

1.1 THE SERVICES

1.1.1 Professional Services

For services in connection with the design of a funded project, the Architect/Engineer promises to perform the professional services for the contemplated project as delineated in the proposal letter dated ___, submitted by the Architect/Engineer, which is attached hereto and made a part hereof by reference as **Exhibit A**. In addition, the Architect/Engineer promises to perform the professional services as set forth in Terms and Conditions (SC-5.1TC) 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5, 1.1.6 and 1.1.7.

1.1.2 Buy Clean Colorado

If the box below is marked, this Project meets the definition of Public Project and must comply with the requirements of the Buy Clean Colorado Act, §24-92-117, C.R.S. (BCCO), and the Buy Clean Colorado Act Policy established by the State's Office of State Architect (OSA). Refer to **Exhibit C**: State Development Requirements of the *Code Compliance Policy*.

☒ _____ Principal Representative initial

1.1.2.1 The Architect/Engineer shall specify an Environmental Product Declaration (EPD) for each eligible material (specified below) within the project specifications included in the bid documents. When specifying materials, the Architect/Engineer shall prioritize products with EPDs for the design. The Architect/Engineer will verify EPD compliance using the BCCO EPD Submittal form (EE-5.2). The Architect/Engineer must verify that the specified EPDs contain global warming potential (GWP) values that are less than or equal to the maximum GWP limits established by OSA.

During the submittal process the Architect/Engineer shall work with the Contractor to ensure that eligible materials are obtainable and can be installed. If an eligible material with a compliant EPD is unobtainable, a waiver process defined by OSA shall be utilized.

1.1.2.2 "Eligible materials" or "material categories" means materials used in the construction of a Public Project, including:

a) Asphalt and asphalt mixtures
b) Cement and concrete mixtures
c) Glass
d) Post-tension steel
e) Reinforcing steel
f) Structural steel
g) Wood structural elements

1.2 DEVELOPMENT OF THE PROJECT

1.2.5.6 Bidding Phase

The Architect/Engineer shall furnish copies of the Construction Documents as follows, subject to limitations hereinafter set forth:

a) For Bidding Documents: (___) *electronic* sets to enable distribution among prime contractors and subcontractors in accordance with the advertisement for bids.
b) For Contract Documents: The Principal Representative will require up to (___) *electronic* sets. The Contract Documents bearing the seal and the signature of the Architect/Engineer and the appropriate responsible professional Engineering Consultants are to be signed by the Contractor and the Principal Representative at the Contractor's contract signing conference. The Architect/Engineer acknowledges that prior to the contract signing conference and State Buildings Program authorizing the Notice to Proceed State Form SBP-6.26, a Letter of Compliance must be obtained from the State's Code Review Agent verifying that the contract Documents and all addenda, value engineering recommendations and all other changes to the bidding documents are in compliance with the applicable codes as adopted by State Buildings Program as indicated in **Exhibit C**.

c) For Construction: Each prime contractor shall be furnished with (___) *electronic* sets or partial sets of the Contract Documents to enable prompt prosecution of the work.
d) (___) complete sets of drawings and specifications shall be the maximum required to be furnished by the Architect/Engineer. The Principal Representative will pay for all other sets of documents or partial sets of documents required at the cost of reproduction.

1.2.7 Post Construction Phase

1.2.7.1 (As designated and defined in the Architect/Engineer's Proposal **Exhibit A**.)

2 ARTICLE 2 REIMBURSABLE EXPENSE

2.1 REIMBURSEMENT

2.1.1 Basic and Additional Services

Reimbursable expenses are in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Architect/Engineer and its employees, associate Architect/Engineer, and consultants in the interest of the Project. Pay requests for reimbursable expense shall be submitted with receipts, statements, or other acceptable supporting data. The Architect/Engineer understands and agrees that a certain dollar amount as enumerated in line **H** of paragraph 3.1.1 has been established as a maximum amount to be paid for all reimbursable expenses.

2.1.2 Items for Reimbursement

The Architect/Engineer shall be reimbursed for:

a) In accordance with the provisions of paragraph 1.2.5.6 (d) of this Agreement, for all copies over (___) of the Construction Documents which are provided for the project.
b) The costs of all items furnished by the Architect/Engineer in accordance with paragraphs 5.1.1 (d) and (e) of the Architect/Engineer Agreement Terms and Conditions Design/Bid/Build (SC-5.1TC) as requested by the Principal Representative.
c) Fees of special consultants if their employment is authorized in advance by the Principal Representative for other than the required architectural, structural, mechanical, electrical and civil engineering services; landscaping, if any; space planning/interior layout; and any other services included in this Agreement.
d) Expense of data processing and photographic production techniques when used in connection with Additional Services.
e) Expense of long distance telecommunication related to the performance of Basic Services.
f) Expense of renderings, models and mock-ups requested by the Principal Representative other than those described in the designated services.

g) Expense of mail, deliveries, mileage for local travel other than that necessary for the performance of Basic Services, and expense travel for consultants per Article 1 Basic Services of Architect/Engineer. Reimbursement of travel expenses is to be based on reasonable and necessary travel costs within the limits of State/Federal per diem rates as published in the travel section of the State Controller's Fiscal Rules, Meal and Incidental Per Diem Rates, Appendix A1.
h) Expense of any additional insurance coverage or limits, including professional liability insurance, requested by the Principal Representative in excess of that required in Article 8 as set forth in the Terms and Conditions (SC-5.1TC).
i) Other expenses as approved in writing by the Principal Representative and State Buildings Program.

3 ARTICLE 3 BASIS OF COMPENSATION

3.1 PAYMENT

3.1.1 The Total Compensation

The total compensation for Basic Services fees (**B** through **F**), including a not-to-exceed price for Reimbursable Expenses and, if applicable, Pre-Design and Post Construction Services fees (**A** and/or **G**), shall be allocated as follows:

A.	Pre-Design Phase (If Applicable)	$_____
B.	Schematic Design Phase	$_____
C.	Design Development Phase	$_____
D.	Construction Documents Phase	$_____
E.	Bidding Phase	$_____
F.	Contract Administration Phase	$_____
G.	Post Construction Phase	$_____
H.	Reimbursable Expenses (not to exceed)	$_____
TOTAL COMPENSATION		**$_____**

3.1.2 Monthly Payments

Payments to the Architect/Engineer shall be made monthly based upon Architect/Engineer's performance and progress, through a properly executed Application for Payment (SBP-7.1). Payments shall be due per § 24-30-202(24) (correct notice of amount due), within forty-five (45) days of receipt by the Principal Representative of the Applications for Payment.

3.5 CONDITION PRECEDENT

~~*(At the time of the execution of this Agreement, there are sufficient funds budgeted and appropriated to compensate the Architect/Engineer only for performance of the services through and including*~~ Insert the phases that have been ~~fully funded~~ ~~*Therefore, it shall be a Condition Precedent to the Architect/Engineer's performance of the remaining services specified in*~~ Insert

~~the parts of Article 1.2 that describes the services not fully funded~~ ~~*and the State's liability to pay for such performance, sufficient funding must be appropriated and made available to the Principal Representative for the Project prior to ___ and, as a further Condition Precedent, a written Amendment is entered into in accordance with the State of Colorado Fiscal Rules, stating that additional funds are lawfully available for the project. If either Condition Precedent is not satisfied by ___, the Architect/Engineer's obligation to perform services for*~~ ~~Insert the scope pf work or phases that will be completed as part of the Condition Precedent~~ ~~*and the State's obligation to pay for such service is discharged without liability to each other. If funding is eventually made available after___, the Architect/Engineer has no right to perform services under*~~ ~~Insert the parts of Article 1.2 that describes the services not fully funded~~ ~~*of this Agreement and the state has no right to require the Architect/Engineer to perform the said services.)*~~

12 ARTICLE 12 MISCELLANEOUS PROVISIONS

12.26 DESIGNATED REPRESENTATIVES

The Principal Representative and the Architect/Engineer authorize the individuals noted on the cover page to act on their behalf as Designated Representatives and points of contact as described in paragraphs 1.1.4 and 5.1.1(b):

FOR THE STATE:

Insert Name of Individual acting on the PR behalf
Insert Street Address
City, State Zip Code
Insert email address

FOR THE ARCHITECT/ENGINEER:

Insert Name of Individual acting on the contractor behalf
Insert Street Address
City, State Zip Code
Insert email address

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD
(STATE FORM SC-5.1)

EXHIBIT A: ARCHITECT/ENGINEER PROPOSAL

ARCHITECT/ENGINEER PROPOSAL
(Including Design Services Schedule and Certificates of Insurance, attached)

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD
(STATE FORM SC-5.1)

EXHIBIT B: WAGE RATES SCHEDULE

WAGE RATES SCHEDULE
(Attached)

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT
DESIGN/BID/BUILD
(STATE FORM SC-5.1)

EXHIBIT C: BUILDING CODE COMPLIANCE POLICY

APPROVED STATE BUILDING CODES

BUILDING CODE COMPLIANCE POLICY: COORDINATION OF APPROVED BUILDING CODES, PLAN REVIEWS, BUILDING INSPECTIONS AND STATE DEVELOPMENT REQUIREMENTS

Refer to the Office of the State Architect's Building Codes Webpage for the *Building Code Compliance Policy* (Rev.)

