

STATE OF COLORADO  
STATE BUILDINGS PROGRAMS  
Office of the State Architect  
University of Colorado at Boulder



ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP-08)

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CONTRACT ROUTING NO.:

AGENCY IDENTIFICATION NO.:

PROJECT NO.: PR 003218

PROJECT NAME: **KTCH – Capital Renewal**

ARCHITECT/ENGINEER: SLATERPAULL ARCHITECTS

PROJECT MANAGER: Keith Gardner

DATE: February 2008

**STATE BUILDINGS PROGRAMS**

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**TABLE OF CONTENTS**

	Page(s)
<b><u>RECITALS</u></b> .....	<b>1</b>
<b><u>ARTICLE 1. BASIC PROFESSIONAL SERVICES</u></b> .....	<b>2</b>
1.1 THE SERVICES 2	
1.1.1 Architect and Construction Manager .....	2
1.1.2 Time is Critical for Project Delivery .....	2
1.1.3 Fixed Limit of Construction Cost .....	2
1.1.4 Bid Packages .....	2-3
1.1.5 Design Review Sessions.....	3
1.1.6 Value Engineering Workshops .....	3
1.1.7 Code Compliance.....	3
1.2 QUALIFICATIONS.....	3
1.2.1 License and Registration.....	3
1.2.2 Regular Staff .....	3
1.2.3 Staff Retained for Duration of Project .....	3
1.2.4 Designated Professional .....	3
1.2.5 Conflict of Interest .....	4
1.2.6 Consultants .....	4
1.3 PRE-DESIGN PHASE .....	4
1.3.1 Designated Scope of Services.....	4
1.4 SCHEMATIC DESIGN PHASE.....	4
1.4.1 Regular Meetings .....	4
1.4.2 Design Program/Facilities Program Plan Review ....	4
1.4.3 Construction Manager Informed.....	4
1.4.4 Principal Representative Review .....	4
1.4.5 Mutual Agreement .....	4
1.4.6 Schematic Design Studies .....	4-5
1.4.7 Copies of Materials .....	5
1.4.8 Drawings and Construction Cost Estimate.....	5
1.4.9 Written Report .....	5-6
1.4.10 Acceptance of Schematic Design .....	6
1.4.11 Construction Manager's Report .....	6
1.5 DESIGN DEVELOPMENT PHASE.....	6
1.5.1 Design Development Documents.....	6
1.5.2 Construction Manager Informed.....	6
1.5.3 Design Development Studies .....	6-7
1.5.4 Copies of Documents.....	6-7
1.5.5 Drawings .....	7
1.5.6 Written Report.....	7-8
1.5.7 Construction Manager's Written Report .....	8
1.5.8 Drawings and Specifications Compliance .....	8

1.5.9	Final Design Development Documents/Guaranteed Maximum Price .....	8
1.5.10	Estimate of Probable Construction Cost .....	8
1.6	CONSTRUCTION DOCUMENTS PHASE .....	8
1.6.1	Construction Documents.....	8
1.6.2	Construction Manager Informed.....	8
1.6.3	Copies of Documents.....	8
1.6.4	Construction Documents in Bid Package.....	9
1.6.5	Construction Manager's Written Report .....	9
1.6.6	Acceptance of Final Construction Documents .....	9
1.7	BIDDING PHASE .....	9
1.7.1	Competitive Bids .....	9
1.7.2	Recommendations to Principal Representative .....	9
1.7.3	Construction Documents for Each Bid Package .....	9-10
1.7.4	Preparation of Each Bid Package .....	10
1.7.5	Filing Documents .....	10
1.7.6	Estimate of Probable Construction Cost .....	10
1.7.7	Certify Bid Packages.....	10
1.8	CONTRACT ADMINISTRATION PHASE FOR MULTIPLE BID PACKAGES .....	11
1.8.1	Commencement of Construction Phase .....	10-11
1.8.2	Administration .....	11
1.8.3	Advise and Consult.....	11
1.8.4	Project Site Visits .....	11
1.8.5	Additional Site Visits.....	11
1.8.6	Notice of Specific Visits.....	11
1.8.7	Full-Time Representative .....	11-12
1.8.8	Observe for Contract Compliance.....	12
1.8.9	Responsibility to Conduct Testing.....	12
1.8.10	Due Diligence.....	12
1.8.11	Accurate Accounts .....	12
1.8.12	Delegation of Responsibility.....	12-13
1.8.13	Observation of Construction by Representative.....	13
1.8.14	Weekly or Periodic Meetings.....	13
1.8.15	Architect/Engineer's Responsibilities .....	13
1.8.16	Access to Construction .....	13
1.8.17	Review of Schedule of Values .....	13
1.8.18	Project Application for Payment.....	13
1.8.19	Project Certificate for Payment .....	13
1.8.20	Interpretation of Contract Documents .....	14
1.8.21	Architect/Engineer Decisions .....	14
1.8.22	Artistic Effect .....	14
1.8.23	Reject Construction Work .....	14
1.8.24	Submittal of Shop Drawings.....	14
1.8.25	Current Record of All Variations.....	14
1.8.26	Architect/Engineer to Prepare All Change Orders Amendments .....	14-15
1.8.27	Change Orders/Amendments Written Approval and Emergency Field Change Orders.....	15
1.8.28	Construction Manager's Written Notice.....	15
1.8.29	Inspection.....	15

	1.8.30 Copies of Punch List .....	15
	1.8.31 Additional Inspections .....	15
	1.8.32 Notice of Completion .....	15-16
	1.8.33 Final Notice of Completion .....	16
	1.8.34 Notice of Acceptance .....	16
	1.8.35 Written Warranties .....	16
	1.8.36 Warranty Inspections .....	16
	1.8.37 Defects and Deficiencies.....	16-17
1.9	POST CONSTRUCTION PHASE .....	17
	1.9.1 Designated Scope of Services .....	17
<b>ARTICLE 2. TIME .....</b>		<b>17</b>
2.1.	DESIGN SERVICES SCHEDULE .....	17
	2.1.1. Basic and Additional Services.....	17
2.2	TERM .....	17
	2.2.1 Term of Agreement .....	17
<b>ARTICLE 3. PRINCIPAL REPRESENTATIVE.....</b>		<b>17</b>
3.1	THE RESPONSIBILITIES.....	17
	3.1.1 Requirements of Project.....	17
	3.1.2 Fixed Limit of Construction Cost .....	17
	3.1.3 Designation of Representative .....	18
	3.1.4 Construction Manager.....	18
	3.1.5 Legal Description .....	18
	3.1.6 Geotechnical Engineers.....	18
	3.1.7 Documents.....	18
	3.1.8 Legal, Accounting, Insurance Counseling Services.....	18
	3.1.9 Fault or Defect.....	18
	3.1.10 Governmental Body .....	18-19
	3.1.11 Design Development and Construction Documents Review by Principal Representative.....	19
	3.1.12 <i>Program Manager</i> .....	19
	3.1.13 UCB Standards .....	19
<b>ARTICLE 4. CONSTRUCTION COST.....</b>		<b>19</b>
4.1	BUDGETING AND FIXED LIMIT OF CONSTRUCTION COST .....	19
	4.1.1 Preliminary Budget.....	19
	4.1.2 Project Budget.....	19
	4.1.3 Fixed Limit of Construction Cost .....	19
4.2	CONSTRUCTION COST .....	19
	4.2.1 Estimates of Construction Cost.....	20
	4.2.2 Compensation of Architect.....	20
4.3	CONSTRUCTION MANAGER COST ESTIMATES .....	20
	4.3.1 Obligation of Construction Manager.....	20
	4.3.2 Reasonable Cooperation .....	20
	4.3.3 Review Estimate .....	20-21
4.4	ARCHITECT/ENGINEER COST ESTIMATES .....	21
	4.4.1 Estimate of Probable Construction Cost .....	21
4.5	FIXED LIMIT OF CONSTRUCTION COST EXCEEDED .....	21
	4.5.1 Cost of Labor.....	21
	4.5.2 Exceeding Fixed Limit of Construction Cost .....	21

4.5.3	Modification of Drawings and Specifications.....	22
<b><u>ARTICLE 5. REIMBURSABLE EXPENSES</u> .....</b>		
5.1	REIMBURSEMENT .....	22
5.1.1	Basic and Additional Services.....	22
5.1.2	Items for Reimbursement.....	22-23
<b><u>ARTICLE 6. BASIS OF COMPENSATION</u> .....</b>		
6.1	PAYMENT .....	23
6.1.1	Total Compensation for Basic Services .....	23
6.1.2	Monthly Payments.....	23-24
6.2	ADDITIONAL COMPENSATION .....	24
6.2.1	Scope of Services .....	24
6.2.2	Additional Service .....	24
6.2.3	Direct Personnel Expense.....	24
6.2.4	Wage Rate Schedule .....	24
6.2.5	Additional Services of Consultants.....	25
6.2.6	Reimbursable Expenses .....	25
6.2.7	Accounting System for Additional Costs .....	25
6.2.8	Expenditures .....	25
6.2.9	Payment for Additional Services .....	25
6.3	PAYMENTS WITHHELD .....	25
6.3.1	Deductions or Retainage.....	25
6.4	PROJECT SUSPENSION OR ABANDONMENT .....	25
6.4.1	Project Suspended or Abandoned .....	25
6.5	ARCHITECT/ENGINEER'S ACCOUNTING RECORDS .....	25
6.5.1	Records of Architect/Engineer .....	25
6.6	CONDITION PRECEDENT .....	26
6.6.1	Sufficient Funding .....	26
<b><u>ARTICLE 7. OWNERSHIP OF DOCUMENTS</u> .....</b>		
7.1	INSTRUMENTS OF SERVICE .....	26
7.1.1	Drawings and Specifications .....	26
7.1.2	Perpetual Nonexclusive License .....	26
7.1.3	Written Agreement .....	26-27
7.2	AS-BUILT DRAWINGS/RECORD DRAWINGS.....	27
7.2.1	Built Conditions/Incorporated Changes.....	27
<b><u>ARTICLE 8. INSURANCE</u> .....</b>		
8.1	COMMERCIAL GENERAL LIABILITY .....	27
8.1.1	Requirements.....	27-30
8.2	PROFESSIONAL ERRORS AND OMISSIONS LIABILITY .....	30
8.2.1	Requirements.....	30
<b><u>ARTICLE 9. INDEMNIFICATION</u> .....</b>		
9.1	INDEMNIFYING THE STATE .....	30
9.1.1	Authorization by Law .....	30
<b><u>ARTICLE 10. TERMINATION OF AGREEMENT</u>.....</b>		
10.1	DEFAULT .....	31
10.1.1	Seven (7) Days Written Notice.....	31
10.2	TERMINATION FOR CONVENIENCE OF STATE.....	31

10.2.1	Termination of Service .....	31
10.2.2	Exercise Reasonable Diligence .....	31
10.2.3	Termination Claim .....	31
10.2.4	Cost Claimed.....	31
10.2.5	Amounts to be Paid.....	31-32
10.2.6	Partial Payments .....	32
10.2.7	Transfer Title .....	32

<b>ARTICLE 11. MISCELLANEOUS PROVISIONS.....</b>	<b>33</b>
11.1 PROFESSIONAL ASSOCIATION PERMITTED.....	33
11.1.1 Performance of Agreement .....	33
11.2 DISSOLUTION OF PROFESSIONAL ASSOCIATION .....	33
11.2.1 Payments After Dissolution .....	33
11.3 DEATH OR DISABILITY.....	33
11.3.1 Death or Disability Clause .....	33
11.4 ASSIGNMENT OF AGREEMENT NOT PERMITTED .....	33
11.4.1 Assignment of Agreement by Architect/Engineer..	33
11.5 SUCCESSORS AND ASSIGNS .....	33
11.5.1 Assign Rights/Delegate Duties.....	33
11.6 WAGE RATES .....	33
11.6.1 Wage Rate Schedule and Certification .....	33
11.6.2 Original Contract Price .....	33
11.7 BENEFITS ACCRUING TO OTHERS .....	33
11.7.1 State Employees or Officers .....	33-34
11.8 CONTINGENT FEE PROHIBITION.....	34
11.8.1 Bona Fide Employees .....	34
11.8.2 Breach of Violation of Warranty .....	34
11.9 STATUTORY DESIGN REQUIREMENTS .....	34
11.9.1 Compliance with Colorado Revised Statutes .....	34
11.10 GOVERNING LAW .....	33-35
11.10.1 Enforcement of Agreement .....	35
11.11 EXTENT OF AGREEMENT .....	35
11.11.1 Entire and Integrated Agreement .....	35
11.11.2 Attachments and Exhibits.....	35
11.12 CONTRACTUAL RELATIONSHIP .....	35
11.12.1 Creation of Contractual Relationship .....	35
11.13 INDEPENDENT CONTRACTOR.....	35
11.13.1 Independent Contractor Clause .....	35
11.14 PUBLIC ART LAW .....	36
11.14.1 Participation in Art Selection .....	36
11.15 VENDOR OFFSET PROGRAM.....	36
11.15.1 Vendor Offset Program Clause .....	36
11.16 DESIGNATED REPRESENTATIVES.....	36
11.16.1 Principal Representative and Architect/Engineer..	36

