

**STATE OF COLORADO  
OFFICE OF THE STATE ARCHITECT  
STATE BUILDINGS PROGRAMS**



**University of Colorado Boulder  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

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CONTRACT ID NUMBER:

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AGENCY IDENTIFICATION NUMBER:

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PROJECT NUMBER:

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PROJECT NAME:

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ARCHITECT/ENGINEER AGREEMENT  
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**EXHIBITS:**

- A** Architect/Engineer Proposal (including Design Services Schedule and Certificates of Insurance)
- B** Wage Rates Schedule
- C** Approved Codes
- D** ~~Code Compliance Plan Review Procedures~~  
*Code Review System/Format for UCB Projects*
- E** Design Program/Facilities Program Plan
- F** Certification and Affidavit Regarding Unauthorized Immigrants (required at contract signing prior to commencing work)
- G.** Contract Management Information

**STATE OF COLORADO**

**ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

Agency I.D. Number \_\_\_\_\_ Contract ID No.: \_\_\_\_\_ Project No.: \_\_\_\_\_

**1. PARTIES.** THIS AGREEMENT is entered into by and between the STATE OF COLORADO, acting by and through the *Regents of the University of Colorado, a Body Corporate*, hereinafter referred to as the Principal Representative, and (vendor name) having its offices at (vendor address) engaged to serve as Architect/Engineer, hereinafter referred to as Architect Engineer.

**2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.** This Agreement shall not be effective or enforceable until it is approved and signed by the State Controller or its designee (hereinafter called the "Effective Date"), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be liable to pay or reimburse Architect/Engineer for any performance hereunder or be bound by any provision hereof prior to the Effective Date.

**WHEREAS**, the Principal Representative intends to \_\_\_\_\_ 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 \_\_\_\_\_, Speed Type/Account Number \_\_\_\_\_, Contract Encumbrance Number \_\_\_\_\_, and

**WHEREAS**, the State has **Appropriated** and the Principal Representative has been authorized to expend the total sum of \_\_\_\_\_ 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**, *funds are available for only a portion of the services defined herein, as more fully described in the funding Condition Precedent clause in Article 6.5.*

**WHEREAS**, the Principal Representative has established the **Fixed Limit of Construction Cost** in the amount of \_\_\_\_\_ Dollars (\_\_\_\_\_); 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 SERVICES OF THE ARCHITECT/ENGINEER**

### **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 \_\_\_\_\_ 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 \_\_\_\_\_, submitted by the Architect/Engineer, which is attached hereto and made a part hereof by reference as **Exhibit A**. 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 \_\_\_\_\_. 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 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 Programs (as a minimum standard) as indicated in **Exhibit C**, Approved Codes. Other more restrictive standards as specified by the Principal Representative are as indicated in **Exhibit C**. Drawings and specifications are to be reviewed by the State's approved Code Review Agents at the appropriate phases and with the required information as described in the attached ~~Code Compliance Reviews Code Review System/Format For UCB Projects~~, **Exhibit D**.

**1.1.8** *The University of Colorado shall have available the University of Colorado Boulder (UCB) Building and Construction Standards (collectively referred to as "UCB Standards"). The latest UCB Standards and any applicable standards adopted by the Governor are the design standards to which the Architect/Engineer is 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://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html> . The UCB Standards include design criteria, guidelines and acceptable products. The Architect/Engineer agrees to utilize the UCB Standards.*

## **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 Architect/Engineer's Proposal **Exhibit A**.

### **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 FE**, 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 (\_\_\_) complete sets of drawings, 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 (\_\_\_) 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.
- .5 *Electronic files that conform with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at <http://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html>*

**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;
- .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 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 (\_\_\_\_\_) complete sets of drawings, 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 (\_\_\_\_\_) 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 *Electronic files that conform with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at <http://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html>*

**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 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).
- .9 *Electronic files that conform with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at:*

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 C**. 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 (\_\_\_\_) complete sets and (1 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 International Building Code (I.B.C.) 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 D**, ~~Code Compliance Reviews~~ *Code Review System/Format*, that defines area separation, fire and smoke barriers, exits, exit passages, and exit enclosures.
- .5 *Electronic files that conform with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at*  
<http://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html>

**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 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: (\_\_\_\_) sets and (1 reproducible) complete set *or one (1) CAD (.dwg) disk* to ensure distribution among contractors and subcontractors in accordance with the advertisement for bids.