Exhibit A: Approved Building Codes of the Code Compliance Policy dated _____. including the *Amendments to the International Building Code and Code Compliance Plan Review Procedures* (Rev.)

Exhibit B: Plan Review Procedures of the *Code Compliance Policy* dated _____.

Exhibit I: State Development Requirements of the *Code Compliance Policy* dated _____.

The State Buildings Program Building Codes Webpage may be found at: https://osa.colorado.gov/building-codes

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT
DESIGN/BID/BUILD
(STATE FORM SC-5.1)

EXHIBIT D: ADDITIONAL DESIGN REQUIREMENTS/ PROGRAM PLAN/SUSTAINABILITY GOALS

DESIGN REQUIREMENTS/FACILITIES PROGRAM PLAN/SUSTAINABILITY GOALS
(Attached, as applicable)

This Exhibit D is in addition to **Exhibit I**: State Development Requirements of the *Code Compliance Policy.*

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT TERMS AND CONDITIONS DESIGN/BID/BUILD

(STATE FORM SC-5.1TC)

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT TERMS AND CONDITIONS
DESIGN/BID/BUILD
(STATE FORM SC-5.1TC)

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SUPPLEMENTARY GENERAL CONDITION: FEDERAL PROVISIONS

STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAM

ARCHITECT/ENGINEER AGREEMENT TERMS AND CONDITIONS
DESIGN/BID/BUILD
(STATE FORM SC-5.1TC)

1 ARTICLE 1 BASIC SERVICES OF ARCHITECT/ENGINEER

1.1 THE SERVICES

1.1.1 Professional Services, as set forth in SC-5.1.

1.1.2 License/Registration

These services shall be performed by the Architect/Engineer or by consultants licensed or registered as required by the State of Colorado. If these special consulting services are to be performed by professionals in the Architect/Engineer's employ, then the services must currently be and have been, for at least two (2) years previously, regularly a service of the Architect/Engineer's organization. In the event the Architect/Engineer does not have as part of his regular staff and services, certain professional consultants and consulting services, such as but not limited to, structural, mechanical, electrical, acoustical and architectural, then such consulting services shall be performed by practicing professional consultants.

1.1.3 Staff Retained for Duration of Project

All professional consultants, staff or practicing, must be retained for the life of the project; provided, however, acceptable replacements must be approved, in writing, by the Principal Representative whose approval shall not be unreasonably withheld.

1.1.4 Professionals Designated

Prior to designating a professional to perform any of these services as indicated in paragraph 12.10, the Architect/Engineer shall submit the name of such professional, together with a resume of their training and experience in work of like character and magnitude of the project being contemplated, to the Principal Representative, and receive approval in writing therefrom.

1.1.5 Conflict of Interest

No consultant shall be engaged or perform work on the project wherein a conflict of interest exists, such as being connected with the sale or promotion of equipment or material which may be used on the project, provided however, that in unusual circumstances and with full disclosure to the Principal Representative of such interest, the Principal Representative may permit a waiver, in writing, in respect to the particular consultant.

1.1.6 Code Compliance

The Architect/Engineer shall make certain to the best of its knowledge, information and belief, that the drawings and specifications prepared by them are in compliance with the Approved Codes as adopted by the State Buildings Program (as a minimum standard) as indicated in **Exhibit C,** Approved Codes. Other or more restrictive standards as specified by the Principal Representative are as indicated in **Exhibit C**. Drawings and specifications are to be reviewed by the State's approved Code Review Agents at the appropriate phases and with the required information as described in the attached Code Compliance Reviews, **Exhibit D**.

1.1.7 Buy Clean Colorado Act Requirements (as set forth in SC-5.1.), where applicable.

1.2 DEVELOPMENT OF THE PROJECT

1.2.1 Pre-Design Phase

(As designated and defined in the Architect/Engineer's Proposal, Exhibit A.)

1.2.2 Schematic Design Phase

1.2.2.1 Conferences: The Architect/Engineer shall attend all conferences as may be requisite to a complete understanding of the Project. The Architect/Engineer shall document all such conference notes and distribute the same to the Principal Representative.

1.2.2.2 Design Program/Facility Program Plan/ Sustainability Goals: The Architect/Engineer shall review the Design Program/Facilities Program Plan /Sustainability Goals (Exhibit E), furnished by the Principal Representative to ascertain the requirements of the Project and shall refine the design in accordance with Exhibit E.

1.2.2.3 Written Report/Drawings: When agreement has been reached on the Schematic Design, the Architect/Engineer shall prepare a written report, accompanied by Drawings, setting forth the following:

a) Analysis of the structure as it relates to the Approved Codes as defined in Exhibit C, including responses to the State's Code Review Agent;
b) If new construction or addition, the recommended site location;
c) Scope of any site development;
d) Correlation of spaces with approved State standards;
e) Conceptual drawings of floor plans, elevations and sections;
f) Conceptual drawings and descriptions of building plumbing, mechanical and electrical systems;
g) Area computations, gross square footage, net square footage, volume;
h) Outline of proposed construction materials;
i) Review of the time anticipated for Construction Phase;
j) Architect/Engineer's estimate of Probable Construction Cost.

1.2.2.4 Acceptance of Schematic Design Documents: The above Schematic Design data shall be approved in writing by both the Principal Representative and State Buildings Program before commencement of the next phase.

1.2.3 Design Development Phase

1.2.3.1 Written Report/Drawings: The Architect/Engineer shall prepare a written report and drawings outlining in detail Design Development Documents from the approved Schematic Design Report. The report, when submitted for approval, shall include:

a) Analysis of the structure as it relates to the Approved Codes as defined in **Exhibit C**, including responses to the State's Code Review Agent;
b) Site development drawings, defining the proposed scope of development including earthwork, surface development, and utility infrastructure;
c) Plans in one-line format of the proposed plumbing, mechanical, and electrical systems as necessary to define size, location, and quantity of equipment, materials, and constructions;
d) Floor plans including any proposed movable equipment and furnishings and exterior elevations;
e) Proposed architectural finish schedule, HVAC, plumbing, and electrical fixture schedules;
f) Outline specifications including Division 1 and cut-sheets and/or samples of proposed materials, equipment, system components per CSI format divisions;
g) Architect/Engineer's adjustments to the Schematic Design estimate of Probable Construction Costs;
h) Review of the time anticipated for the Construction Phase.

1.2.3.2 Models and Renderings: If the Principal Representative requires, in writing, the Architect/Engineer shall prepare models, renderings or perspectives to portray fully the project in whole or in part as additional services to the Principal Representative.

1.2.3.3 Acceptance of Design Development Documents: The final Design Development Documents shall be approved in writing by both the Principal Representative and State Buildings Program before commencement of the next phase.

1.2.4 Construction Documents Phase

1.2.4.1 Construction Documents: The Architect/Engineer shall prepare the final Construction Documents from the approved Design Development Documents. These Construction Documents, when submitted for approval, shall include:

a) Complete architectural, structural, plumbing, mechanical and electrical construction drawings as needed for the approved scope of work. These drawings shall be on durable and reproducible material. If the Project is

a structure, the title sheet of the Project shall reflect an accurate take-off of:

b) Gross square footage,

c) Gross building volume.

d) This takeoff shall be made in accordance with AIA Document-D101, current edition. In addition, the net assignable square footage shall be shown when requested.

e) Complete architectural, structural, mechanical and electrical specifications. The format for these technical specifications shall be the current edition of MasterFormat published by the Construction Specifications Institute.

f) The Architect/Engineer's adjustments to the Design Development estimate of Probable Construction Cost.

1.2.4.2 Code Compliance: The Architect/Engineer shall cooperate with the State's Code Review Agent to check the Construction Drawings and Specifications for compliance with the Approved Codes as defined in **Exhibit C**, and shall include the minimum data as required by the Code Compliance Review **Exhibit D**.

1.2.4.3 Acceptance of Construction Documents: The final Construction Documents shall be approved in writing by both the Principal Representative and State Buildings Program before commencement of the next phase.

1.2.5 Bidding Phase

1.2.5.1 Competitive Bids: The Architect/Engineer shall assist the Principal Representative in obtaining competitive bids (including attending the bid opening if requested by the Principal Representative), bid evaluation, determination of the successful bid and in awarding and preparing contracts for construction.

1.2.5.2 Bidding Documents: Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary General Conditions, Specifications, Drawings and all published addenda.

1.2.5.3 Prospective Bidders: If requested by the Principal Representative the Architect Engineer shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process.