<b><u>ARTICLE 12. NON-DISCRIMINATION</u></b> .....	<b>36</b>
12.1 COMPLIANCE .....	36
12.1.1 All Applicable Laws .....	36
<b><u>ARTICLE 13. VALIDITY OF AGREEMENT</u></b> .....	<b>36</b>
13.1 APPROVAL .....	36
13.1.1 Validity .....	36
13.2 WORK PRIOR TO EXECUTION OF CONTRACT .....	36
13.2.1 Written Consent .....	36-37
13.3 FINANCIAL OBLIGATIONS.....	37
13.3.1 Current Fiscal Year .....	37
 SIGNATURE APPROVALS .....	 38

**EXHIBITS:**

- A** Architect/Engineer Proposal (including Design Services Schedule and Certificates of Insurance)
- B** Wage Rates Schedule
- C** Architect/Engineer Certification
- D** Approved Codes
- E** ~~Code Compliance Plan Review Procedures~~ Code Review System/Format
- F** Designated Scope of Services AIA Document B-163 (Articles 1.1 and Part 2)
- G** Design Program/Facilities Program Plan
- H** Minority and Women Business Enterprises Participation Report (Mwbe-1)
- I** Software Piracy Prohibition
- J** Certification and Affidavit Regarding Illegal Aliens

**STATE OF COLORADO**

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR MODEL FORMAT  
(STATE FORM SBP-08)**

Agency I.D. Number: \_\_\_\_\_ Contract Routing No: \_\_\_\_\_ Project Number: PR 003218

**KTCH – Capital Renewal**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ in the year 2008 between the STATE OF COLORADO, acting by and through the Regents of the University of Colorado, a body corporate hereinafter called the Principal Representative, and Slaterpaul Architects, One Park Central, Suite 400, 1515 Arapahoe Street, Denver, CO 80202 hereinafter called the Architect/Engineer.

**WHEREAS**, the Principal Representative intends to design and renovate deteriorated mechanical and electrical systems in the Ketchum Arts and Sciences building, 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 461, Account Number 11027039-515191, Contract Encumbrance Number TBD, and

**WHEREAS**, the State has **Appropriated** and the Principal Representative has been authorized to expend the total sum of \_\_\_\_\_ Thousand and \_\_\_\_\_ Dollars (\$) ); for this project including all professional services, *Program Management services*: construction manager/general contractor services, construction/ improvements, project contingencies, furnishings, movable equipment, reimbursable expenses and miscellaneous expenses; and

~~*WHEREAS, the Principal Representative has selected a Program Manager to assist the Principal Representative with the management responsibilities/activities of this project. The contact persons for the Principal Representative and its Program Manager delegated for this project are named in Article 11.16.*~~

**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 6.6.

**WHEREAS**, the Principal Representative has established the **Fixed Limit of Construction Cost** in the amount of **Five Million, Eight Hundred Thirty-Five Thousand, Four Hundred Sixty-Seven and no/100 Dollars (\$5,835,467.00)**; and

**WHEREAS**, the Construction Manager/General Contractor shall establish a **Guaranteed Maximum Price** that is within this Fixed Limit of Construction Cost as established by the Principal Representative, at the completion of the Design Development Phase; and

**WHEREAS**, the Architect/Engineer was selected and determined to be the most qualified, and fees were negotiated in accordance with the provision of Title 24-30-1401 et seq. C.R.S., as amended; and

**NOW THEREFORE,**

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

## **ARTICLE 1. BASIC PROFESSIONAL SERVICES**

### **1.1 THE SERVICES**

**1.1.1** The Architect/Engineer's services shall be provided in conjunction with the services of the Construction Manager/General Contractor, hereinafter referred to as Construction Manager or CM, as set forth in the Contract between the State and Construction Manager, hereinafter referred to as the Construction Manager Contract. The Architect/Engineer's services shall consist of three design phases hereinafter set forth and include normal architectural, structural, mechanical, electrical and civil engineering services; landscaping if any; space planning/interior layout; and any other services included in this Agreement as delineated in the proposal letter dated November 30, 2007, submitted by the Architect/Engineer, which is attached hereto and made a part hereof by reference as **Exhibit A**. As an additional description of the Architect/Engineer's services and not as a limitation, the scope of the Architect/Engineer's services, AIA Document B-163, current edition (incorporation only of pages 3 and 4 of Article 1.1 and Pages 10 through and inclusive of Page 25 of Article 2.3 Descriptions of Designated Services), a copy of which is attached hereto as **Exhibit F** and is incorporated by reference. Numerous exhibits developed over a period of time are also attached to and made a part of this Agreement, some of which may be in conflict with other exhibits or portions of this Agreement. In the event of any conflict in any of these, the greater service shall be included in the professional services provided and the contract sum without additional compensation to be superseded by applicable amendment sum or supplement.

**1.1.2** In the performance of the professional services, the Architect/Engineer acknowledges that time is critical for Project delivery and that portions of the work shall have their design completed as separate Bid Packages and ready for construction before other portions of the work are fully designed. It is further recognized that this accelerated approach to construction utilizing the services of an Architect/Engineer and a Construction Manager/General Contractor is a unique concept and that its feasibility requires maximum cooperation between all parties. It is also recognized that the services to be rendered by the Construction Manager and the interrelationships and coordinative aspects thereof are not traditional. The Architect/Engineer has, however, reviewed the Construction Manager Contract and accepts the terms thereof as expressing a workable concept. In furtherance thereof, in the event there appears to be a duplication, overlap, or conflict of responsibility or duties between the Architect/Engineer and the Construction Manager, or an absence of designation, the question shall be submitted to the Principal Representative for determination. The Architect/Engineer shall abide by the decision of the Principal Representative provided it does not require the performance of services beyond what was reasonably contemplated and accepted by the Architect/Engineer as its responsibility.

**1.1.3** The Architect/Engineer further acknowledges that the Fixed Limit of Construction Cost recited above as the Principal Representative's expenditure limit is intended to cover the entire cost of the Project and is sufficient therefore and has been fully appropriated. The Architect/Engineer therefore agrees to cooperate fully with the Principal Representative in the design and construction aspects to keep within these limitations.

**1.1.4** The number of Bid Packages shall be established at three (3). Should the Principal Representative request additional or fewer Bid Packages than the established number, the cost involved in development of additional or the deletion of proposed bid packs shall be reflected in an Amendment to the Agreement for Additional Services.

**1.1.5** The Architect/Engineer shall participate in sessions at the close of Schematic Design Phase, Design Development Phase, and as Construction Documents are finalized for each Bid Package. These Project Design Review Sessions shall be attended by the Program Manager, the Architect, and a representative of the Principal Representative. The purpose of the Project Design Review Sessions is to (1) ensure consistency with the design intent; (2) ensure complete, coordinated, constructible and cost-effective designs for all disciplines (e.g., architectural, structural, mechanical, electrical); (3) ensure that the design documents are code compliant; (4) endeavor to confirm that all Work has been included and described in sufficient detail to ensure complete pricing of the Work; and (5) allow for phased construction. The Construction Manager shall collect all design review comments from the various participants, provide reports to the Principal Representative, and ensure that with the issuance of each progress set of design documents all comments have either been incorporated or resolved to the satisfaction of the Principal Representative.

**1.1.6** The Architect/Engineer shall participate in formal value engineering workshops at the end of the Schematic Design Phase and the Design Development Phase, bringing multidiscipline cost estimating and design experts to evaluate alternative designs, systems and materials.

**1.1.7** The Architect/Engineer shall make certain to the best of its knowledge, information and belief, that the drawings and specifications prepared by it are in compliance with the Approved Codes as adopted by State Buildings and Real Estate Programs (as a minimum standard) as indicated in **Exhibit D**, Approved Codes. Other more restrictive standards as specified by the Principal Representative are as indicated in **Exhibit D**. 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 E**.

## **1.2. QUALIFICATIONS**

**1.2.1** The services shall be performed by the Architect/Engineer or by consultants licensed or registered by the State of Colorado as required by law. 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.

**1.2.2** In the event the Architect/Engineer does not have as part of its regular staff and services certain professional consultants and consulting services, such as but not limited to, architectural, structural, mechanical, electrical, civil, landscaping, and/or space planning/interior layout, then such consulting services shall be performed by practicing professional consultants.

**1.2.3** All professional consultants, staff or practicing, must be retained for the duration of the Project, provided, however, that acceptable replacements must have prior approval, in writing, by the Principal Representative which approval shall not be unreasonably withheld.

**1.2.4** Prior to designating a professional to perform any of these services, the Architect/Engineer shall submit the name, together with a resume of 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.

**1.2.5** 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.

**1.2.6** The Architect/Engineer shall designate all of its consultants in **Exhibit A**, which list may only be modified in accordance with paragraph 1.2.4.

### **1.3 PRE-DESIGN PHASE**

**1.3.1** As designated and defined in the Designated Scope of Services AIA Document B-163, **Exhibit F**.

### **1.4 SCHEMATIC DESIGN PHASE**

**1.4.1** The Architect/Engineer or its duly authorized representative shall attend regular meetings with the Principal Representative and the Construction Manager, and such additional meetings as the Principal Representative may request or as may be requisite to a complete understanding of the Project. All regular meetings shall be scheduled by the Architect/Engineer with the agreement of the Construction Manager and approval of the Principal Representative. The Architect/Engineer shall document all such conference notes and distribute same to the Principal Representative.

**1.4.2** The Architect/Engineer shall review the design program furnished by the Principal Representative and/or as prepared under separate contract by the Architect/Engineer, including the approved Facilities Program Plan, to ascertain the requirements of the Project and shall refine the design program in accordance with **Exhibit H G**, reviewing and confirming the understandings of these requirements and other design parameters with the Principal Representative.

**1.4.3** During the progress of the Schematic Design Phase, the Architect/Engineer shall keep the Construction Manager informed of changes in requirements or in materials, equipment, component systems and types of construction as the drawings and specifications are developed so that the Construction Manager can formulate the Estimates of Construction Cost and the Guaranteed Maximum Price appropriately.

**1.4.4** The Architect/Engineer shall review with the Principal Representative and Construction Manager site use and improvements, selection of materials, building systems and equipment, construction methods, and methods of Project delivery.

**1.4.5** Based on the mutually agreed upon design program and the Fixed Limit of Construction Cost, the Architect/Engineer shall prepare, for acceptance by the Principal Representative, Schematic Design Documents consisting of drawings, outline specifications and other documents illustrating the scale and relationship of Project components. Schematic

Design Documents shall be prepared in sufficient detail and number to come to an agreement on the basic design of the Project.

**1.4.6** At intervals appropriate to the progress of the Schematic Design Phase, the Architect/Engineer shall provide copies of schematic design studies for the Construction Manager's review, monitoring, and input, for the in-progress work and any completed components thereof, which will be completed so as to cause no delay to the Architect/Engineer. The purpose of such input shall address efficiency of materials, constructibility, availability of components and compatibility of systems.

**1.4.7** At intervals appropriate to the progress of the Schematic Design Phase, the Architect/Engineer shall provide the Principal Representative with copies of all materials, documents, and studies necessary to permit the Principal Representative to monitor, review, provide input to, and any necessary acceptance of, the Schematic Design Phase in progress and completed components thereof. This reviewing process shall be made so as to cause no delay to the Architect/Engineer. The Architect/Engineer shall respond in writing to the Principal Representative's comments resulting from this reviewing process.

**1.4.8** At the completion of the Schematic Design Phase, the Architect/Engineer shall:

- .1 Provide twelve (12) complete sets of drawings and one (1) CAD file disk (.dwg), outline specifications and construction materials, and such other documents necessary to fully illustrate the Schematic Design Phase to the Principal Representative and solicit its acceptance;
- .2 Provide five (5) complete sets of drawings and (1 reproducible) complete set, outline specifications and construction materials, and such other documents necessary for the Construction Manager to prepare an estimate of the cost of construction;
- .3 Assist the Construction Manager in reviewing and verifying such Estimates of Construction Cost;
- .4 Independent of the Construction Manager, prepare and submit to the Principal Representative a construction cost estimate which will serve as a Statement of Probable Cost.