1.2.5.4 Pre-Bid Conference: The Architect/Engineer shall participate in or, at the Principal Representative's direction, shall organize and conduct a pre-bid conference for prospective bidders.

1.2.5.5 Substitutions: The Architect/Engineer shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders and shall prepare responses to questions from prospective bidders

and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

1.2.5.6 Copies of Documents: As set forth in SC-5.1.

1.2.6 Contract Administration Phase

1.2.6.1 General Conditions: The Architect/Engineer shall become familiar with the terms and conditions of the latest edition of the State's General Conditions of the Construction Contract SC-6.23 for construction and shall administer the Contract for construction in accordance with such terms and conditions.

1.2.6.2 Project Site Visits: The Architect/Engineer, its structural, mechanical and electrical engineers will visit the site at intervals appropriate to the stage of construction, or as may be otherwise agreed by the Principal Representative in writing to become generally familiar with the progress and quality of the Work to determine in general if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. Observation may extend to all or any part of the work and to the preparation, fabrication or manufacture of materials. However, the Architect/Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality of the Work. The Architect/Engineer shall keep the Principal Representative informed of the progress and quality of the Work, and shall endeavor to guard the Principal Representative against defects and deficiencies in the Work.

1.2.6.3 Construction Progress Meetings: The Architect/Engineer shall attend construction progress meetings to monitor the construction and perform the duties required by this Article 1, including assisting the Principal Representative in reaching an informal partnering agreement with the Contractor. Subject to the requirements of Article 3.2, attendance at meetings subsequently required by such an informal partnering agreement shall be reimbursed as Additional Services but only to the extent in excess of those otherwise reasonably necessary to perform all architectural/engineering services described herein. If, through no fault of the Architect/Engineer, trips to observe construction during the Construction Phase of the Project are required in excess of those reasonably necessary to perform all architectural/engineering services described herein, the Architect/Engineer's compensation for the Construction Administration Phase shall be adjusted as an Additional Service for the cost to the Architect/Engineer of such trips, and paid in accordance with Article 3.2.

1.2.6.4 Shop Drawings, Product Data and Samples: The Architect/Engineer shall review and approve or take other appropriate action upon Contractor's submittals such as shop drawings, product data and samples as indicated in the Contract Documents, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer shall review Contractor requests for information and other submittal schedules and shall agree to reasonable times for initial reviews. The Architect/Engineer's action shall

be taken in conformity with approved submittal schedules and with such reasonable promptness as to cause no delay in the Work or in the construction by separate contractors of the Principal Representative, while allowing sufficient time in the Architect/Engineer's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect/Engineer's review shall not constitute approval of a specific item nor indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents. In addition, the Architect/Engineer shall review, and if applicable comment on, the Contractor's construction schedule for conformity with the requirements of the Contract Documents.

1.2.6.5 Change Orders/Amendments: All changes in the work shall be documented on Change Order/Amendment State Forms, supplied by the Principal Representative, and the Architect/Engineer shall keep a current record of all variations or departures from the Contract Documents as originally approved.

1.2.6.6 Preparation of Change Orders/Amendments: The Architect/Engineer shall prepare all Change Orders/Amendments for the Principal Representative and recommend for approval/disapproval in accordance with the Contract Documents (including the contractor agreement), the Contract Sum, the Contract Time and Code Compliance. If necessary the Architect/Engineer shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified. The Architect/Engineer shall review all Change Order Proposals (State Form SC-6.312 or approved equal) with such reasonable promptness as to cause no delay in the Work or in the activities of the Principal Representative, Contractor or separate contractors of the Principal Representative, while allowing sufficient time in the Architect/Engineer's professional judgment to permit adequate review.

1.2.6.7 Approval of Change Orders/Amendments: Every Change Order/Amendment must be approved in writing by the Principal Representative and the Architect/Engineer, and must also be approved and signed by State Buildings Program and then validated by the State Controller's signature prior to commencement of the change in the Work.

1.2.6.8 Emergency Field Change Orders: The Architect/Engineer shall prepare and issue Emergency Field Change Orders as required by the Principal Representative, but such Emergency Field Change Orders shall be issued only in accordance with the policies of State Buildings Program to order extra work or make changes in the case of an emergency that is a threat to life or

property or where the likelihood of delays in processing a normal Change Order will result in substantial delays and or significant cost increases for the Project. Emergency Field Change Orders are not to be used solely to expedite normal Change Order processing absent a clear showing of a high potential for significant and substantial cost or delay.

1.2.6.9 Testing: Unless otherwise agreed, the Architect/Engineer or an appropriate consultant shall observe for contract compliance the following, as a minimum, if applicable:

a) Bearing surfaces of excavations before concrete is placed;
b) Reinforcing steel after installation and before concrete is placed;
c) Structural concrete;
d) Laboratory reports on all concrete;
e) Structural steel during and after erection and prior to its being covered or enclosed
f) Steel welding;
g) Mechanical and plumbing work following its installation and prior to its being covered or enclosed;
h) Electrical work following its installation and prior to its being covered or enclosed.

1.2.6.10 Observe for Contract Compliance: The observation contemplated in this article does not include the responsibility to conduct testing, quantity surveys or field dimensions, but it does include the responsibility to confirm that tests were conducted as required in the Contract Documents as well as a review of the test results. The Architect/Engineer may rely upon the test reports provided by the Principal Representative.

1.2.6.11 Due Diligence: The Architect/Engineer shall exercise due diligence to safeguard the State of Colorado against defects, deficiencies, noncompliance with the Contract Documents, and/or unsatisfactory workmanship. If, in the opinion of the Architect/Engineer, the work is not being carried out in a sound, efficient and skillful manner, the Architect/Engineer shall promptly notify the Principal Representative in writing setting forth the reasons.

1.2.6.12 Accurate Accounts: The Architect/Engineer shall keep accurate accounts with respect to the construction on the Project including fiscal accounting, changes in the Work, directives, and other documentation to establish a clear history of the Project.

1.2.6.13 Delegation of Responsibilities: If at any time the Architect/Engineer delegates any of its responsibility for the observation of the Work to some other person, such other person must be properly qualified by training and experience to observe the work. The Principal Representative and State Buildings Program may review and approve the qualifications of all persons in writing, other than the Architect/Engineer, performing the functions of the Architect/Engineer in respect to the services required by this agreement.

1.2.6.14 Contractor’s Application for Payment: The Architect/Engineer shall review and approve the contractor’s itemized schedule of values, subject to final approval by the Principal Representative, and see to the proper issuance of State Form SBP-7.2, used as an Application and Certificate for Contractor’s Payment. The approval of the Architect/Engineer shall be for overall adequacy of line item detail and reasonableness as a basis for evaluating the general allocation of costs and the related progress of the work only and shall impose no duty on the Architect/Engineer to review or verify the accurateness of the line item values proposed by the Contractor. The Architect/Engineer will, within five (5) working days after the receipt of each Contractor's Project Application for Payment, review the Contractor's Project Application for Payment and either execute an Application and Certificate for Contractor’s Payment (State Form SBP-7.2) to the Principal Representative for such amounts as the Architect/Engineer determines are properly due, or notify the Principal Representative and the Contractor in writing of the reasons for withholding a Certificate. If the Architect/Engineer certifies an amount different from the amount requested or otherwise alters the Contractor’s application for payment, a copy shall be forwarded to the Contractor.

If the Architect/Engineer is unable to certify all or portions of the amount requested due to the absence or lack of required supporting evidence, the Architect/Engineer shall advise the Contractor of the deficiency. If the deficiency is not corrected at the end of ten (10) days, the Architect/Engineer may either certify the remaining amounts properly supported to which the Contractor is entitled, or return the application for payment to the Contractor for revision with a written explanation as to why it could not be certified.

1.2.6.15 Project Certificate for Payment: The execution and issuance of a State Form SBP-7.2, Application and Certificate for Contractor’s Payment shall constitute a representation by the Architect/Engineer to the Principal Representative that, based on the Architect/Engineer's observations at the site and on the data comprising the Contractor's Project Application for Payment, the construction has progressed to the point indicated; that to the best of the Architect/Engineer's knowledge, information and belief, the quality of construction is in accordance with the Contract Documents and that the Contractor is entitled to payment in the amount certified. However, the issuance of a State Form SPB 7.2, Application and Certificate for Contractor’s Payment shall not be a representation that the Architect/Engineer has made any examination to ascertain how or for what purpose the Contractor has used the monies paid on account of previously issued Certificates.

1.2.6.16 Interpretation of Contract Documents: The Architect/Engineer shall be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Contractor and all subcontractors. All decisions involving interpretations of the Contract Documents by the Architect/Engineer, and all decisions in matters relating to

the execution and progress of the Work, shall be made within a reasonable time and shall be consistent with the intent of, and reasonably inferable from, the Contract Documents. All interpretations shall be in writing or in graphic form and the Architect/Engineer shall send a copy to the Principal Representative. The Architect/Engineer shall exercise due diligence to be reasonably available to the Contractor to timely interpret and make decisions with respect to questions relating to the design or concerning the Contract Documents.

1.2.6.17 Architect/Engineer Decisions: The Architect/Engineer shall make judgments regarding whether directed work is extra or outside the scope of Work required by the Contract Documents at the time any direction or interpretation is first given. The Architect/Engineer shall endeavor to respond to any written request by the Contractor for a judgment regarding whether any directed work is included within the performance required by the Contract Documents within three (3) business days of receipt of such request.

1.2.6.18 Claims: If the Contractor gives Notice of any claim regarding the interpretation, decision, judgment or direction of the Architect/Engineer, or otherwise, the Architect/Engineer shall provide to the Principal Representative on request such available information as may assist the Principal Representative in evaluating the claim. In the event either the Principal Representative or the Contractor elect to require the other party to participate in facilitated negotiations, the Architect/Engineer shall assist the Principal Representative as required and shall participate in such negotiations to the extent requested by either the facilitator or the Principal Representative. Unless it is the written decision of the facilitator (which includes the basis for the decision), that the decision or judgment of the Architect/Engineer was wholly incorrect, the Architect/Engineer shall be reimbursed for such assistance or participation as an Additional Service in accordance with Article 3.2.

1.2.6.19 Rejection of Construction Work: The Architect/Engineer shall have the authority to reject constructed work which does not conform to the Contract Documents, and whenever, in the Architect/Engineer's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect/Engineer shall have authority to require special inspection or testing of constructed work in accordance with the provisions of the Contract Documents, whether or not such constructed work is then fabricated, installed or completed, provided, however, that the Architect/Engineer shall take such action only after consultation with the Principal Representative. However, the Architect/Engineer's authority to act under the Contract Documents and any decision made by the Architect/Engineer in good faith either to exercise or not to exercise such authority shall not give rise to any duty on the part of the Architect/Engineer to the Contractor, any subcontractor of any tier, any of their agents or employees, or any other person performing any of the construction.

1.2.6.20 Contractor's Written Notice: When the Work is substantially complete in the opinion of the Contractor, the Contractor, under Article 41.3 of the General Conditions, is required to file a written Notice with the Architect/Engineer with an attached preliminary punch-list of remaining items to be completed or corrected. The Architect/Engineer shall thereafter notify the State Buildings Program and the Principal Representative that the work, in the opinion of the Contractor, is substantially complete under the terms of the Contract. This Notice shall receive prompt action by the notified parties.

1.2.6.21 Inspection: When the Architect/Engineer determines after review of the Contractor's written Notice that the Work or a portion of the Work is ready for an inspection to determine whether the Work is substantially complete in accordance with Article 41.3 of the General Conditions of the Contract, the Architect/Engineer with the Principal Representative and the Contractor shall, within ten days of receipt of the Contractor's Notice, conduct an inspection to determine whether the Work is substantially complete and in accordance with the requirements of the Contract Documents. State Buildings Program shall be notified of the inspection. If the construction has been completed to the required state, a punch list shall be made by the Architect/Engineer in concert with the Principal Representative and Contractor in sufficient detail to fully outline to the Contractor:

a) Work to be completed, if any;
b) Work not in compliance with the Drawings or Specifications, if any;
c) Unsatisfactory work for any reason, if any;
d) Date for Completion of the Punch List Items.

1.2.6.22 Copies of Punch List: If the Architect Engineer determines, after consultation with the Principal Representative, that the Work or a portion of the Work, is substantially complete in accordance with the criteria outlined in Article 41 of the General Conditions of the Contract for Construction, then the Architect/Engineer shall prepare the Notice of Substantial Completion, State Form SBP-07 or the Notice of Partial Substantial Completion, State Form SBP-071, which the Architect Engineer shall transmit in writing to the Contractor and the Principal Representative for signature. The required number of copies of the punch list must be countersigned by the Contractor and the Principal Representative and will then be transmitted by the Architect/Engineer to the Contractor, the Principal Representative, and State Buildings Program. The Contractor shall immediately initiate such remedial work as may be necessary to correct any deficiencies or defective work shown by this report, and shall promptly complete all such remedial work in a manner satisfactory to the Architect/Engineer and State Buildings Program.

1.2.6.23 Additional Inspections: The Principal Representative may require the Architect/Engineer to make a reasonable number of additional inspections to confirm the completion of the punch list by the Contractor.

1.2.6.24 Notice of Substantial Completion: The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall establish the Date of Substantial Completion or the Date of Partial Substantial Completion and such date shall be the date of commencement of the Contractor's twelve month guarantee, except to the extent stated otherwise in accordance with the limited exceptions provided in the General Conditions of the Contract. The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall state the responsibilities of the Principal Representative and the Contractor for security, maintenance, heat, utilities, property insurance premiums and damage to the finished construction as required. The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall be submitted to the Principal Representative and the Contractor for their written acceptance of the responsibilities assigned to them in such Notice. The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall attach and incorporate the Architect/Engineer's final punch list and Contractor's schedule for the completion of each and every item identified on the final punch list as required by Article 41C(6) of the General Conditions of the Contract.

1.2.6.25 Right of Occupancy: The Principal Representative shall have the right to take possession of and to use any completed or partially completed portions of the Work, even if the time for completing the entire Work or portions of the Work has not expired and even if the Work has not been finally accepted, and the Architect/Engineer shall fully cooperate with the Principal Representative to allow such possession and use. Such possession and use shall not constitute an acceptance of such portions of the work. Prior to any occupancy of the Project, an inspection shall be made by the Architect/Engineer, State Buildings Program and the Construction Manager. Such inspection shall be made for the purpose of ensuring that the building is secure, protected by operation safety systems as designed, operable exits, power, lighting and HVAC systems, and otherwise ready for the occupancy intended and the Notice of Substantial Completion has been issued for the occupancy intended. The inspection shall also document existing finish conditions to allow assessment of any damage by occupants. The Architect/Engineer shall assist the Principal Representative in completing and executing State Form SBP-01 Notice of Approval of Occupancy/Use, prior to the Principal Representative's possession and use. Any and all areas so occupied will be subject to a final inspection when the contractor complies with Article 41, Completion, Final Inspection, Acceptance and Settlement.

1.2.6.26 Close-out Documents: The Contractor shall forward the completed close-out documents to the Architect/Engineer for signature. Upon receipt from the Contractor of written notice that the Architect/Engineer's final punch list is sufficiently complete the Architect/Engineer shall make a final inspection of work remaining on the final punch list and prepare the Pre Acceptance Checklist State Form SBP-05. The Architect/Engineer upon receipt and verification that the close-out documents and the items of work are complete, shall prepare and forward to the Principal Representative a letter

(including the signed close-out documents) stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of observations and inspections, the Work, or designated portion hereof, has been completed in accordance with the terms and conditions of the Contract Documents and is ready for the issuance of a Notice of Acceptance or Notice of Partial Acceptance as appropriate. A Notice of Partial Acceptance shall be based only upon the work for which a Notice of Partial Substantial Completion has been executed and all necessary items of work and other requirements have been completed.

1.2.6.27 Notice of Acceptance: Upon receipt from the Architect/Engineer of the letter recommending issuance of a Notice of Final Acceptance or a Notice of Partial Final Acceptance, the Principal Representative shall sign the Notice of Acceptance, State Form SC-6.27, and forward to the Contractor for its approval and signature. The date of the Notice of Acceptance shall establish the date of final completion of the project. The Notice of Acceptance must be fully executed before final payment is authorized or the project advertised for Final Settlement.

1.2.6.28 Written Warrantied: The Architect/Engineer shall receive and forward to the Principal Representative for review, written warranties and related close-out documents assembled by the Contractor and reviewed and approved by the Architect/Engineer as consistent with the Contract Documents. A summary of all such requirements shall be located consistently within individual sections of the Specifications. When such materials have been received and approved the Architect/Engineer shall certify the Contractor's Final Application for Payment and forward the same to the Principal Representative.

1.2.6.29 Warranty Inspections: Except as otherwise agreed below in 1.2.7, Post Construction Phase, the Architect/Engineer, the Principal Representative and the Contractor shall make at least two complete inspections of the work after the work has been accepted. One such inspection, the Six-Month Warranty Inspection, shall be made approximately six (6) months after the Date of Substantial Completion or the Date of Partial Substantial Completion; and another such inspection, the Eleven-Month Warranty Inspection, shall be made approximately eleven (11) months after the Date of Substantial Completion or the Date of Partial Substantial Completion. The Principal Representative shall schedule and so notify all parties concerned, including State Buildings Program, of these inspections.