**1.4.9** The Architect/Engineer shall also prepare a written report, accompanied by drawings, setting forth the following as a minimum:

- .1 ~~Analysis of the structure as it relates to the Approved Codes as defined in Exhibit D, including responses to the State's Code Review Agent;~~  
*A Code Review Report of the structure as it relates to the Approved Codes as defined in **Exhibit D and Exhibit E**, including responses to the State's Code Review Agent, as described below:*  
*The Architect/Engineer shall submit with the schematic, design development and construction documents, a complete Code Review Report (University of Colorado at Boulder format as defined in **Exhibit E** or a University pre-approved format). The Approved Codes as defined in **Exhibit D**, regulations, laws and ordinances, including both technical and administrative provisions, shall be used (all of the above referenced codes shall be referred to as "Building Code(s)"). The Building*

*Code that provides the highest level of safety shall govern on each item. The Code Review Report shall be placed on the front sheets of the set of construction drawings.*

*The Architect/Engineer shall make certain to the best of his knowledge, information and belief, that the drawings and specifications prepared by them are in full compliance with all applicable Building Codes. If the Architect/Engineer shall deviate from such Building Codes, then it shall at its own expense, make such corrections in the documents as may be necessary for compliance.*

- .2 Recommend site locations and scope of site development;
- .3 Correlation of spaces with approved State standards;
- .4 Conceptual drawings of floor plans, elevations, section, and site plan;
- .5 Conceptual drawings and descriptions of project plumbing, mechanical and electrical systems as necessary;
- .6 Area computations, gross square footage and net square footage, and volume;
- .7 Outline of proposed construction materials;
- .8 Review of time anticipated for the Construction Phase(s);
- .9 Written description of the bid packaging strategy agreed upon with the Construction Manager/General Contractor.

**1.4.10** The above Schematic Design data shall be subject to the acceptance in writing by the Principal Representative, Construction Manager and State Buildings and Real Estate Programs.

**1.4.11** Architect/Engineer shall also assist the Construction Manager in the preparation of the Construction Manager's written report at the end of the Schematic Design Phase summarizing the Construction Manager's value engineering activities.

## **1.5 DESIGN DEVELOPMENT PHASE**

**1.5.1** Based on the written acceptance of the Schematic Design Documents and any adjustments authorized by the Principal Representative in the design program or the Fixed Limit of Construction Cost, if any, the Architect/Engineer shall prepare, for acceptance by the Principal Representative and State Buildings Programs the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Design Development Documents shall be developed in sequence replicating the proposed Bidding Packages.

**1.5.2** During the progress of the Design Development Phase the Architect/Engineer shall keep the Construction Manager informed of changes in requirement or in materials, equipment, component systems and types of construction as the drawings and specifications

are developed so that the Construction Manager can formulate the Estimates of Construction Cost and the Guaranteed Maximum Price appropriately.

**1.5.3** At intervals appropriate to the progress of the Design Development Phase, the Architect/Engineer shall provide copies of Design Development studies for the Construction Manager's review, monitoring and input, to the in-progress Work and any completed components thereof, which will be completed so as to cause no delay to the Architect/Engineer. The purpose of such input shall address efficiency of materials, systems, and components; constructibility within acceptable means; availability of materials, systems, and components; and cost control.

**1.5.4** At intervals appropriate to the progress of the Design Development Phase, the Architect/Engineer shall provide the Principal Representative with copies of all materials, documents, and studies necessary to permit the Principal Representative to monitor, review, provide input to, and any necessary acceptance of, the Design Development Phase in progress and completed components thereof. This reviewing process shall be made so as to cause no delay to the Architect/Engineer. The Architect/Engineer shall respond in writing to the Principal Representative's comments resulting from this reviewing process.

**1.5.5** At the completion of the Design Development Phase, the Architect/Engineer shall provide:

- .1 Twelve (12) complete sets of drawings and one (1) CAD file disk (.dwg), outline specifications and construction materials, and such other documents necessary to fully illustrate the Design Development Phase to the Principal Representative and solicit its acceptance.
- .2 Five (5) complete sets of drawings and (1 reproducible) complete set, outline specifications and construction materials, and such other documents necessary for the Construction Manager to prepare an estimate of the cost of construction.

**1.5.6** The Architect/Engineer shall prepare a written report and drawings outlining in detail Design Development Documents from the accepted Schematic Design study. The report, when submitted for acceptance by the Principal Representative and the Construction Manager shall include as a minimum:

- .1 Analysis *An update and re-issued Code Review Report* of the structure as it relates to the Approved Codes defined in **Exhibit D**, including responses to the State's Code Review Agent;
- .2 Site development drawings, defining the proposed scope of development including earthwork, surface development, and utility infrastructure;
- .3 Plans in one-line format of the proposed structural, mechanical, and electrical systems as necessary to define size, location and quality of equipment, materials, and constructions;
- .4 Floor plans including proposed movable equipment and furnishings and exterior elevations;

- .5 Cut-sheets and/or samples of proposed materials, equipment and system components including all such items normally specified under the Construction Specifications Institute, Specifications Format Divisions;
- .6 Proposed architectural finish schedule, HVAC, plumbing and electrical fixture schedules;
- .7 Outline specifications, using CSI format, identifying conditions of the contract, materials, and standards;
- .8 Review of the time anticipated for the Construction Phase(s).

These documents shall be of sufficient detail to allow the Construction Manager to enter into an agreement for the execution of the construction based on a Guaranteed Maximum Price.

**1.5.7** The Architect/Engineer shall assist the Construction Manager in the preparation of the Construction Manager's written report at the conclusion of the Design Development Phase summarizing the Construction Manager's value engineering activities.

**1.5.8** The Architect/Engineer shall make certain that to the best of its knowledge, information, and belief the drawings and specifications prepared by it are in full compliance with applicable codes, regulations, laws and ordinances, including both technical and administrative provisions thereof. Such drawings and specifications shall conform to the list of Approved Codes as defined in **Exhibit D**. If the Architect/Engineer shall deviate from such codes, regulations, law or ordinance, without written authorization to do so from the Principal Representative, then the Architect/Engineer shall, at its own expense, make such corrections in the Construction Documents as may be necessary for compliance.

**1.5.9** The final Design Development Documents, revised as required by the Construction Manager's approved Guaranteed Maximum Price established within the recited Fixed Limit of Construction Cost, shall be subject to acceptance in writing by the Principal Representative and State Buildings Programs.

**1.5.10** Independent of the Construction Manager, the Architect/Engineer shall prepare and submit a construction cost estimate which will serve as an update of the Statement of Probable Construction Cost.

## **1.6 CONSTRUCTION DOCUMENTS PHASE**

**1.6.1** Based on the Principal Representative and State Buildings Programs accepted Design Development Documents and any further adjustments in the scope or quality of the Project or in the Construction Manager's Guaranteed Maximum Price, if any, authorized by the Principal Representative, the Architect/Engineer shall prepare, for acceptance by the Principal Representative, Construction Documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the Project.

**1.6.2** During the progress of the Construction Document Phase, the Architect/Engineer shall keep the Construction Manager informed of any changes in requirements or in construction materials, systems or equipment.

**1.6.3** At intervals appropriate to the progress of the Construction Document Phase, the Architect/Engineer shall provide copies of documents for the Principal Representative and the Construction Manager's review, monitoring and input to the in-progress Construction Document Phase and any completed components thereof, which will be completed so as to cause no delay to the Architect/Engineer. These intervals shall be no fewer than at 50% and 95% completion of the Construction Documents Phase. The Architect/Engineer shall respond in writing to the Principal Representative's review comments.

**1.6.4** These Construction Documents, when each Bid Package is submitted for approval, shall include:

- .1** Twelve (12) complete sets *and one (1) CAD file disk (.dwg) and reproducible* (4 reproducible) complete set of architectural, civil, site development, structural, mechanical and electrical drawings as appropriate to assist in the definition of the submitted Bid Package;
- .2** Complete Bidding Documents including architectural, structural, mechanical and electrical specifications for that Bid Package. The format for these technical specifications shall be the current edition of *MasterFormat* published by the Construction Specifications Institute;
- .3** The title sheet shall contain the ~~Uniform Building Code (U.B.C.)~~ *International Building Code* occupancy type, construction type, gross square footage and net square footage, and gross building volume;
- .4** Each Bidding Package, as appropriate, shall contain a Code Compliance Plan as per **Exhibit E**, ~~Code Compliance Reviews~~ *Code Review System/Format*, that defines area separation, fire and smoke barriers, exits, exit passages, and exit enclosures.

**1.6.5** The Architect/Engineer shall assist the Construction Manager in preparation of the Construction Manager's written report summarizing the Construction Manager's value engineering activities through the completion of this phase of the work.

**1.6.6** The final Construction Documents shall be subject to the final acceptance by the Principal Representative, Construction Manager and State Buildings and Real Estate Programs in writing.

## **1.7 BIDDING PHASE**

**1.7.1** The Architect/Engineer, following the Principal Representative's and State Buildings Programs' approval of the Construction Documents, shall assist the Construction Manager in obtaining bids conforming to the requirements of 24-103-202(7) C.R.S., as amended, by rendering interpretations and clarifications of the drawings and specifications in appropriate written form. The Architect/Engineer shall assist the Construction Manager in conducting mandatory pre-bidding conferences with all principal bidders and pre-award conferences with successful bidders.

**1.7.2** The Architect/Engineer shall consult with and make recommendations to the Principal Representative pertaining to the Construction Manager's proposed subcontractors.

**1.7.3** In addition to the copies required for the preceding design phases, the Architect/Engineer shall furnish copies of the Construction Documents for each Bid Package as follows, subject to limitations hereinafter set forth

**.1** For Bidding Documents: Five (5) sets and (1 reproducible) complete set to ensure distribution among contractors and subcontractors in accordance with the advertisement for bids. The Architect/Engineer acknowledges that prior to State Buildings Programs authorizing the Bidding Documents to be released for bidding, a Letter of Compliance must be obtained from the State's Code Review Agent verifying that the Bidding Documents are in compliance with the applicable codes as adopted by State Buildings Programs as indicated in **Exhibit D**.

**.2** For Contract Documents: The Principal Representative will require twelve (12) sets of Contract Documents *and one (1) CAD file disk (.dwg)*. ~~The Contract Documents for each Bid Package bearing, Two (2) of these sets shall bear~~ the professional seal and signature of the Architect/Engineer and the appropriate responsible professional engineering consultants *and*, are to be signed by the Construction Manager and Principal Representative at each contract signing conference. Prior to delivering these sets of Contract Documents to the Principal Representative for the contract signing conference(s), the Architect/Engineer is to provide the Principal Representative with a letter certifying that all addenda, value engineering recommendations and any other changes to the Bidding Documents (not incorporated in the State's Code Review Agent's review and issuance of the Letter of Compliance) are in compliance with the State's Approved Codes, **Exhibit D**, in the professional opinion of the Architect/Engineer, or have been recommended for review by the State's Code Review Agent and have been found to be in compliance by the State's Code Review Agent.

**.3** For Construction: The Construction Manager shall be furnished with five (5) sets or partial sets of the Contract Documents *and one (1) complete reproducible set* to insure prompt prosecution of the work.

**.4** **Twenty-two** (22) 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.

**1.7.4** The Architect/Engineer shall assist the Principal Representative and Construction Manager in the preparation of the necessary bidding information, bidding forms and amendments to the Construction Manager Contract, to include the respective Bid Packages.

**1.7.5** The Architect/Engineer shall assist the Principal Representative and Construction Manager in connection with the Principal Representative's responsibility for filing documents required for approvals of governmental authorities having jurisdiction over the Project.

**1.7.6** At the completion of each bidding package, the Architect/Engineer shall prepare independent of the Construction Manager and present to the Principal Representative an update of the Design Development Statement of Probable Construction Cost for each specific Bid Package and the project total.

**1.7.7** Prior to the Authorization to Commence Construction Phase for the first Bid Package, the Architect/Engineer and the Construction Manager shall certify that the entire

Project has been completed through at least the Design Development Phase of the Architect/Engineer's Agreement and the Construction Manager shall certify that the sum of all proposed individual Bid Package Guaranteed Maximum Prices total the Project Guaranteed Maximum Price. This Project Guaranteed Maximum Price shall be equal or less in sum to the Fixed Limit of Construction Cost. It is agreed that only when those conditions are met and accepted by the Principal Representative may the Authorization to Commence Construction Phase be issued for the first Bid Package.

## **1.8 CONTRACT ADMINISTRATION PHASE FOR MULTIPLE SEPARATE BID PACKAGES**

**1.8.1** The Construction Phase will commence with the award of the initial Bid Package and, together with the Architect/Engineer's obligation to provide basic services under this Agreement, will end upon expiration of the one (1) year warranty period from the Notice of Acceptance (substantial completion) of the construction.

**1.8.2** The Architect/Engineer shall provide the Contract Administration and perform all of the duties to be provided by the Architect/Engineer for the Project as set forth in this Agreement and in the Contract Documents. The Architect/Engineer acknowledges that while most of the construction of the Project will be constructed through the Construction Manager, the State has reserved the right to perform portions of the work on the Project through its own forces or through separate contractors. The Architect/Engineer expressly agrees to perform all of the same services set forth herein and in the Contract Documents with the Construction Manager for any and all separate contractors engaged by the Principal Representative to perform work designed by the Architect/Engineer on the Project.

**1.8.3** The Architect/Engineer and Construction Manager shall advise and consult with the Principal Representative during the construction phases. All instructions and written communications with the Construction Manager shall be copied to the Principal Representative. The Architect/Engineer shall have authority to act on behalf of the Principal Representative only to the extent provided in the Contract Documents.