1.2.6.30 Defects and Deficiencies: Written lists of defects and deficiencies and reports of these observations shall be made by the Architect/Engineer and forwarded to the Contractor and all of the other participants within ten (10) days after the completion of each observation. The Contractor is obligated in its agreement with the Principal Representative to immediately initiate such remedial work as may be necessary to correct any deficiencies or defective work shown by this report, and shall promptly complete all such remedial work in a manner satisfactory to the Architect/Engineer and the Principal

Representative. The Architect/Engineer shall follow through on all list items and notify the Principal Representative when such have been completed.

1.2.7 Post Construction Phase

(As designated and defined in the Architect/Engineer Proposal, **Exhibit A**.)

2 ARTICLE 2 REIMBURSABLE EXPENSE

2.1 REIMBURSEMENT, as set forth in SC-5.1

2.1.1 Basic and Additional Services, as set forth in SC-5.1

2.1.2 Items for Reimbursement, as set forth in SC-5.1

3 ARTICLE 3 BASIS OF COMPENSATION

3.1 PAYMENT, as set forth in SC-5.1

3.1.1 The Total Compensation, as set forth in SC-5.1

3.1.2 Monthly Payments, as set forth in SC-5.1

3.2 ADDITIONAL COMPENSATION

3.2.1 Scope of Services

The Scope of Services to be provided pursuant to this Agreement includes all architectural and engineering services described herein, all services to be provided by the Architect/Engineer as described in **Exhibit A,** Architect/Engineer's Proposal including items which under usual contracting for Architectural/Engineering services could be considered as additional services, and reimbursable items excepting those specifically identified in Article 2 of this Agreement to be reimbursed. All compensation set forth in Article 3.1 hereof shall fully compensate the Architect/Engineer and there shall be no further reimbursement or payment therefore, other than for Additional Services as hereinafter described. For purposes of this Agreement, Additional Services are defined as those not included within the Scope of Services as set forth in Article 3.1 or reasonably inferable therein, are not consistent with the approved Project program, and are specifically requested and approved in writing by the Principal Representative.

3.2.2 Additional Services

Subject to the provisions of paragraphs 6.4.1 and 6.4.2, if the Architect/Engineer is caused Additional Service, drafting or other expense due to changes ordered by the Principal Representative or by other circumstances beyond the Architect/Engineer's control and not occasioned by any neglect or default of Architect/Engineer, then the Architect/Engineer shall be reimbursed for such Additional Service.

If material alternatives to meet the Environmental Product Declarations as previously provided in the Construction documents require a written opinion for modification request, then the Architect/Engineer shall be reimbursed for this Additional Service.

3.2.3 Direct Personnel Expense

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

3.2.4 Wage Rate Schedule

The cost of such Additional Service including Principal Architect/Engineer's time, shall be paid at the agreed upon rates shown in the attached Wage Rate Schedule, **Exhibit B**.

3.2.5 Additional Services of Consultants

For additional services of consultants, including associate Architect/Engineer, structural, mechanical, electrical and civil engineering services, the multiple 1.15 times the amounts billed to the Architect/Engineer for such services.

3.2.6 Reimbursable Expenses

In addition, the Architect/Engineer shall also be reimbursed as described in Article 2.1 and paid as detailed in paragraph 3.2.4 related to the Additional Services.

3.2.7 Accounting System for Additional Costs

The Architect/Engineer shall maintain an accurate cost accounting system as to all such additional expenses and shall make available to the Principal Representative all records, canceled checks and other disbursement media to substantiate any and all requests for payments hereunder.

3.2.8 Expenditures

The expenditures under this provision shall be disapproved unless the Architect/Engineer first shall have filed with the Principal Representative an estimate of the maximum cost of such additional service and been authorized, in writing, by the Principal Representative to proceed. If such an estimate is filed with the Principal Representative, then payment shall not exceed the maximum cost estimated by the Architect/Engineer and approved by the Principal Representative.

3.2.9 Statement of Services

Payment for such Additional Services shall be monthly upon presentation of the Architect/Engineer's statement of services rendered.

3.3 PAYMENTS WITHHELD

3.3.1 Deductions or Retainage

No deductions shall be made from the Architect/Engineer's fee on account of penalty, liquidated damages, or other sums withheld from payments to the Contractor or on account of changes in Construction other than those for which the Architect/Engineer is held legally liable.

3.4 ARCHITECT/ENGINEER'S ACCOUNTING RECORDS

3.4.1 Records of the Architect/Engineer

Records of the Architect/Engineer's direct personnel, consultant, and reimbursable expense pertaining to this Project and records of accounts between the Principal Representative and Contractor shall be kept on a generally recognized accounting basis and shall be available to the Principal Representative or his authorized representative at mutually convenient times and extending to three (3) years after final payment under this Agreement.

3.5 CONDITION PRECEDENT, as set forth in SC-5.1.

4 ARTICLE 4 TIME

4.1 DESIGN SERVICES SCHEDULE

4.1.1 Basic and Additional Services

The Architect/Engineer will complete the phases of project development in accordance with the Architect/Engineer's Design Services Schedule included in **Exhibit A** .The Architect/Engineer shall submit for the Principal Representative's approval, a Project Design Services Schedule for the performance of the Architect/Engineer's services which may be adjusted as required, and which shall include allowances for the periods of time required for the Principal Representative's review and approval of submissions and for approvals of the authorities having jurisdiction over the project. This schedule, when approved by the Principal Representative, shall not, except for reasonable cause, be exceeded by the Architect/Engineer.

4.2 TERM

4.2.1 Term of Agreement

The final term of this agreement will end upon expiration of the one (1) year warranty period, or upon subsequent completion and acceptance by the Principal Representative of the Warranty Work identified or in progress at the end of such one (1) year warranty period.

5 ARTICLE 5 PRINCIPAL REPRESENTATIVE

5.1 THE RESPONSIBILITIES

5.1.1 The Requirements

The Principal Representative shall:

a) Provide full information as to his requirements for the Project through the State Buildings Program Delegate. If a State Buildings Program Delegate has not been authorized, then the Principal Representative will work with State Buildings Program to designate an individual to act on behalf of the Principal Representative as per (b), (c), (d), (e) and (f) as listed below:

b) Designate a representative authorized to act in his/her behalf as indicated in paragraph 12.10. The representative shall examine documents submitted by the Architect/Engineer and render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect/Engineer's work. The representative shall observe the procedure of issuing orders to contractors only through the Architect/Engineer.

c) Establish the Fixed Limit of Construction Cost.

d) Furnish the Architect/Engineer a certified survey of the site, giving, as required, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the building site; locations, dimension and complete data pertaining to existing buildings, other improvements and trees; full information as to available service and utility lines both public and private; and test borings and pits necessary for determining subsoil conditions.

e) Secure and pay for structural, chemical, mechanical, soil mechanics or other tests and reports if required.

f) Arrange and pay for such legal, audit and insurance counseling services as may be required for the Project.

5.1.2 Fault or Defect

If the representative observes or otherwise becomes aware of any defect in the Project, he shall give prompt written notice thereof to the Architect/Engineer.

6 ARTICLE 6 CONSTRUCTION COST

6.1 BUDGETING AND FIXED LIMIT OF CONSTRUCTION COST

6.1.1 Preliminary Budget

A Fixed Limit of Construction Cost for the Project shall be established by the Principal Representative incorporating the portion of the Project Budget for all construction of all elements of the Project designed or specified by the Architect/Engineer. The Architect/Engineer shall evaluate the Project Budget and the Fixed Limit of Construction Cost as it pertains to construction of all elements of the Project designed or specified by the Architect/Engineer.

6.2 COST OF THE WORK

6.2.1 Estimate of Probable Construction Cost

The Architect/Engineer's estimate of Probable Construction Cost means the cost of the work to the Principal Representative, but such cost shall not include any Architect/Engineer's or special consultant's fees incurred by the Principal Representative or equipment installed by the Principal Representative under separate contract unless the Architect/Engineer is required by the Principal Representative to prepare drawings and specifications, and observe the installation of such equipment.

6.3 OWNER FURNISHED MATERIAL

6.3.1 Labor and Materials

When labor or material is furnished by the Principal Representative below its market cost, the cost of the work shall be computed upon the market cost as to such labor or materials furnished by the Principal Representative.

6.4 FIXED LIMIT OF CONSTRUCTION COST EXCEEDED

6.4.1 Cost of Labor

It is recognized that neither the Architect/Engineer nor the Principal Representative has control over the cost of labor, materials or equipment, over the subcontractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect/Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project Budget or the Fixed Limit of Construction Cost. Nothing contained in this Agreement shall otherwise relieve the Architect/Engineer from the responsibility of providing the services required to keep the Project within the Fixed Limit of Construction Cost for the Project.

6.4.2 Exceeding Fixed Limit of Construction Cost

If the Fixed Limit of Construction Cost for the Project, as established by the Principal Representative, is exceeded or projected to be exceeded by:

a) The lowest figures from responsible proposals, if any, and the Architect/Engineer's final estimate of Probable Construction Cost, then the Principal Representative may, in its sole discretion, do one of the following:

b) Revise the Project scope and quality as required to reduce the construction cost.

c) Give written approval for the increase in the Fixed Limit of Construction Cost for the Project;

d) Authorize rebidding of the Project or portions of the Project within a reasonable time:

e) Abandon the Project, terminating this Agreement in accordance with Article 9.

6.4.3 Modification of Drawings and Specifications

In the case of clause .1 above in the preceding paragraph, the Architect/Engineer shall, at no additional cost to the state, modify the drawings and specifications and/or any other appropriate items as may be necessary, to keep the cost of the

Project within the Fixed Limit of Construction for the Project UNLESS: (1) such increase is specifically attributable to a scope increase in the Project requested in writing by the Principal Representative; or (2) the projected cost overrun occurs within the scope of an estimate of Probable Construction Cost furnished by the Architect/Engineer, together with the reasons and details, prior to the Principal Representative releasing the Construction Documents for bid.

7 ARTICLE 7 OWNERSHIP OF DOCUMENTS

7.1 INSTRUMENTS OF SERVICE

7.1.1 Drawings and Specifications

Drawings, specifications and other documents, including those in electronic form, prepared by the Architect/Engineer and the Architect/Engineer's consultants are Instruments of Service for use solely with respect to this Project. The Architect/Engineer and the Architect/Engineer's consultants shall be deemed the authors and owners of their respective instruments of service and shall retain all common law, statutory and other reserved rights, including copyrights.

7.1.2 Perpetual Nonexclusive License

Upon execution of this Agreement, the Architect/Engineer hereby grants to the State a perpetual nonexclusive license to reproduce and use, and permit others to reproduce and use for the State, the Architect/Engineer's Instruments of Service solely for purposes of constructing, using and maintaining the Project or for future alterations, or additions to the Project. The Architect/Engineer shall obtain similar nonexclusive licenses from the Architect/Engineer's consultants consistent with this Agreement. If, and upon the date the Architect/Engineer is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the State to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project, or for future alterations, or additions to the Project.

7.1.3 Written Agreement

Any unilateral use by the State of the Instruments of Service for completing, using, maintaining, adding to or altering the Project or facilities shall be at the State's sole risk and without liability to the Architect/Engineer and the Architect/Engineer's consultants; provided, however, that if the State's unilateral use occurs for completing, using or maintaining the Project as a result of the Architect/Engineer's breach of this Agreement, nothing in this Article shall be deemed to relieve the Architect/Engineer of liability for its own acts or omissions or breach of this Agreement.

7.2 AS-BUILT DRAWINGS/RECORD DRAWINGS

7.2.1 Built Condition/Incorporated Changes

The Architect/Engineer and its consultants shall, upon completion of the Construction Phase receive redline As-Built Drawings from the Contractor. These redline changes shall describe the built condition of the Project. This information and all of the incorporated changes directed by Bidding Addenda, Change Order/Amendment or Architect/Engineer's Supplementary Instructions shall be incorporated by the Architect/Engineer and its consultants into a Record Drawings document provided to the Principal Representative in the form of an electro-media format and a reproducible format as agreed between the parties. The Architect/Engineer shall also provide the Principal Representative with the As-built Drawings received from the Contractor.

8 ARTICLE 8 INSURANCE

8.1 GENERAL

The Architect/Engineer shall procure and maintain all insurance requirements and limits as set forth below, at their own expense, for the length of time set forth in Contract requirements. The Architect/Engineer shall continue to provide evidence of such coverage to the State of Colorado on an annual basis during the aforementioned period including all of the terms of the insurance and indemnification requirements of this agreement. All below insurance policies shall include a provision preventing cancellation without thirty (30) days' prior notice by certified mail. A completed Certificate of Insurance shall be filed with the Principal Representative and State Buildings Program within ten (10) days after the date of the Notice of Award, said Certificate to specifically state the inclusion of the coverages and provisions set forth herein and shall state whether the coverage is "claims made" or "per occurrence".

8.2 COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)

This insurance must protect the Architect/Engineer from all claims for bodily injury, including death and all claims for destruction of or damage to property (other than the Work itself), arising out of or in connection with any operations under this Contract, whether such operations be by the Architect/Engineer or by any Subcontractor under them or anyone directly or indirectly employed by the Architect/Engineer or by a Subcontractor. All such insurance shall be written with limits and coverages as specified below and shall be written on an occurrence form.

a) $1,000,000 each occurrence;
b) $1,000,000 general aggregate;
c) $1,000,000 products and completed operations aggregate; and
d) $50,000 any one fire.

The following coverages shall be included in the CGL:

a) Additional Insured status in favor of the State of Colorado.
b) The policy shall be endorsed to be primary and non-contributory with any insurance maintained by Additional Insureds.

c) A waiver of Subrogation in favor of all Additional Insured parties.

8.3 AUTOMOBILE LIABILITY INSURANCE

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of $1,000,000 each accident combined single limit. Shall include specific waiver of subrogation.

8.4 WORKERS' COMPENSATION INSURANCE

The Architect/Engineer shall procure and maintain Workers' Compensation Insurance at their own expense during the life of this Contract, including occupational disease provisions for all employees per statutory requirements. Policy shall contain a waiver of subrogation in favor of the State of Colorado.

The Architect/Engineer shall also require each Subcontractor to furnish Workers' Compensation Insurance, including occupational disease provisions for all of the latter's employees, and to the extent not furnished, the Architect/Engineer accepts full liability and responsibility for Subcontractor's employees.

In cases where any class of employees engaged in hazardous work under this Contract at the site of the Project is not protected under the Workers' Compensation statute, the Architect/Engineer shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of employees not otherwise protected.

8.5 PROFESSIONAL ERRORS AND OMISSIONS LIABILITY

The Architect/Engineer promises and agrees to maintain in full force and effect an Errors and Omissions Professional Liability Insurance Policy in the amounts (indicated in the following table) as minimum coverage or such other minimum coverage as determined by the Principal Representative and approved by the State Buildings Program. The policy, including claims made forms, shall remain in effect for the duration of this Agreement and for at least three years beyond the completion and acceptance of the Work. The Architect/Engineer shall be responsible for all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of Professional Services contemplated in this Agreement, provided that any such claim, damage, loss or expense is caused by any negligent act, error or omission of the Architect/Engineer, any consultant or associate thereof, or anyone directly or indirectly employed by Architect/ Engineer. The Architect/Engineer shall submit a Certificate of Insurance verifying said coverage at the signing of this Agreement and also any notices of Renewals of said policy as they occur.

For a Fixed Limit of Construction Cost	**Minimum Coverage per Claim**	**Minimum Coverage in the Aggregate**
$999,999 and under	$250,000	$500,000
$1,000,000 to $4,999,999	$500,000	$1,000,000

$5,000,000 to $19,999,999	$1,000,000	$2,000,000
$20,000,000 and Above	$2,000,000	$2,000,000

9 ARTICLE 9 TERMINATION OR SUSPENSION OF AGREEMENT

9.1 DEFAULT

9.1.1 Thirty (30)Days Written Notice

Should the other party fail substantially to perform in accordance with its terms through no fault of the other, this Agreement may be terminated by either party upon thirty (30) days written notice with copies filed with the State Controller's office and other necessary parties.

9.2 TERMINATION FOR CONVENIENCE OF STATE

9.2.1 Termination of Service

The performance of the services under this Agreement may be terminated, in whole or from time to time in part, by the State whenever for any reason the Principal Representative shall determine that such termination is in the best interest of the State. Termination of services hereunder shall be affected by delivery to the Architect/Engineer of a Notice of Termination specifying the extent to which performance of services under this Agreement is terminated and the date upon which such termination becomes effective.

9.2.2 Exercise Reasonable Diligence

After receipt of the Notice of Termination, the Architect/Engineer shall exercise all reasonable diligence to accomplish the cancellation of its outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any services terminated by the Notice. With respect to such canceled commitments, the Architect/Engineer agrees to:

a) Settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with approval or ratification of the Principal Representative, to the extent the Principal Representative may require, which approval or ratification shall be final for all purposes of this clause, and

b) Assign to the State, in a like manner, at the time, and to the extent directed by the Principal Representative, all of the rights, title, and interest of the Architect/Engineer under the orders and subcontracts so terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

9.2.3 Termination Claim

The Architect/Engineer shall submit its termination claim to the Principal Representative promptly after receipt of a Notice of Termination, but in no event later than one (1) month from the effective date thereof, unless one or more extensions in writing are granted by the Principal Representative upon written request by the Architect/Engineer within such one (1) month period or authorized extension thereof. Upon failure of the Architect/Engineer to submit its termination claim within the time allowed, the Principal Representative may determine, on the basis of information available to them, the amount, if any, due to the Architect/Engineer by reason of the termination and shall thereupon pay to the Architect/Engineer the amount so determined.