**1.8.4** The Architect/Engineer and its structural, mechanical and electrical engineers will visit the site at intervals appropriate to the stage of construction or 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. On the basis of observation as an architect/engineer, 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.

**1.8.5** 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 6.2.

**1.8.6** The Architect/Engineer shall provide notice to the Principal Representative of specific visits to be made during the various phases of construction and provide a written report of conditions observed, instructions given, and actions agreed to.

**1.8.7** If requested by the Principal Representative, the Architect/Engineer shall provide, in addition to the above, a full-time representative on site during all regularly scheduled work hours. This representative shall have a minimum of 10 years experience in work closely related to construction management/general contractor construction field administration and shall be approved by the Principal Representative in writing. If requested by the Principal Representative, the Architect/Engineer's compensation for the Contract Administration Phase shall be adjusted as an Additional Service and paid in accordance with paragraph 6.2.4. The Construction Manager shall provide the full-time representative with a suitable private office supported with standard office equipment including access to copiers, fax machines, etc.

**1.8.8** From the time of the Construction Manager's on-site mobilization to the issue of the final Notice of Final Acceptance, the Architect/Engineer, or an appropriate consultant, shall observe for contract compliance, the following without limitation:

- .1 Bearing surfaces of excavations before concrete is placed;
- .2 Reinforcing steel after installation and before concrete is placed;
- .3 Structural concrete;
- .4 Laboratory reports on all concrete testing;
- .5 Structural steel during and after erection and prior to its being covered or enclosed;
- .6 Steel welding;
- .7 Mechanical and plumbing work following its installation and prior to its being covered or enclosed;
- .8 Electrical work following its installation and prior to its being covered or enclosed;
- .9 Compaction testing reports;
- .10 Any special or quality control testing required in the Contract Documents.

**1.8.9** The observation contemplated in this article does not include the responsibility to conduct testing but 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.

**1.8.10** The Architect/Engineer shall exercise due diligence to safeguard the State 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, workmanlike and skillful manner, the Architect/Engineer shall promptly notify the Principal Representative and Construction Manager setting forth the reasons.

**1.8.11** The Architect/Engineer shall keep accurate records 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.

**1.8.12** 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 and Real Estate Programs 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.

**1.8.13** The Principal Representative and State Buildings and Real Estate Programs may also have a representative observing the construction and its progress. Nothing contained herein shall in any way relieve the Architect/Engineer of its responsibilities for Contract Administration.

**1.8.14** The Architect/Engineer shall attend all weekly or periodic job progress meetings *and record and distribute the meeting minutes.*

**1.8.15** The Architect/Engineer shall not be responsible for, nor have control or charge of, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Project. The Architect/Engineer shall not be responsible for, nor have control over, the acts or omissions of the Construction Manager, subcontractors, any of their agents or employees, or any other persons performing any part of the construction, nor shall the Architect/Engineer be responsible for the Construction Manager's obligations.

**1.8.16** The Architect/Engineer shall at all times have access to the construction wherever it is in preparation or progress.

**1.8.17** The Architect/Engineer shall assist the Principal Representative in the review of the Construction Manager's Schedule of Values submitted in accordance with the Contract Documents. Further the Architect/Engineer shall attend a conference with the Construction Manager and the Principal Representative to finalize the Schedule of Values. The finalized Schedule of Values will serve as the basis for progress payments and will be incorporated into the form of Project Applications for Payment acceptable to the Architect/Engineer and the Principal Representative. The Architect/Engineer shall further participate in any revisions to the Schedule of Values as provided in the Contract Documents.

**1.8.18** The Architect/Engineer shall see to the proper issuance of State form SC-7.2 used as the Construction Manager's Project Certificate and Application for Payment. The Architect/Engineer will, within five (5) working days after the receipt of each Project Application for Payment, review the Project Application for Payment and either execute a Project Certificate and Application for Payment to the Principal Representative for such amounts as the Architect/Engineer determines are properly due, or notify the Principal Representative and Construction Manager in writing of the reasons for withholding a Certificate.

**1.8.19** The execution and issuance of a Project Certificate and Application for Payment, State form SC-7.2 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 Construction Manager'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 Construction Manager is entitled to payment in the amount certified. However, the issuance of a State form SC-7.2, Construction Manager's Project Certificate for Payment shall not be a representation that the Architect/Engineer has made any examination to ascertain how or for what purpose the Construction Manager has used the monies paid on account of the previously issued Certificates.

**1.8.20** The Architect/Engineer shall be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Construction Manager and all subcontractors. The Architect/Engineer shall render interpretations necessary for the proper execution or progress of construction, with reasonable promptness.

**1.8.21** All interpretations and decisions of the Architect/Engineer shall be consistent with the intent of, and reasonably inferable from the Contract Documents, and shall be in writing or in graphic form and the Architect/Engineer shall send a copy to the Principal Representative and Construction Manager.

**1.8.22** The Architect/Engineer's decision in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents and neutral in terms of cost impact.

**1.8.23** The Architect/Engineer shall have 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 be then fabricated, installed or completed; but 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 Construction Manager, any subcontractor of any tier, any of their agents or employees, or any other person performing any of the construction.

**1.8.24** The Architect/Engineer shall review and approve or take other appropriate action upon Construction Manager'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's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activity of the Principal Representative, Construction Manager or separate contractors, 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 Construction Manager, all of which remain the responsibility of the Construction Manager 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.

**1.8.25** All changes in the work shall be documented on Change Order or Amendment State forms SC-6.31 and SBP-02, supplied by the Principal Representative, and the Architect/Engineer shall keep a current record of all variations or departures from the Agreement as originally approved.

**1.8.26** The Architect/Engineer shall prepare all Change Orders and Amendments for the Principal Representative and recommend for approval or disapproval in accordance with the Contract Documents, 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 requests for changes in the Work with such reasonable promptness as to cause no delay in the Work or in the activities of the Principal Representative, Construction Manager or separate contractors, while allowing sufficient time in the Architect/Engineer's professional judgment to permit adequate review.

**1.8.27** Every Change Order and/or Amendment must be approved in writing by the Principal Representative and the Architect/Engineer, except that the approval of the Principal Representative shall not be required in an emergency situation involving safety or health. Every Change Order and/or Amendment must also be approved and signed by the State Buildings and Real Estate Programs and then validated by the State Controller's signature prior to commencement of the change in the work except for Emergency Field Change Orders as described in the Supplementary General Conditions (if applicable).

**1.8.28** When the Work or a designated portion thereof is complete and ready for acceptance in the opinion of the Construction Manager, the Construction Manager is required to file a written notice with the Architect/Engineer, who in turn shall notify State Buildings and Real Estate Programs and the Principal Representative, that the work, in the opinion of the Construction Manager, is complete under the terms of the Contract. This notice shall receive prompt action by the notified parties.

**1.8.29** Within ten (10) days after the Construction Manager files written notice that the Work is complete, the Architect/Engineer, the Principal Representative and the Construction Manager shall make an inspection of the Project to determine whether the Work has been completed in accordance with the Contract Documents (State Buildings and Real Estate Programs is to be notified of 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 Construction Manager in sufficient detail to fully outline to the Construction Manager:

- (a) Work to be completed, if any;
- (b) Work not in compliance with the Drawings and Specifications, if any;
- (c) Unsatisfactory Work for any reason, if any;
- (d) Date for completion of the punch list items.

**1.8.30** The required number of copies of the punch list will be countersigned by the Principal Representative and will then be transmitted by the Architect/Engineer to the Construction Manager, the Principal Representative, and State Buildings and Real Estate Programs. The Construction Manager 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 and Real Estate Programs.

**1.8.31** 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 Construction Manager.

**1.8.32** When the Architect/Engineer determines that the construction is acceptable (and less than 10 items remain on the punch list) and the Building Inspection Record (State form SBP-B.I.R.) has been fully signed off, the Architect/Engineer shall then prepare the Notice of Completion letter (including the Contract Close-out Punch List, State Form SBP-06 and the Close-out Checklist, State form SBP-05 and, if applicable, Approval of Beneficial Occupancy, State form SBREP-01). The Notice of Completion Letter shall establish the Date of Completion (i.e., 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 Completion letter shall be submitted to the Principal Representative and the Construction Manager for their written acceptance of the responsibilities assigned to them in such notice.

**1.8.33** Upon receipt of the Architect/Engineer's Notice of Completion letter the Construction Manager will complete the remaining punchlist items identified in the Contract Close-out Punchlist, State form SBREP-06 and provide all required signoff signatures on the Close-out Checklist, State form SBREP-05. The Construction Manager shall forward the completed Close-out documents to the Architect/Engineer for signature. The Architect/Engineer upon receipt and verification of the Close-out documents shall prepare and forward to the Principal Representative the Final Notice of Completion 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 thereof, has been completed in accordance with the terms and conditions of the Contract Documents.

**1.8.34** Upon receipt from the Architect/Engineer of the Final Notice of Completion letter, the Principal Representative shall prepare and sign the Notice of Acceptance, State form SC-6.27 and forward to the Construction Manager for its approval and signature. The date of the Notice of Acceptance shall be the effective date of the commencement of the one (1) year warranty period.

**1.8.35** The Architect/Engineer shall receive and forward to the Principal Representative for review, written warranties and related documents assembled by the Construction Manager 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.

**1.8.36** Except as otherwise agreed below in Article 1.9 Post Construction Phase the Architect/Engineer, Principal Representative, State Buildings and Real Estate Programs, and Construction Manager shall make at least two (2) complete inspections of the Work after the Work has been accepted. One such inspections, the Six Month Warranty Inspection, shall be made approximately six (6) months after acceptance; and another such inspection, the Eleven Month Warranty inspection, shall be made approximately eleven (11) months after acceptance of the construction. The Principal Representative shall schedule and so notify all parties concerned of these inspections.

**1.8.37** Written lists of defects and deficiencies and reports of these observations shall be made by the Architect/Engineer and forwarded to the Construction Manager and all of the other participants within ten (10) days after the completion of each observation. The Construction Manager 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 items and notify the Principal Representative when such items have been completed.

## **1.9 POST CONSTRUCTION PHASE**

**1.9.1** (As designated and defined in the Designated Scope of Services AIA Document B-163, **Exhibit F**).

## **ARTICLE 2. TIME**

### **2.1 DESIGN SERVICES SCHEDULE**

**2.1.1** The Architect/Engineer shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect/Engineer shall submit for the Principal Representative's approval, a schedule (Design Services Schedule), **Exhibit A**, for the performance of the Architect/Engineer's services which may be adjusted as required as the Project proceeds, and which shall include allowances for periods of time required for the Principal Representative's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. The Architect/Engineer shall consult with the Construction Manager to coordinate the Architect/Engineer's time schedule with the Project Schedule. This schedule, when approved by the Principal Representative, shall not, except for reasonable cause, be exceeded by the Architect/Engineer.

### **2.2. TERM**

**2.2.1** The 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, following the date of the Notice of Acceptance for the last remaining portion of work.

## **ARTICLE 3. PRINCIPAL REPRESENTATIVE**

### **3.1 THE RESPONSIBILITIES**

**3.1.1** The Principal Representative shall provide full information regarding requirements for the Project through the State Buildings and Real Estate Programs delegate, including assisting in developing a completed Design Program/Facilities Program Plan, **Exhibit H**, which shall set forth the State's design objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements. If a State Buildings Programs delegate has not been authorized, then the

Principal Representative together with State Buildings and Real Estate Programs will designate an individual to act on behalf of the Principal Representative as designated in Article 11.6.

**3.1.2** The Principal Representative shall establish the Fixed Limit of Construction Cost.

**3.1.3** The Principal Representative shall designate a representative authorized to act in the Principal Representative's behalf with respect to the Project as indicated in Article 11.16. The Principal Representative, acting by and through such designated representative shall examine the documents submitted by the Architect/Engineer and shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Architect/Engineer's services.

**3.1.4** The Principal Representative shall retain a Construction Manager to manage and construct the Project. The Construction Manager's services, duties and responsibilities will be as described in the Construction Manager Contract. Once executed, the terms and conditions of the Construction Manager Contract will not be modified without notification to the Architect/Engineer.

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

**3.1.6** The Principal Representative shall furnish the services of geotechnical engineers or other technical or highly specialized consultants when such services are deemed necessary by mutual agreement between the Principal Representative and the Architect/Engineer. Such services shall include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests including necessary operations for determining subsoil, air and water conditions, with reports and appropriate professional recommendations.

**3.1.7** The services, information, surveys and reports as required and described in the preceding paragraphs 3.1.1 through 3.1.7, shall be furnished at the Principal Representative's expense, and the Architect/Engineer shall be entitled to rely upon their accuracy and completeness.