9.2.4 Amounts to be Paid

Subject to the provisions of paragraph 9.2.3 above, the Architect/Engineer and the Principal Representative may agree upon the whole or any part of the amount or amounts to be paid to the Architect/Engineer by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Architect/Engineer and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel. Any such agreement shall be embodied in an amendment to this Agreement and the Architect/Engineer shall be paid the agreed amount.

9.2.5 Partial Payments

The Principal Representative under mutually agreed upon terms and conditions, will make partial payments to the Architect/Engineer against costs incurred by the Architect/Engineer in connection with the termination portion of this Agreement.

9.2.6 Transfer Title 18

The Architect/Engineer agrees to transfer title and deliver to the State, in the manner, at the time, and to the extent, if any, directed by the Principal Representative, such information and items which, if this Agreement had been completed, would have been required to be furnished to the State, including;

a) Completed or partially completed plans, drawings, and information; and
b) Materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

9.3 SUSPENSION

9.3.1 Fourteen (14) Days Written Notice

In the event of an occurrence of non-appropriation, including without limitation restriction, limitation, delay or retraction of appropriation, the Principal Representative may, upon the giving of fourteen (14) days written notice, suspend the performance of the Architect/Engineer after which the Architect/Engineer shall perform no further work and shall be due no further fees, reimbursable costs or other compensation until the Principal Representative gives notice that the period of suspension has ended. Suspension

of services may be in whole or in part, as specified by the Principal Representative.

9.3.2 Suspension Claim

If the Project is suspended in whole or in part for more than three (3) months for cause not attributable to the Architect/Engineer's services, the Architect/Engineer shall be compensated for all services performed prior to receipt of written notice from the Principal Representative of such suspension or abandonment, together with reimbursable expenses then due and all termination expenses as defined in Article 9.2. If the Project is resumed after being suspended for more than six (6) months, the Architect/Engineer's compensation shall be equitably adjusted.

10 ARTICLE 10 INTENT OF DOCUMENTS, PARTNERING AND FACILITATED NEGOTIATIONS

10.1 INTENT OF DOCUMENTS

10.1.1 Order of Precedence

In the event any disagreement exists as to the requirements of this Agreement and its exhibits, or if a conflict occurs between or within the requirements of this Agreement and its exhibits, the following order of precedence shall be followed to resolve the disagreement or conflict.

a) The Supplementary General Conditions, if any;
b) The Colorado Special Provisions, Article 11 of this Agreement (State Form SC-5.1);
c) Any Amendment of this Agreement;
d) All other terms of this Agreement (other than the Special Provisions);
e) The Architect/Engineer’s proposal letter; and
f) Any other Exhibit to this Agreement.

Unless Federal Provisions are applicable, the Colorado Special Provisions of this Agreement, Article 11, shall in all cases, and without exception, take precedence, rule and control over all other provisions of this Agreement, any exhibits or amendments.

10.2 PARTNERING

10.2.1 Communication and Cooperation

In recognition of the fact that conflicts, disagreements and disputes often arise during the performance of contracts, the Architect/Engineer and the Principal Representative aspire to encourage a relationship of open communication and cooperation between the employees and personnel of both, in which the objectives of the Agreement may be better achieved and issues resolved in a more fully informed atmosphere.

10.2.2 Partnering Plan

The Architect/Engineer and the Principal Representative each agree to assign an individual who shall be fully authorized to negotiate and implement a voluntary partnering plan for the purpose of facilitating open communications between them. Within thirty days (30) of contract signing, the assigned individuals shall meet to discuss development of an informal agreement to accomplish these goals. At a minimum, the Architect/Engineer and Principal Representative shall identify the regularity for reviewing the intent of the partnering plan and make modifications to continue open communications for the duration of the project.

10.2.3 Obligation

The assigned individuals shall endeavor to reach an informal agreement, but shall have no such obligation. Any plans these parties voluntarily agree to implement shall result in no change to the contract amount, and no costs associated with such plan or its development shall be recoverable under any contract clause. In addition, no plan developed to facilitate open communication and cooperation shall alter, amend or waive any of the rights or duties of either party under the Agreement unless and except by written Amendment to the Agreement, nor shall anything in this clause or any subsequently developed partnering plan be deemed to create fiduciary duties between the parties unless expressly agreed in a written Amendment to the Agreement.

10.3 FACILITATED NEGOTIATIONS

10.3.1 The Architect/Engineer and Principal Representative agree to designate one or more mutually acceptable persons willing and able to facilitate negotiations and communications for the resolution of conflicts, disagreements or disputes between them at the specific request of either party with regard to any Project decision of either of them. The designation of such person(s) shall not carry any obligation to use their services except that each party agrees that if the other party requests the intervention of such person(s) with respect to any such conflict, dispute or disagreement, the non-requesting party shall participate in good faith attempts to negotiate a resolution of the issue in dispute. If the parties cannot agree on a mutually acceptable person to serve in this capacity one shall be so appointed; provided, however, that either party may request the Office of the State Architect to appoint such a person, who, if appointed, shall be accepted for this purpose by both the Architect/Engineer and the Principal Representative.

10.3.2 The cost, if any, of the facilitative services of the person(s) so designated shall be shared if the parties so agree in any partnering plan; or in the absence of agreement the cost shall be borne by the party requesting the facilitation of negotiation.

10.3.3 Any dispute, claim, question or disagreement arising from or relating to the Agreement or an alleged breach of the Agreement may be subject to a request by either party for facilitated negotiation subject to the limitations hereafter listed, and the parties shall participate by consultation and negotiation with each

other, as guided by the facilitator and with recognition of their mutual interests, in an attempt to reach an equitable solution satisfactory to both parties.

10.3.4 The obligation to participate in facilitated negotiations shall be as described above and each party's obligations shall be as follows:

a) A party shall not initiate communication with the facilitator regarding the issues in dispute; except that any request for facilitation shall be made in writing with copies sent, faxed or delivered to the other party;

b) A party shall prepare a brief written description of its position if so requested by the facilitator (who may elect to first discuss the parties' positions with each party separately in the interest of time and expense);

c) A party shall respond to any reasonable request for copies of documents requested by the facilitator, but such requests, if voluminous, may consist of an offer to allow the facilitator access to the parties' documents;

d) A party shall review any meeting agenda proposed by a facilitator and endeavor to be informed on the subjects to be discussed;

e) A party shall meet with the other party and the facilitator at a mutually acceptable place and time, or, if none can be agreed to, at the time and place designated by the facilitator for a period not to exceed four hours unless the parties agree to a longer period;

f) A party shall endeavor to assure that any facilitation meeting shall be attended by any other persons in their employ that the facilitator requests be present, if reasonably available;

g) Each party shall participate in such facilitated face-to-face negotiations of the issues in dispute through persons fully authorized to resolve the issue in dispute;

h) Each party shall be obligated to participate in negotiations requested by the other party and to perform the specific obligations described in paragraphs (1) through (10) of this Article 10, Facilitated Negotiation, no more than three times during the course of the Project;

i) Neither party shall be under any obligation to resolve any issue by facilitated negotiation, but each agrees to participate in good faith and any resolution or agreement reached shall be execute through a Supplement or Amendment to the Agreement necessary to implement their agreement; and,

j) Any discussions and documents prepared exclusively for use in the negotiations shall be deemed to be matters pertaining to settlement negotiations and shall not be subsequently available in further proceedings except to the extent of any documented agreement.

10.3.5 In accordance with State Fiscal Rules and Article 11.6, Choice of Law and Article 11.7 Binding Arbitration Prohibited, nothing in this Article 10 shall be deemed to call for arbitration or otherwise obligate the State to participate in any form of binding alternative dispute resolution.

10.3.6 A partnering plan developed as described in Article 10.2, Partnering, may modify or expand the requirements of this Article 10 but may not reduce the obligation

to participate in facilitated negotiations when applicable. In the case of small design service projects where the fees are estimated to be valued under $100,000, the requirements of this Article 10 may be deleted from this Agreement.

11 ARTICLE 11 COLORADO SPECIAL PROVISIONS

11.1 STATUTORY APPROVAL, C.R.S. § 24-30-202(1)
This contract shall not be valid until it has been approved by the Colorado State Controller or designee.

11.2 FUND AVAILABILITY, C.R.S. § 24-30-202(5.5)
Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

11.3 GOVERNMENTAL IMMUNITY
Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

11.4 INDEPENDENT ARCHITECT/ENGINEER
Architect/Engineer shall perform its duties hereunder as an independent Architect/Engineer and not as an employee. Neither Architect/Engineer nor any agent or employee of Architect/Engineer shall be deemed to be an agent or employee of the State. Architect/Engineer shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Architect/Engineer and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Architect/Engineer or any of its agents or employees. Architect/Engineer shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Architect/Engineer shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

11.5 COMPLIANCE WITH LAW
Architect/Engineer shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

11.6 CHOICE OF LAW, JURISDICTION, AND VENUE

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

11.7 PROHIBITED TERMS

Any term included in this Contract that requires the State to indemnify or hold Architect/Engineer harmless; requires the State to agree to binding arbitration; limits Architect/Engineer's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109, C.R.S.

11.8 SOFTWARE PIRACY PROHIBITION. SOFTWARE PIRACY PROHIBITION

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Architect/Engineer hereby certifies and warrants that, during the term of this Contract and any extensions, Architect/Engineer has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Architect/Engineer is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

11.9 EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST

C.R.S. § 24-18-201 and C.R.S. § 24-50-507

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Architect/Engineer has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Architect/Engineer services and Architect/Engineer shall not employ any person having such known interests.

11.10 VENDOR OFFSET AND ERRONEOUS PAYMENTS

C.R.S. § 24-30-202(1) & C.R.S. § 24-30-202.4

Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Architect/Engineer in

error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Architect/Engineer by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Architect/Engineer, or by any other appropriate method for collecting debts owed to the State.

12 ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 DEFINITIONS

"CORA" means the Colorado Open Records Act, §§24-72-200.1, et seq., C.R.S.

"Incident" means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

"PII" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S. "PII" shall also mean "personal identifying information" as set forth at § 24-74-102, et. seq., C.R.S.

"State Fiscal Rules" means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

"State Confidential Information" means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Architect/Engineer which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Architect/Engineer without restrictions at the time of its disclosure to Architect/Engineer; (iii) is or subsequently becomes publicly available without breach of any obligation owed by

Architect/Engineer to the State; (iv) is disclosed to Architect/Engineer, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

"State Records" means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

"Subcontractors" means any third party engaged by Architect/Engineer to aid in performance of the Work.

"Work" means the goods delivered and services performed pursuant to this Contract.

"Work Product" means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

12.2 PROFESSIONAL ASSOCIATION PERMITTED

The Architect/Engineer may, with the prior written consent of the Principal Representative, join with them in the performance of this Agreement any other duly licensed Architect or Architects or registered Engineers with whom he may, in good faith, and enter into an association.

12.3 DISSOLUTION OF PROFESSIONAL ASSOCIATION

In the event there is dissolution of the association, other than by death of a member, the State of Colorado, acting by and through the Principal Representative, shall designate which former member shall continue with the work and may make all payments thereafter falling due in connection with the work directly to the person or persons so designated and without being required to look to the application of such payments as among the former members.

12.4 WAGE RATES, in accordance with C.R.S. § 24-30-1404 (1)
As amended, the Architect/Engineer has executed a schedule, which is attached hereto and made a part hereof by reference as **Exhibit B**, Wage Rates Schedule, and by doing so is certifying that wage rates and other factual unit costs supporting the compensation paid by the State for these professional services are accurate, complete and current.

The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Principal Representative determines the contract price had been increased due to inaccurate, incomplete, or non-current

wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of this contract.

12.5 PUBLIC ART LAW

In recognition of the Public Art Law, C.R.S. § 24-48.5-312, as amended, if the State determines that this project is eligible for the acquisition of artworks in accordance with this law, the Architect/Engineer agrees to participate in the art selection process as an art jury member and to cooperate with and to advise the State in working with the commissioned artist(s) for this Capital Construction Project.

12.6 ASSIGNMENT

Architect/Engineer's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Architect/Engineer's rights and obligations approved by the State shall be subject to the provisions of this Contract.

12.7 SUBCONTRACTS

Architect/Engineer shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Architect/Engineer shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Architect/Engineer in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

12.8 BINDING EFFECT

Except as otherwise provided in §12.5, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

12.9 AUTHORITY

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

12.10 CAPTIONS AND REFERENCES

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

12.11 COUNTERPARTS

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

12.12 DESIGNATED REPRESENTATIVES

Designated Representatives, as set forth in SC-5.1

12.13 ENTIRE UNDERSTANDING

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

12.14 DIGITAL SIGNATURES

If any signatory signs this Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

12.15 MODIFICATION

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

12.16 STATUTES, REGULATIONS, FISCAL RULES AND OTHER AUTHORITY

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

12.17 EXTERNAL TERMS AND CONDITIONS

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Architect/Engineer's or a Subconsultant's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

12.18 SEVERABILITY

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

12.19 SURVIVIAL AND CERTAIN CONTRACT TERMS

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of this Contract shall survive the termination or expiration of this Contract and shall be enforceable by the other Party.

12.20 TAXES

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Architect/Engineer. Architect/Engineer shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Architect/Engineer may wish to have in place in connection with this Contract.

12.21 THIRD PARTY BENEFICIARIES

Except for the Parties' respective successors and assigns described in § 12.5, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

12.22 WAIVER

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

12.23 CORA DISCLOSURE

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

12.24 STANDARD AND MANNER OF PERFORMANCE

Architect/Engineer shall perform its obligations under this Contract in accordance with the customary standards of care, skill and diligence in Architect/Engineer's industry, trade, or profession.

12.25 LICENSES, PERMITS, AND OTHER AUTHORIZATIONS

Architect/Engineer shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subconsultants secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract Contract except as otherwise provided by Colorado law.

12.26 INDEMNIFICATION

12.26.1 General Indemnification

Architect/Engineer shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Architect/Engineer, or its employees, agents, Subconsultants, or assignees in connection with this Contract except as otherwise provided by Colorado law.

12.26.2 Confidential Information Indemnification

Disclosure or use of State Confidential Information by Architect/Engineer in violation of Article 13 may be cause for legal action by third parties against Architect/Engineer, the State, or their respective agents. Architect/Engineer shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Architect/Engineer, or its employees, agents, assigns, or Subconsultants in violation of Article 13.

12.26.3 Intellectual Property Indemnification

Architect/Engineer shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Deliverable, Good or Service, software, or Work Product provided by Architect/Engineer under this Contract (collectively, "IP Deliverables"), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Architect/Engineer's obligations hereunder shall not extend to the combination of any IP Deliverables provided by Architect/Engineer with any other product, system, or method, unless the other product, system, or method is (a) provided by Architect/Engineer or Architect/Engineer's subsidiaries or affiliates; (b) specified by Architect/Engineer to work with the IP Deliverables; (c) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (d) is reasonably expected to be used in combination with the IP Deliverables.

12.26.4 Accessibility Indemnification

Architect/Engineer shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Architect/Engineer's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

12.27 ACCESSIBILITY

12.27.1 Architect/Engineer shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office Of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Architect/Engineer shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

12.27.2 The State may require Architect/Engineer's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Architect/Engineer's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

13 ARTICLE 13 CONFIDENTIAL INFORMATION-STATE RECORDS

13.1 CONFIDENTIALITY

Architect/Engineer shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Architect/Engineer shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in writing by the State. Architect/Engineer shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines Architect/Engineer shall immediately forward any request or demand for State Records to the State's Principal Representative.

13.2 OTHER ENTITY ACCESS AND NONDISCLOSURE AGREEMENTS

Architect/Engineer may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Architect/Engineer shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Architect/Engineer shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

13.3 USE, SECURITY, AND RETENTION

Architect/Engineer shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Architect/Engineer shall provide the State with access, subject to Architect/Engineer's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Architect/Engineer shall return State Records provided to Architect/Engineer or destroy such State Records and certify to the State that it has done so, as directed by the State. If Architect/Engineer is prevented by law or regulation from returning or destroying State Confidential Information, Architect/Engineer warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

13.4 INCIDENT NOTICE AND REMEDIATION

If Architect/Engineer becomes aware of any Incident, Architect/Engineer shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Architect/Engineer can establish that Architect/Engineer and its Subcontractors are not the cause or source of the Incident, Architect/Engineer shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Architect/Engineer shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan in its sole discretion, and Architect/Engineer shall make all modifications as directed by the State. If Architect/Engineer cannot produce its analysis and plan within the allotted time, the State, in its discretion, may perform such analysis and produce a remediation plan, and Architect/Engineer shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Architect/Engineer's sole expense, require Architect/Engineer to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Architect/Engineer shall provide the State with the results of such audit and evidence of Architect/Engineer's planned remediation in response to any negative findings.

13.5 DATA PROTECTION AND HANDLING

Architect/Engineer shall ensure that all State Records and Work Product in the possession of Architect/Engineer or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

13.6 SAFEGUARDING PERSONAL IDENTIFIABLE INFORMATION (PII)

If Architect/Engineer or any of its Subcontractors will or may receive Personal Identifiable Information (PII) under this Contract, Architect/Engineer shall

provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Architect/Engineer shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Architect/Engineer, including, but not limited to, Architect/Engineer's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Architect/Engineer is given direct access to any State databases containing PII, Architect/Engineer shall execute, on behalf of itself and its employees, a certification as provided by the Office of the State Controller on an annual basis Architect/Engineer's duty and obligation to certify shall continue as long as Architect/Engineer has direct access to any State databases containing PII. If Architect/Engineer uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Architect/Engineer shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

End of SC-5.1TC