**3.1.8** The Principal Representative shall furnish such legal, accounting and insurance counseling services as may be necessary for the Project, including such auditing services as the Principal Representative may require to verify the Project Applications for Payment or to ascertain how or for what purposes the Construction Manager has used the monies paid by or on behalf of the Principal Representative. This shall not relieve the Architect/Engineer of reviewing the Construction Manager's Application for Payment for consistency with the current Schedule of Values.

**3.1.9** If the Principal Representative observes or otherwise becomes aware of any fault or defect in the Project, or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the Principal Representative to the Architect/Engineer.

**3.1.10** The Architect/Engineer recognizes that the Principal Representative is a governmental body with certain procedural requirements to be satisfied. The Architect/Engineer has and will make reasonable allowance in its performance of services for such additional time as may be required for approvals and decisions by the Principal Representative and any other necessary government agency. Such time shall be identified in the preliminary project schedule including, without limitation, time for the State's Code Review consultants.

**3.1.11** In the review process of the final Design Development Documents and Construction Documents for each Bid Package, the Architect/Engineer expressly agrees to the following times for concurrent review by the Principal Representative and the Construction Manager:

- .1 A period of fourteen (14) working calendar days for the review of the Design Development Documents plus an additional seven (7) working days for final development of the Guaranteed Maximum Price.
- .2 A period of fourteen (14) working calendar days at 50% and 95% completion of the construction documents together with an additional seven (7) working days after receipt of all bid documents for each bid package.

**3.1.12** ~~The Principal Representative has retained a Program Manager. The Program Manager shall assist in the coordination and management of projects including design, bid/award, construction, and closeout/warranty phases; shall develop and maintain the program's management plan, assist in establishing an integrated management control system, master schedule, budget/cost accounting systems, and central files; project management plans and program progress reports.~~

**3.1.13** The Principal Representative shall have available the University of Colorado at Boulder (UCB) Building and Construction Standards (collectively referred to as "UCB Standards"). The UCB Standards and any applicable standards adopted by the Governor are the design standards to which the Architect/Engineer are expected to adhere as a minimum. The Architect/Engineer shall develop specifications and design strategies accordingly.

The Architect/Engineer shall be responsible for obtaining copies of the UCB Standards from the Office of Facilities Management website at:

<http://fm.colorado.edu/construction/standards>. The UCB Standards include design criteria, guidelines and acceptable products. The Architect/Engineer agrees to utilize the UCB Standards.

## **ARTICLE 4. CONSTRUCTION COSTS**

### **4.1 BUDGETING AND FIXED LIMIT OF CONSTRUCTION COST**

**4.1.1** The Principal Representative shall provide a preliminary Project Budget to the Architect/Engineer which shall set forth a dollar amount available for the total Construction Cost of the Project, and include contingencies for bidding and construction and other costs which are the responsibility of the Principal Representative. The Architect/Engineer shall assist the Construction Manager in evaluating the Principal Representative's preliminary project budget.

**4.1.2** A Fixed Limit of Construction Cost for the Project shall be established by the Principal Representative incorporating the portion of the Project Budget for construction of all

elements of the Project designed or specified by the Architect/Engineer. The Fixed Limit of Construction Cost for the Project shall be subject to change only by the determination, in writing, of the Principal Representative.

## **4.2 CONSTRUCTION COST**

**4.2.1** When preparing any Estimates of Construction Cost or Statement of Probable Construction Cost, such documents shall include, but without duplication:

- .1** All labor, materials, equipment, tools, construction equipment and machinery, water and heat utilities, transportation, construction easements, and other facilities and services necessary for the proper execution and completion of the Project, whether temporary or permanent, and whether or not incorporated or to be incorporated into the Project;
- .2** At current market rates, including a reasonable allowance for overhead and profit, the cost of labor and materials furnished by the Principal Representative;
- .3** Any State furnished equipment which has been designed, specified, selected or specifically provided for by the Architect/Engineer;
- .4** The Construction Manager's compensation for on-site personnel services and the cost of work provided by the Construction Manager;
- .5** All bond and property insurance premiums; and
- .6** Contingencies for bidding, price escalation, and construction as set forth above.

**4.2.2** The Statement of Probable Construction Cost shall not include the compensation of the Architect/Engineer, the Architect/Engineer's consultants or any other sums due the Architect/Engineer under this Agreement, the costs of land, rights of way, financing or other costs which are the responsibility of 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.

## **4.3 CONSTRUCTION MANAGER COST ESTIMATES**

**4.3.1** By the terms of the Construction Manager Contract, the Construction Manager is obligated to prepare and furnish to the Principal Representative and the Architect/Engineer, Estimates of Construction Cost for the construction, and a Guaranteed Maximum Price proposal. The Construction Manager in preparing its Estimates of Construction Cost and providing the Guaranteed Maximum Price, shall consult with the Architect/Engineer to determine what materials, equipment, components systems and types of construction are to be included in the Contract Documents, to recommend reasonable adjustments in the scope of the construction, and to include in the Contract Documents reasonable alternate items for bid so as to permit the adjustment of the Estimate of Construction Cost to the Fixed Limit of Construction Cost.

**4.3.2** The Architect/Engineer shall provide reasonable cooperation to the Construction Manager in the development of Estimates of Construction Cost and the Guaranteed Maximum Price.

**4.3.3** The Architect/Engineer shall promptly review the Estimate of Construction Cost and the Guaranteed Maximum Price proposal prepared and submitted by the Construction Manager, and advise the Principal Representative as to whether the Architect/Engineer concurs with each such estimate and the Guaranteed Maximum Price proposal and, if not, the reasons and details of where the Architect/Engineer disagrees.

#### **4.4 ARCHITECT/ENGINEER COST ESTIMATES**

**4.4.1** The Architect/Engineer, as a design professional familiar with the construction industry, in addition to the Estimates of Construction Cost for the Project and Guaranteed Maximum Price proposal as developed by the Construction Manager, shall develop with the Schematic Design Phase its own Statement(s) of Probable Construction Cost.

#### **4.5 FIXED LIMIT OF CONSTRUCTION COST EXCEEDED**

**4.5.1** 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 Article 4 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. Responsibility for developing the final Statement of Probable Construction Cost and Estimate of Construction Cost, specifically the identification and resolution of all significant differences between the Statement and the Estimate, is a shared responsibility between the Architect/Engineer and the Construction Manager. Should disagreement or confusion involving overlapping or conflicting responsibilities or disagreement as to the Construction Manager's Estimate or Architect/Engineer's Statement of Probable Construction Cost arise, the question shall be submitted and the correct interpretation shall be determined by the Principal Representative consistent with paragraph 1.1.2 and the requirements of this Article 4.

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

- .1** The lowest figures from responsible proposals, if any, and the Construction Manager's estimate for other elements of the Project; and/or the Architect/Engineer's Statement of Probable Construction Cost for the balance of the Project; or
- .2** The Construction Manager's Guaranteed Maximum Price proposal; then, in either event, the Principal Representative shall, in its sole discretion, do one of the following:
  - .a** revise the Project scope and quality as required to reduce the Construction Cost.

- .b give written approval for the increase in the Fixed Limit of Construction Cost for the Project;
- .c authorize rebidding or renegotiation of the Project or portions of the Project within a reasonable time;
- .d abandon the Project, terminating this Agreement in accordance with Article 10; or

**4.5.3** In the case of clause .a in the preceding paragraph, the Architect/Engineer shall, at no additional cost to the State, modify the drawings and specifications for any or all of the separate Bid Packages 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 by the Principal Representative; or (2) the projected cost overrun occurs within the scope of an Estimate of Construction Cost or Guaranteed Maximum Price proposal furnished by the Construction Manager to the Architect/Engineer and upon which the Architect/Engineer promptly communicated in writing to the Principal Representative the Architect/Engineer's refusal to concur, together with the reasons and details therefor.

## **ARTICLE 5. REIMBURSABLE EXPENSES**

### **5.1 REIMBURSEMENT**

**5.1.1** Reimbursable expenses are in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Architect/Engineer and Architect/Engineer's employees, associate Architect/Engineer, and consultants in the interest of the Project. Pay requests for reimbursable expenses shall be submitted with receipts, statements or other acceptable supporting data. The Architect/Engineer understands and agrees that a lump sum dollar amount as enumerated in line (h) of Paragraph 6.1.1 has been established for all reimbursable expenses.

**5.1.2** The Architect/Engineer shall be reimbursed for:

- .1 All copies over those as required in accordance with the provisions in Articles 1.3, Pre-Design Phase; 1.4.8 Schematic Design Phase; 1.5.5, Design Development Phase; and 1.6.4, Construction Documents Phase; 1.7.3, Bidding Phase, and 1.8, Contract Administration for each of the Bid Packages;
- .2 The cost of all items furnished by the Architect/Engineer in accordance with paragraphs 3.1.5, and 3.1.6 as requested by the Principal Representative.
- .3 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;
- .4 Expense of data processing and photographic production techniques when used in connection with Additional Services;

- .5 Expense of long distance telecommunications related to the performance of Basic Services;
- .6 Expense of renderings, models and mock-ups requested by the Principal Representative other than those described in the designated services;
- .7 Expense of mail, deliveries, mileage for local travel necessary for the performance of Basic Services, and expense travel for special consultants as per Article 1 Basic Professional Services;
- .8 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.

**ARTICLE 6. BASIS OF COMPENSATION**

**6.1 PAYMENT**

**6.1.1** The total compensation for Basic Services fees (**b** through **f**), including a lump sum price for Reimbursable Expenses and, if applicable, Pre-Design and Post Construction Services fees (**a** and/or **g**), shall be allocated as follows:

<b>(a)</b> Pre-Design Phase (if applicable)	\$ _____
<b>(b)</b> Schematic Design Phase	\$
<b>(c)</b> Design Development Phase	\$
<b>(d)</b> Construction Documents Phase	\$
<b>(e)</b> Bidding Phase	\$ _____
<b>(f)</b> Contract Administration Phase	\$
<b>(g)</b> Post Construction Phase (if applicable)	\$ _____
<b>(h)</b> Reimbursable Expenses (Lump Sum)	\$
TOTAL COMPENSATION	\$

**6.1.2** Payments to the Architect/Engineer on account of his fee shall be made monthly based upon Architect/Engineer's performance and progress, through a properly executed Application for Payment SC-7.1 (not to exceed the amounts specified for any particular phase) as follows:

- ~~(a) For the Pre-Design Phase (if applicable) the Architect/Engineer shall be paid a fee as described in **Exhibit F**, Designated Scope of Services B-163.~~

- (b) For the Schematic Design Phase a sum equal to twenty-five percent (25%) of the Basic Services fee.
- (c) For the Design Development Phase a sum sufficient to increase payments to twenty-two percent (22%) of the Basic Services fee.
- (d) For the Construction Documents Phase a sum sufficient to increase payments to twenty percent (20%) of the Basic Services fee.
- ~~(e) For the Bidding Phase a sum sufficient to increase payments to \_\_\_ percent (\_\_\_%) of the Basic Services fee.~~
- (f) For the Contract Administration Phase a sum sufficient to increase payments to twenty-seven percent (27%) of the Basic Services fee.
- (g) Upon issuance of the Notice of Acceptance of the Work by the Principal Representative, and providing that this Agreement is otherwise fully performed by the Architect/ Engineer except for the inspections required during the warranty year, the full amount of the fee may be released except the fee as per subparagraphs (h) and (i) below.
- (h) Upon delivery of the guaranties, Certificates and the Record Drawings and reproducible copies to the Principal Representative, as *more fully described in Article 7.2*, Architect/Engineer shall be paid \$850,000.00.
- (i) For the Post Construction Phase (if applicable) the Architect/Engineer shall be paid a fee as described in **Exhibit F**, Designated Scope of Services B-163.

## 6.2 ADDITIONAL COMPENSATION

**6.2.1** 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 F**, Scope of Designated Services 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 5 of this Agreement to be reimbursed. All compensation set forth in Article 6.1 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 6.1 or reasonably inferable therein, are not consistent with the approved Project program, and are specifically requested and approved in writing by the Principal Representative.

**6.2.2** Subject to the provisions of paragraphs 4.5.1 and 4.5.2, 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.

**6.2.3** 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.

**6.2.4** 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**.

**6.2.5** 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.

**6.2.6** In addition, the Architect/Engineer shall also be reimbursed as described in Article 5.1 and paid as detailed in paragraph 6.2.2 related to the Additional Services.

**6.2.7** 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.

**6.2.8** 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.

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

### **6.3 PAYMENTS WITHHELD**

**6.3.1** 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 Construction Manager or on account of changes in Construction other than those for which the Architect/Engineer is held legally liable.

### **6.4 PROJECT SUSPENSION OR ABANDONMENT**

**6.4.1** If the Project is suspended or abandoned 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 10. If the Project is resumed after being suspended for more than six (6) months, the Architect/Engineer's compensation shall be equitably adjusted.

### **6.5 ARCHITECT/ENGINEER'S ACCOUNTING RECORDS**

**6.5.1** 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 Construction Manager 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.

## 6.6 CONDITION PRECEDENT

**6.6.1** *(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 Construction Document phase. Therefore, it shall be a Condition Precedent to the Architect/Engineer's performance of the remaining services specified in Articles 1.7 and 1.8 and the Designated Scope of Services B-163 (AIA Document B-163, **Exhibit F**) 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 June 2009 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 June 2009, the Architect/Engineer's obligation to perform services for (scope of work) Bidding and Construction Administration and the State's obligation to pay for such service is discharged without liability to each other. If funding is eventually made available after June 2009, the Architect/Engineer has no right to perform services under Articles 1.7 and 1.8 (article referencing scope of work) of this Agreement and the State has no right to require the Architect/Engineer to perform the said services.)*

## **ARTICLE 7. OWNERSHIP OF DOCUMENTS**

### 7.1 INSTRUMENTS OF SERVICE

**7.1.1** 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** Upon execution of this Agreement, the Architect/Engineer grants to the State a perpetual nonexclusive license to reproduce and use, and permit other to reproduce and use for the State, the Architect/Engineer's Instruments of Service solely for the 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 the purposes of completing, using and maintaining the project, or for future alterations, or additions to the Project.

**7.1.3** 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** The Architect/Engineer and its consultants shall, upon completion of the Construction Phase, receive redline As-Built Drawings *and Specifications* from the Construction Manager. 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~~ *electronic CAD files and one (1) hard copy bound set consistent with the latest UCB CAD Standards*. The Architect/Engineer shall also provide the Principal Representative with the As-Built Drawings as received from the Construction Manager.

## ARTICLE 8. INSURANCE

### ~~8.1~~ COMMERCIAL GENERAL LIABILITY

~~8.1.1~~ It is agreed and understood that the Architect/Engineer shall maintain in full force and effect adequate commercial general liability insurance and property damage insurance, as well as workers' compensation and employer's liability insurance pursuant to the State insurance requirements as defined below:

- ~~.1~~ The Architect/Engineer shall obtain, and maintain at all times during the term of this Agreement, insurance in the following kinds and amounts:
  - ~~.a~~ **Standard Workers' Compensation and Employer Liability** as required by State statute, including occupational disease, covering all employees at the work site.
  - ~~.b~~ **General Liability** (minimum coverage)
    - ~~.1~~ Combined single limit of \$600,000 written on an occurrence basis.
    - ~~.2~~ Any aggregate limit will not be less than \$1 million.
    - ~~.3~~ The Architect/Engineer must purchase additional insurance if claims reduce the annual aggregate below \$600,000.
  - ~~.c~~ **Automobile Liability** (minimum coverage) in the amount of \$600,000 combined single limit.
- ~~.2~~ The State of Colorado shall be named as an additional insured on each commercial general liability policy.
- ~~.3~~ The insurance shall include provisions preventing cancellation without 45 calendar days prior written notice, by certified mail to the Principal Representative.
- ~~.4~~ 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 the Services contemplated in this Agreement, provided that any

~~such claim, damage, loss or expense is caused by any negligent act, error or omission of Architect/Engineer, any consultant or associate thereof, or anyone directly or indirectly employed by Architect/Engineer. Architect/Engineer shall submit a Certificate of Insurance at the signing of this Agreement and also any notices of Renewal of said Policy as they occur.~~

*The Architect/Engineer shall obtain and maintain, at its own expense and for the duration of the contract, the minimum insurance coverages set forth below. By requiring such minimum insurance, the University shall not be deemed or construed to have assessed the risk that may be applicable to the Architect/Engineer under this contract. The Architect/Engineer shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Architect/Engineer is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.*

#### COVERAGES

1. **Commercial General Liability** – ISO most current form. Coverage to include:  
Premises and Operations  
Personal / Advertising Injury  
Products / Completed Operations  
Liability assumed under an Insured Contract (including defense costs assumed under contract)  
Broad Form Property Damage  
Independent Contractors
2. **Automobile Liability** including all:  
Owned Vehicles  
Non-owned Vehicles  
Hired Vehicles
3. **Workers Compensation**  
Statutory Benefits (Coverage A)  
Employers Liability (Coverage B)
4. **Professional Liability Insurance**  
*The Architect/Engineer shall maintain Errors and Omissions Liability covering wrongful acts, errors and/or omissions, including design errors of the Architect/Engineer for damage sustained by reason of or in the course of operations under this Contract. The policy/coverages shall be amended to include the following:*
  - a. Amendment of any Contractual Liability Exclusion to state: “This exclusion does not apply to any liability of others which you assume under a written contract provided such liability is  
caused by your wrongful acts.”
  - b. Coverage shall apply for three (3) years after project is complete.

#### **LIMITS REQUIRED**

***The Architect/Engineer shall carry the following limits of liability as required below:***  
**Commercial General Liability**

General Aggregate\$1,000,000  
Products/Completed Operations Aggregate\$1,000,000  
Each Occurrence Limit\$1,000,000  
Personal/Advertising Injury\$1,000,000

**Automobile Liability**

Bodily Injury/Property Damage (Each Accident)\$1,000,000

**Workers' Compensation**

Coverage A (Workers' Compensation) Statutory  
Coverage B (Employers Liability)\$ 100,000 Each Accident  
\$ 100,000 Disease Ea. Employ  
\$ 500,000 Disease-Policy Limit

**Professional Liability**

Each Occurrence/Incident Claim Show Limit as stated in State A/E Agreement/Contract, Section 8.2.1

**ADDITIONAL INSURANCE REQUIREMENTS**

1. All Insurers must be licensed or approved to do business within the State of Colorado, and unless otherwise specified, all policies must be written on a per occurrence basis.
2. The Architect/Engineer shall provide the University of Colorado a Certificate of Insurance Form evidencing all required coverages, prior to commencing work or entering University premises.
3. The Architect/Engineer shall name "**The State of Colorado and The Regents of the University of Colorado, a body corporate**" as an Additional Insured as respects General Liability.
4. Upon request by the University, Architect/Engineer must provide a copy of the actual insurance policy effecting coverage(s) required by the contract.
5. The University requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the University.
6. A Separation of Insureds Clause must be included in general liability policies.
7. The Architect/Engineer shall advise the University in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Architect/Engineer will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the University a new certificate of insurance showing such coverage is in force.
8. Architect/Engineer's insurance carrier should possess a minimum A.M. Best's Insurance Guide rating of A- VI.
9. Provide a minimum of 30 days advance written notice to the University for cancellation, non-renewal, or material changes to policies required under the contract.

Failure of the Architect/Engineer to fully comply with these requirements during the term of the Contract may be considered a material breach of contract and may be cause for immediate termination of the Contract at the option of the University. The University reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

**Non-Waiver**

The parties hereto understand and agree that The University is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101 et seq., as from time to time amended, or otherwise available to the University or its officers, employees, agents, and volunteers.

**Mutual Cooperation**

The University and Architect/Engineer shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.

**8.2 PROFESSIONAL ERRORS AND OMISSIONS LIABILITY**

**8.2.1** 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 and Real Estate Programs. The policy, including claims-made forms, shall remain in effect for the duration of this Agreement and for at least three (3) 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 the 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 the 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

**ARTICLE 9. INDEMNIFICATION**

**9.1 INDEMNIFYING THE STATE**

**9.1.1** To the extent authorized by law, the Architect/Engineer shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorney's fees, to the extent such claims are caused by any negligent act or omission of, or breach of contract by, the Architect/Engineer, its employees, agents, subcontractors or assignees pursuant to the terms of this Contract, but not to the extent such claims are caused by any act or omission of, or breach of contract by, the State, its employees, agents, other contractors or assignees, or other parties not under the control of or responsible to the Architect/Engineer.

**ARTICLE 10. TERMINATION OF AGREEMENT**

**10.1 DEFAULT**

**10.1.1** This Agreement may be terminated by either party upon seven (7) days written notice with copies filed with the State Buildings and Real Estate Programs and the State Controller, should the other party fail substantially to perform in accordance with its terms through no fault of the other.

## **10.2** TERMINATION FOR CONVENIENCE OF STATE

**10.2.1** 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.

**10.2.2** 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:

- .1** 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,
- .2** Assign to the State, in 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.

**10.2.3** 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) year from the effective date thereof, unless one or more extensions in writing are granted by the Principal Representative upon written request of the Architect/Engineer within such one (1) year 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 him, 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.

**10.2.4** Cost claimed, agreed to, or determined pursuant to paragraphs 10.2.3 above and 10.2.5 below shall be in accordance with the provisions of Chapter 7 (Cost Principles) of the Colorado Procurement Rules as in effect on the date of this Agreement.

**10.2.5** Subject to the provisions of paragraph 10.2.3 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.

**10.2.6** 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.

**10.2.7** 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:

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

Other than the above, any termination inventory resulting from the termination of this Agreement may, with written approval of the Principal Representative, be sold or acquired by the Architect/Engineer under the conditions prescribed by, and at a price or prices approved by, the Principal Representative. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the State to the Architect/Engineer under this Agreement or shall otherwise be credited to the price of services covered by this Agreement or paid in such other manner as the Principal Representative may direct. Pending final disposition of property arising from the termination, the Architect/Engineer agrees to take such action as may be necessary, or as the Principal Representative may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Architect/Engineer and in which the State has or may acquire an interest.

## **ARTICLE 11. MISCELLANEOUS PROVISIONS**

### **11.1 PROFESSIONAL ASSOCIATION PERMITTED**

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

### **11.2 DISSOLUTION OF PROFESSIONAL ASSOCIATION**

**11.2.1** In the event there is dissolution of the association, other than by death of a member, the State, 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.

### **11.3 DEATH OR DISABILITY**

**11.3.1** In the event of the death of one member of an association, the surviving member or members of the association, as an association, shall succeed to the rights and obligations of

the original association hereunder. In the event of the death or disability of a sole Architect/Engineer, which shall prevent his performance of this Agreement after the same shall have been commenced by him, such Architect/Engineer, in the event of his disability, or his executors or administrators, in the event of his death, shall be paid such sums as may be due the Architect/Engineer under this Agreement. In such event all drawings, specifications, and models therefore prepared by the Architect/Engineer shall be delivered to and become the property of the State of Colorado with full authority to use, employ, or modify the same in the construction of the contemplated building, either at the same site or at some other site.

#### 11.4 ASSIGNMENT OF AGREEMENT NOT PERMITTED

11.4.1 The Architect/Engineer may not assign his performance of this agreement, or any money due or to become due by operation of this Agreement, without prior written consent of the Principal Representative and the State Controller.

#### 11.5 SUCCESSORS AND ASSIGNS

11.5.1 The Architect/Engineer agrees not to assign rights or delegate duties under this Contract (or subcontract any part of the performance required under the contract) without express, written consent of the Principal Representative (which shall not be unreasonably withheld). This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by Section 4-9-318, C.R.S., provided that written notice of assignment adequate to identify the rights assigned is received by the Principal Representative. Such assignment shall not be deemed valid until received by the Principal Representative. The Architect/Engineer assumes the risk that the Principal Representative receives such written notice of assignment.

#### 11.6 WAGE RATES

11.6.1 In accordance with Section 24-30-1404(1) C.R.S., as amended, the Architect/Engineer has executed a schedule, which is attached hereto and made a part hereof by reference as **Exhibit B**, Wage Rate Schedule, stating that wage rates and other factual unit costs supporting the compensation paid by the State for these professional services are accurate, complete, and current.

11.6.2 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 (1) year following the end of the contract.

#### 11.7 BENEFITS ACCRUING TO OTHERS

11.7.1 Benefits accruing to other State Employees or Officers:

- (a) No benefits, payments, or considerations received by Architect/Engineer for the performance of services associated and pertinent to this Agreement shall accrue, directly or indirectly, to any employee, or employees, elected or appointed officers or representatives, or by any other person or persons identified as agents of, or who are by definition, public servants of the State of Colorado.

- (b) The signatories hereto aver that they are familiar with Section 18-8-301, C.R.S. as amended (Bribery and Corrupt Influences) and Section 18-8-410 C.R.S. as amended (Abuse of Public Office), and that no violations of such provisions are present.
- (c) The signatories hereto aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein.

## 11.8 CONTINGENT FEE PROHIBITION

**11.8.1** In accordance with Section 24-30-1404(4) C.R.S., as amended, the Architect/Engineer warrants that he has not employed or retained any company or person other than a bona fide employee working solely for him, to solicit or secure this contract, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for him, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of this contract.

**11.8.2** For breach or violation of this warranty, the Principal Representative shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, or consideration.

## 11.9 STATUTORY DESIGN REQUIREMENTS

**11.9.1** The Principal Representative and the Architect/Engineer understand and agree they are familiar with the provisions of Colorado Revised Statutes, as amended, 24-82-601 to 602, 24-30-1304 to 1305 and 9-5-101 to 112 and to the extent applicable, shall comply with those provisions in the design of this Project. Further, when applicable, this Project shall comply with Headnotes 4 and 5 and Footnote 3 of Section 3, Senate Bill 218 of the 1987 Legislative Session as follows:

- .1 Footnote (3) Due to problems experienced with roofs with minimal grade, all roofing systems on new construction should have a minimum slope of one-quarter inch per foot. In addition, structural systems of buildings built on bentonite should not be slab on grade.
- .2 Headnote (4) Operating and maintenance costs shall be a major consideration in the design and construction of any project involving renovation.
- .3 Headnote (5) Except as otherwise specifically noted, figures in parentheses beneath the appropriation figures in this section designate the gross square footage within 5%, to which the structures may be built.

## 11.10 GOVERNING LAW

**11.10.1** The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision

herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

## **11.11 EXTENT OF AGREEMENT**

**11.11.1** This Agreement represents the entire and integrated agreement between the Principal Representative and the Architect/Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the Principal Representative, the Architect/Engineer, the Manager of State Buildings and Real Estate programs or delegate, the Attorney General or delegate and the State Controller or delegate.

**11.11.2** Principal Representative and Architect/Engineer understand and agree the attachments and exhibits hereto are and shall be integral parts of this Agreement and the terms and provisions thereof are hereby incorporated, made a part of and shall supplement those recited herein. In the event of any conflict, or variance, the terms and provisions of this printed Agreement shall supersede, govern and control.

## **11.12 CONTRACTUAL RELATIONSHIP**

**11.12.1** Nothing contained herein shall be deemed to create any contractual relationship between the Architect/Engineer and the Construction Manager or any of the contractors, subcontractors of any tier, or material suppliers on the Project; nor shall anything contained in this Agreement be deemed to give any subcontractor of any tier, material supplier, or third party any claim or right of action against the State or the Architect/Engineer which does not otherwise exist without regard to this Agreement, or the Contract Documents.

## **11.13 INDEPENDENT CONTRACTOR**

**11.13.1** The Architect/Engineer shall perform its duties hereunder as an independent contractor and not as an employee. Neither the Architect/Engineer nor any agent or employee of the Architect/Engineer shall be or shall be deemed to be an agent or employee of the State. Architect/Engineer shall pay when due all required employment taxes and income tax and local head tax on any monies paid pursuant to this contract. Architect/Engineer acknowledges that the Architect/Engineer and its employees are not entitled to unemployment insurance benefits unless the Architect/Engineer or a third party provides such coverage and that the State does not pay for or otherwise provide such coverage. Architect/Engineer shall have no authorization, express or implied, to bind the State to any agreements, liability, or understanding except as expressly set forth herein. Architect/Engineer shall provide and keep in force worker's compensation (and show proof of such insurance) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of the Architect/Engineer, its employees and agents.

## **11.14 PUBLIC ART LAW**

**11.14.1** In recognition of the Public Art Law, section 24-80.5-101, C.R.S. 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.

#### 11.15 VENDOR OFFSET PROGRAM

**11.15.1** Pursuant to C.R.S. 24-30-202.4 as amended, the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, C.R.S.; (c) unpaid loans due to the Student Loan Division of the Department of Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the State Controller.

#### 11.16 DESIGNATED REPRESENTATIVE

**11.16.1** The Principal Representative, ~~the Program Manager~~, and the Architect/Engineer authorize the following individuals to act on their behalf as Designated Representatives and points of contact as described in paragraphs 1.2.4 and 3.1.3.

For the Principal Representative

**Paul M. Leef, AIA**  
Department of Facilities Management

For the Program Manager

N/A

For the Architect/Engineer

**Clayton Cole, AIA**  
Slaterpaul Architects

### **ARTICLE 12. NON-DISCRIMINATION**

#### 12.1 COMPLIANCE

**12.1.1** The Architect/Engineer agrees to comply with the letter and spirit of all applicable state and federal law respecting discrimination and unfair employment practices.

### **ARTICLE 13. VALIDITY OF AGREEMENT**

#### 13.1 APPROVAL

**13.1.1** This Agreement shall not be deemed valid until it shall have been approved by the Controller of the State or such assistant as he may designate.

#### 13.2 WORK PRIOR TO EXECUTION OF CONTRACT

**13.2.1** Work or services performed, or expenses incurred by the Architect/Engineer prior to the approval of this contract or, any subsequent Supplement or Amendment, by the Controller of the State of Colorado, without the prior written consent of the Principal Representative, SHALL NOT be reimbursable under the terms and conditions of this contract pursuant to Section 24-30-202(3), C.R.S. as amended.

#### 13.3 FINANCIAL OBLIGATIONS

**13.3.1** Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

Appendix E A/E Agreement Sample

In Witness Whereof, the parties hereto have executed this Agreement in original and one counterpart at Boulder, Colorado the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

The Architect/Engineer:

The Regents of the University of Colorado  
A Body Corporate, for and on behalf of the  
University of Colorado at Boulder

\_\_\_\_\_/\_\_\_\_\_  
Legal Name of Contracting Entity / Date

By: \_\_\_\_\_/  
George Hank Brown, President / Date

\_\_\_\_\_  
Social Security Number or FEIN

Approval Sate Buildings Programs  
(or authorized delegate)  
Planning, Design & Construction

\_\_\_\_\_  
Print Name & Title of Authorized Officer

By: \_\_\_\_\_/  
Paul M. Leef, AIA, LEED™ AP / Date  
Campus Architect, AIA, LEED™ AP  
Director, Planning, Design & Construction

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

Legal Review  
Attorney General authorized delegate

CORPORATIONS

Attest (Seal)

By: \_\_\_\_\_/  
Corporate Secretary, or Equivalent /Date  
Town/City/County Clerk  
(Place corporate seal here, if available)

By: \_\_\_\_\_/  
/ Date

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER:**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Contractor is not authorized to begin performance until the contract is signed and dated. If performance begins prior to the date, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

Steve McNally, Associated Vice Chancellor and Controller

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

Date: \_\_\_\_\_

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP-08)**

**EXHIBIT A - KTCH – Capital Renewal – PR 003218**

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

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR *MODEL FORMAT***  
(STATE FORM SBP-08)

**EXHIBIT B - KTCH – Capital Renewal – PR 003218**

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**WAGE RATES SCHEDULE**  
(attached)

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR MODEL FORMAT  
(STATE FORM SBP-08)**

**EXHIBIT C - KTCH – Capital Renewal – PR 003218**

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**ARCHITECT/ENGINEER CERTIFICATION**

I hereby certify:

- a. That I am the \_\_\_\_\_ and duly authorized representative of the firm of **Slaterpaul Architects**; and
- b. That the wage rates and other factual unit costs supporting the compensation to be paid by the State for these professional services are accurate, complete, and current; and
- c. That I understand the original contract price and any additions shall be adjusted to exclude any significant sums by which the State determines the contract price had been increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs; and
- d. That all such contract adjustments shall be made within one year following the end of this contract.

ARCHITECT/ENGINEER

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

APPENDIX B A/E AGREEMENT SAMPLE

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR *MODEL FORMAT***  
(STATE FORM SBP-08)

**EXHIBIT D - KTCH – Capital Renewal – PR 003218**

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**APPROVED CODES**

Appendix E A/E Agreement Sample

## **APPROVED STATE BUILDING CODES (July / December 2007)**

The following approved building codes and standards have been adopted by State Buildings Programs (SBP) as the minimum requirements to be applied to all state-owned buildings and physical facilities including capital construction and controlled maintenance construction projects.

### **The 2006 edition of the International Building Code (IBC)**

(as adopted by the Colorado State Buildings and Real Estate Programs as follows: Chapters 2-35 and Appendices C and I)

### **The 2006 edition of the International Mechanical Code (IMC)**

(as adopted by the Colorado State Buildings and Real Estate Programs as follows: Chapters 2-15 and Appendix A)

### **The 2006 edition of the International Energy Conservation Code (IECC)**

(as adopted by the Colorado State Buildings and Real Estate Programs)

### **The 2005 edition of the National Electrical Code (NEC)**

(National Fire Protection Association Standard 70) (as adopted by the Colorado State Electrical Board)

### **The 2003 edition of the International Plumbing Code (IPC)**

(as adopted by the Colorado Examining Board of Plumbers as follows: Chapter 1 Section 101.2,102, Chapters 2-13 and Appendices B, D, E, F and G)

The 2003 edition of the International Fuel Gas Code (IFGC)

(as adopted by the Colorado Examining Board of Plumbers as follows: Chapter 1 Section 101,102, Chapters 2-8 and Appendices A, B, C and D)

### **The National Fire Protection Association Standards (NFPA)**

(as adopted by the Department of Public Safety/Division of Fire Safety as follows with editions shown in parentheses: NFPA-1 (2006), 11 (2005), 12 (2005), 12A (2004), 13 (2002), 13D (2002), 13R (2002), 14 (2003), 15 (2001), 16 (2003), 17 (2002), 17A (2002), 20 (2003), 22 (2003), 24 (2002), 25 (2002), 72 (2002), 409 (2004), 423 (2004), 750 (2003), 2001 (2004)) and 45 (latest edition).

### **The 2004 edition of the ASME Boiler and Pressure Vessel Code**

(as adopted by the Department of Labor and Employment/Boiler Inspection Section as follows: sections I, IV, VIII-Divisions 1 and 2 and 3, X and B31.1)

### **The 2004 edition of the National Boiler Inspection Code (NBIC)**

(as adopted by the Department of Labor and Employment/Boiler Inspection Section)

### **The 2004 edition of the Controls and Safety Devices for Automatically Fired Boilers CSD-1**

(as adopted by the Department of Labor and Employment/Boiler Inspection Section)

### **The 2004 edition of the Boiler and Combustion Systems Hazards Code, NFPA 85**

(as adopted by the Department of Labor and Employment/Boiler Inspection Section)

**The current edition of the Rules and Regulations Governing the Sanitation of Food Service Establishments**

(as adopted by the Department of Public Health and Environment/Colorado State Board of Health)

**The 2003 edition of ICC/ANSI A117.1, Accessible and Usable Buildings and Facilities**

(as adopted by the Colorado General Assembly as follows: CRS 9-5-101, as amended, for accessible housing)

**Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG).**

In case of a conflict between references applicable codes, the one having the more stringent requirements shall govern. Where governing codes indicate that the drawings or specifications do not comply with the minimum requirements of the codes, the Contractor shall be responsible for providing an installation, which will comply with code requirements. Drawings and specifications shall be followed where they are superior to code requirements.

Note: Additional codes, standards and appendices may be adopted by the state agencies and institutions in addition to the minimum codes and standards herein adopted by State Buildings Programs.

1. The 2003 edition of the IBC became effective on July 1 of 2004. Consult the state electrical and plumbing boards and the state boiler inspector and the Division of Fire Safety for adoption of current editions and amendments to their codes.
2. Projects should be designed and plans and specifications should be reviewed based upon the approved codes at the time of A/E contract execution. If an agency prefers to design to a different code such as a newer edition of a code that State Buildings Programs has not yet adopted, the agency must contact SBP for approval and then amend the A/E contract with a revised Exhibit D, Approved State Building Codes. Please note that the state plumbing and electrical boards enforce the editions of their codes that are in effect at the time of permitting not design.
3. The state's code review agents, or the State Buildings Programs approved agency building official, shall review all documents for compliance with the codes stipulated herein. Note: The Department of Public Health and Environment, Division of Consumer Protection will review drawings for food service related projects.
4. This policy does not prohibit the application of various life safety codes as established by each agency for specific building types and funding requirements. NFPA 101 and other standards notwithstanding, approved codes will supersede where their minimum requirements are the most restrictive in specific situations. If a conflict arises, contact State Buildings Programs for resolution.
5. It is anticipated that compliance with the federal Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities(ADAAG) and Colorado Revised Statutes Section 9-5-101 will be met by compliance with the 2003 International Building Code and ICC/ANSI A117.1. However, each project may have unique aspects that may require individual attention to these legislated mandates.

6. The 2003 edition of the International Building Code (IBC) is to be applied to factory-built nonresidential structures as established by the Division of Housing within the Department of Local Affairs.

#### **A. Appendices**

Appendices are provided to supplement the basic provisions of the codes. Approved IBC Appendices are as follows:

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1. Mandatory
  - IBC Appendix Chapter C - Agricultural Buildings
  - IBC Appendix Chapter I - Patio Covers
2. Optional
  - Any non-mandatory appendix published in the International Building Code may be utilized at the discretion of the agency. Use of an appendix shall be indicated in the project code approach.

#### **A. Amendments**

None

#### **B. Referenced Codes**

1. While not adopted in entirety, portions of the following codes are referenced in the International Building Code (IBC), the International Mechanical Code (IMC), the International Energy Conservation Code (IECC) the International Plumbing Code (IPC), and the International Fuel Gas Code (IFGC). These following codes would be applied as reference standards.

2003 International Fire Code (IFC)  
2003 International Existing Building Code (IEBC)

#### **C. Referenced Standards**

The IBC, IMC, IECC, IPC and IFGC standards shall be utilized to provide specific, or prescriptive, requirements on how to achieve the requirements established in the code. These standards may be unique to the code or may be derived from other established industry standards. Recognized standards may also be used to show compliance with the standard of duty established by the code.

END

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP-08)**

**EXHIBIT E - KTCH – Capital Renewal – PR 003218**

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**CODE COMPLIANCE PLAN REVIEW PROCEDURES**

***CODE REVIEW SYSTEM / FORMAT***

**Appendix E A/E Agreement Sample**

## **CODE REVIEW SYSTEM/FORMAT FOR UCB PROJECTS**

### **PART 1 - CODE REVIEW OBJECTIVES:**

- 1.1 *To enhance the level of compliance with codes.*
- 1.2 *To provide clear direction for the design team throughout the design process.*
- 1.3 *To use in answering questions raised during the construction phase.*
- 1.4 *A secondary objective of the code review is to provide adequate information, on file, for future reference, e.g., during future alterations and renovations.*

### **PART 2 - PARTIES WHO SHOULD DEVELOP THE CODE REVIEW:**

- 2.1 *Preparation of the code review shall remain the responsibility of the design team, normally led by the lead consultant.*

### **PART 3 - TIMING OF THE CODE REVIEW:**

- 3.1 *It is recommended that a preliminary code review be submitted with the program plan or conceptual design. The code edition/version is to be identified and listed. The code review shall be updated and submitted at the schematic design (SD), design development (DD) and contract documents (CD) stages of the project.*

### **PART 4 - EVALUATION OF THE CODE REVIEW:**

- 4.1 *Fire, life, and health and safety code issues, see items 7.1 through 7.9 below, shall be evaluated by the Fire Life Safety Group (FLS). Other code issues shall be evaluated by the designated Authority Having Jurisdiction (AHJ).*

### **PART 5 - WHERE TO PLACE THE CODE REVIEW:**

- 5.1 *The code review shall be located on the front sheet(s) of the architectural drawings. This will help facilitate filing and ease future reference.*

**PART 6 - CODE REVIEW GUIDELINE:**

6.1 The form in Part 7 may be copied and is to be used by the design team as a checklist to identify applicable items, and as a list of headings for the code review report.

The box next to each item is to be used when using this format as a checklist. If the item does not apply, the box will be marked with "N" for "No"; otherwise, "Y" for "Yes."

6.2 The design team shall contact the University to determine which of the following sections (6.2.1 or 6.2.2) apply to a given project prior to schematic design phase.

The level of detail of the code review depends on the size of the project.

6.2.1 For small (less than \$50,000 construction budget) remodeling projects, only applicable items shall be included. Items that do not apply need not be listed.

6.2.2 For all other construction projects, all items are to be included. Items that do not apply shall be listed and identified with "N/A".

6.3 The code names and paragraph numbers and exceptions shall be identified for each item indicated in the code review report.

**PART 7 - CODE REVIEW CHECKLIST:**

See Part 6 for user instructions.

The code review should include the following sections. In each section, the applicable code paragraph numbers and exceptions should be identified and listed. Please note that all of the following items do not necessarily apply to all projects. The code review needs to address two sets of issues:

- a. Code issues that affect the project area: for example, change in use/occupancy, exit doors, fire rating of partitions, and classification of interior finish.
- b. Code issues outside the project area, only to the extent affected by changes in the project area. For example, if the occupant load of this floor has increased, the code review is to identify the required width of exits and verify that the existing stairs provide adequate width for the new occupant load.

**7.1 The Building**

- [ ] 7.1.1 Building height and area
- [ ] 7.1.2 Building occupancy and use groups
- [ ] 7.1.3 Building location with respect to adjacent properties and roads

**7.2 Building Fire Resistance**

- [ ] 7.2.1 *Type of construction*
- [ ] 7.2.2 *Fire resistance of structural members (include sprinklered building exceptions)*
- [ ] 7.2.3 *Fire resistance of all exit routes including stairs, corridors, and ramps*
- [ ] 7.2.4 *Fire resistance of vertical openings and shafts*
- [ ] 7.2.5 *Fire resistance of special occupancy enclosures such as storage rooms and hazardous areas*
- [ ] 7.2.6 *Fire resistance of other building elements such as partitions, doors, and exterior wall openings.*
- [ ] 7.2.7 *Sealing of penetrations.*

### **7.3 Ignition Prevention**

- [ ] 7.3.1 *Identify potential ignition sources and related code requirements*
- [ ] 7.3.2 *Identify hazardous locations and the required classifications*

### **7.4 Fuel Control**

- [ ] 7.4.1 *List amount and type of combustible material, e.g., fire retardant treated wood, that may be used. (See also 7.9, Special Hazards.)*
- [ ] 7.4.2 *Identify and list interior finish classifications in exit paths, places of assembly, and all other areas.*
- [ ] 7.4.3 *Identify allowable types of furniture.*

### **7.5 Means of Egress**

- [ ] 7.5.1 *Determine and list occupant load factors and occupant loads for each floor and for each major space within a floor, e.g., assembly areas.*
- [ ] 7.5.2 *Determine the minimum number of exits required for each floor and for each major room, e.g., assembly areas and labs, within a floor.*
- [ ] 7.5.3 *Determine the minimum width of exits required for each floor and for each major room, e.g., assembly areas within a floor, ADA requirements.*
- [ ] 7.5.4 *Determine the maximum allowable travel distance.*
- [ ] 7.5.5 *Determine the maximum allowable dead-end.*
- [ ] 7.5.6 *Determine the maximum common path of travel allowed.*
- [ ] 7.5.7 *Determine the swing direction requirements.*
- [ ] 7.5.8 *Determine the place of refuge requirements; number, size, and location.*
- [ ] 7.5.9 *Determine exit signage requirements.*
- [ ] 7.5.10 *Determine exit lighting requirements.*
- [ ] 7.5.11 *Determine emergency power supply requirements.*

### **7.6 Smoke Management Systems**

- [ ] 7.6.1 *Determine smoke resistance requirements for corridors, lobbies, etc.*

- [ ] 7.6.2 Determine any active and/or passive smoke extract requirements.
- [ ] 7.6.3 Determine locations and sequence of operations for all smoke and fire/smoke dampers and duct detectors.
- [ ] 7.6.4 Determine stair pressurization requirements.
- [ ] 7.6.5 Determine high-rise building requirements.
- [ ] 7.6.6 Determine basement requirements.

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR *MODEL FORMAT***  
(STATE FORM SBP-08)

**EXHIBIT F - KTCH – Capital Renewal – PR 003218**

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**DESIGNATED SCOPE OF SERVICES**

(AIA Document B-163 Articles 1.1 and Part 2, to be attached)

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR *MODEL FORMAT***  
(STATE FORM SBP-08)

**EXHIBIT G - KTCH – Capital Renewal – PR 003218**

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**DESIGN PROGRAM/FACILITIES PROGRAM PLAN**  
(attached)

The Design Program/Facilities Program Plan is located at the University of Colorado at Boulder, Department of Facilities Management, Office of Planning, Design & Construction, [Project Number PR 003218](#)

Appendix E A/E Agreement Sample

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP-08)**

**EXHIBIT H - KTCH – Capital Renewal – PR 003218**

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**MINORITY AND WOMEN BUSINESS ENTERPRISES PARTICIPATION REPORT**

Appendix E A/E Agreement Sample



STATE OF COLORADO  
OFFICE OF THE STATE ARCHITECT  
STATE BUILDINGS PROGRAMS

**MINORITY/WOMEN BUSINESS ENTERPRISE PARTICIPATION REPORT**

Institution/Agency: University of Colorado at Boulder  
Project No./Name: PR 003218 – KTCH – Capital Renewal

TO BE ELIGIBLE FOR AWARD OF THIS CONTRACT, EACH CONTRACTOR (INCLUDING ARCHITECT/ENGINEER/CONSULTANT) IS REQUESTED TO COMPLY WITH THESE REQUIREMENTS.

I. The undersigned contractor hereby certifies that the (company) (joint venture) (is) (is not)\* a minority enterprise as defined in this report. The undersigned contractor hereby certifies the (company) (joint venture) (is) (is not)\* a woman-owned business enterprise as defined. (\*Strike out where inapplicable.)

If Corporation:

If Sole Proprietorship/Partnership:

Corporation Name \_\_\_\_\_

Architect/Engineer/Consultant or Contractor \_\_\_\_\_

By: \_\_\_\_\_  
Date

By: \_\_\_\_\_  
Date

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Secretary Date

II. It is the general policy of the State of Colorado to be as inclusive as possible to all member communities when spending taxpayer dollars.

III. REQUIREMENTS

- A. Minority Business Enterprise (MBE) means, for the purpose of this report, a business enterprise at least 51 percent that is owned and controlled by minority group members, or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned and controlled by minority group members. Eligible persons are expected to be engaged full time in the day-to-day operation and management of the business. Minority group members are ethnic minorities including African American, Hispanic American, Native American or Asian/Pacific American.
- B. Women Business Enterprise (WBE) means, for the purpose of this report, a business enterprise of at least 51 percent of which is owned and controlled by a woman or women, or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned and controlled by women. Women are expected to be engaged full time in the day-to-day operation and management of the business.
- C. The State of Colorado does not have a certification process nor does it require MBE's and WBE's to be certified EXCEPT for certain contracts for highway and bridge construction administered by the Colorado Department of Transportation.
- D. The percentages of minority and women-owned business participation will be determined by dollar value of the work subcontracted to or joint ventured with minority and women-owned firms, as compared to the total dollar value of the bid amount for all work bid under this contract.

E. Prior to the award of this contract, the contractor will be required to provide to the Principal Representative a list of M/WBE enterprises, stipulating the dollar amount of each subcontract or supplier of materials on page 2 of this Minority and Women Business Enterprises Participation Report.

F. The contractor will retain records and documents showing the level of participation for two years following completion of this contract. These records and documents, or copies thereof, will be made available at reasonable times and places for inspection by an authorized representative of the Principal Representative, or its designated representatives, and will be submitted to such representatives upon written request.

MBE: Yes  No  WBE: Yes  No

Total Contract Amount: \$850,000.00

Name and Address of M/WBE Subcontractors and/or Suppliers and/or Self-Performed Work by M/WBE Primes*	MBE Contract Amounts	WBE Contract Amounts	Type of Work

\*Indicate ethnicity based on Paragraph III. A. above.

Total MBE Contracts: \$ \_\_\_\_\_

Total WBE Contracts: \$ \_\_\_\_\_

Total MBE %: \_\_\_\_\_

Total WBE %: \_\_\_\_\_

Appendix E A/E Agreement Sample



**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER / GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP 08)**

**EXHIBIT I – KTCH – Capital Renewal – PR 003218**

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**SOFTWARE PIRACY PROHIBITION**

No state or other public funds payable under this contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The contractor hereby certifies that, for the term of this contract and any extensions, the contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the state determines that the contractor is in violation of this paragraph, the state may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of the contract any remedy consistent with United States copyright laws or applicable licensing restrictions.

Appendix E A/E Agreement

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER / GENERAL CONTRACTOR *MODEL FORMAT*  
(STATE FORM SBP 08)**

**EXHIBIT J – Certification and Affidavit Regarding Illegal Aliens**

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Appendix E A/E Agreement Sample



STATE OF COLORADO  
 OFFICE OF THE STATE ARCHITECT  
 STATE BUILDINGS PROGRAMS

**CERTIFICATION AND AFFIDAVIT REGARDING ILLEGAL ALIENS**

Institution/Agency: University of Colorado at Boulder  
 Project No./Name: PR 003218 / KTCH – Capital Renewal

The Vendor, whose name and signature appear below, certifies and agrees as follows:

1. The Vendor shall comply with the provisions of CRS 8-17.5-101 et seq. The Vendor shall not knowingly employ or contract with an illegal alien to perform work for the State or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.
2. The Vendor represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, and (ii) otherwise shall comply with the requirements of CRS 8-17.5-102(2)(b).
3. The Vendor shall comply with all reasonable requests made in the course of an investigation under CRS 8-17.5-102 by the Colorado Department of Labor and Employment. If the Vendor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the State may terminate work for breach and the Vendor shall be liable for actual and consequential damages to the State.
4. If the Vendor is a sole proprietor, the undersigned hereby swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):
  - \_\_\_\_\_ I am a United States citizen, or
  - \_\_\_\_\_ I am a Permanent Resident of the United States, or
  - \_\_\_\_\_ I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I am a sole proprietor entering into a contract to perform work for the State of Colorado. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to starting work for the State. I further acknowledge that I will comply with the requirements of CRS 24-76.5-101 et seq. and will produce the required form of identification prior to starting work. I acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under CRS 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

CERTIFIED and AGREED to this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

VENDOR:

\_\_\_\_\_  
 Vendor Full Legal Name

\_\_\_\_\_  
 FEIN or Social Security Number

BY: \_\_\_\_\_  
 Signature of Authorized Representative

\_\_\_\_\_  
 Title