.2 For Contract Documents: The Principal Representative will require (\_\_\_\_) sets of Contract Documents *and electronic files that conform with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at <http://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html>*. ~~The One (1) set of Contract Documents for each Bid Package, shall bearing the professional seal and signature of the Architect/Engineer and the appropriate responsible professional engineering consultants, are to be signed by the Construction Manager and Principal Representative at each contract signing conference.~~ The Architect/Engineer acknowledges that prior to the ~~contract signing conference~~ and State Buildings Programs authorizing the Notice to Proceed to Commence Construction Phase State Form SBP-7.26 a Letter of Compliance must be obtained from the State's Code Review Agent verifying that the contract Documents and all ~~addenda~~, value engineering recommendations and all other changes to the bidding documents are in compliance with the applicable codes as adopted by State Buildings Programs as indicated in **Exhibit C**

.3 For Construction: The Construction Manager shall be furnished with (      ) ~~sets or partial sets of the Contract Documents~~ *one (1) CAD (.dwg) disk of the Bidding Documents* to insure prompt prosecution of the work.

.4 (      ) 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 Substantial Completion or the Notice of Partial 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 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 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 SC-6.0, 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** The Architect/Engineer shall prepare and issue Emergency Field Change Orders as required by the Principal Representative, but such Emergency Field Change Orders shall be

issued only in accordance with the policies of State Buildings Programs to order extra work or make changes in the case of an emergency that is a threat to life or property or where the likelihood of delays in processing a normal Change Order will result in substantial delays and or significant cost increases for the Project. Emergency Field Change Orders are not to be used solely to expedite normal Change Order processing absent a clear showing of a high potential for significant and substantial cost or delay.

**1.8.28** When the Work is substantially complete in the opinion of the Construction Manager, the Construction Manager is required to file a written Notice with the Architect/Engineer with an attached preliminary punch-list of remaining items to be completed or corrected. The Architect/Engineer shall thereafter notify State Buildings Programs and the Principal Representative, that the work, in the opinion of the Construction Manager, is substantially complete under the terms of the Contract. This Notice shall receive prompt action by the notified parties.

**1.8.29** When the Architect/Engineer determines after review of the Construction Manager's written Notice that the Work or a portion of the Work is ready for an inspection to determine whether the Work is substantially complete, the Architect/Engineer with the Principal Representative and the Construction Manager shall, within ten days of receipt of the Construction Manager's Notice, conduct a final inspection to determine whether the Work is substantially complete and in accordance with the requirements of the Contract Documents. State Buildings Programs shall be notified of the final 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 or Specifications, if any;
- (c) Unsatisfactory work for any reason, if any;
- (d) Date for Completion of the Punch List Items.

**1.8.30** If the Architect Engineer determines, after consultation with the Principal Representative, that the Work or a portion of the Work is complete, then the Architect/Engineer shall prepare the Notice of Substantial Completion, State form SBP-07 which the Architect Engineer shall transmit in writing to the Construction Manager and the Principal Representative for signature. The required number of copies of the punch list must be countersigned by the Construction Manager and the Principal Representative and will then be transmitted by the Architect/Engineer to the Construction Manager, the Principal Representative, and State Buildings 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 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** The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall establish the Date of Substantial Completion or the Date of Partial Substantial Completion and such date shall be the date of commencement of the Construction Manager's twelve month guarantee, except to the extent stated otherwise in accordance with the limited exceptions provided in the General Conditions of the Contract. The Notice of Substantial

Completion, or the Notice of Partial Substantial Completion, shall state the responsibilities of the Principal Representative and the Construction Manager for security, maintenance, heat, utilities, property insurance premiums and damage to the finished construction as required. The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall be submitted to the Principal Representative and the Construction Manager for their written acceptance of the responsibilities assigned to them in such Notice. The Notice of Substantial Completion, or the Notice of Partial Substantial Completion, shall attach and incorporate the Architect/Engineer's final punch list and Construction Manager's schedule for the completion of each and every item identified on the final punch list.

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

**1.8.34** The Construction Manager shall forward the completed close-out documents to the Architect/Engineer for signature. Upon receipt from the Construction Manager of written notice that the Architect/Engineer's final punch list is sufficiently complete the Architect/Engineer shall make a final inspection of work remaining on the final punch list and prepare the Pre Acceptance Checklist State form SBP-05. The Architect/Engineer upon receipt and verification that the close-out documents and the items of work are complete, shall prepare and forward to the Principal Representative a letter (including the signed close-out documents) stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of observations and inspections, the Work, or designated portion thereof, has been completed in accordance with the terms and conditions of the Contract Documents and is ready for the issuance of a Notice of Acceptance or Notice of Partial Acceptance as appropriate. A Notice of Partial Acceptance shall be based only upon the work for which a Notice of Partial Substantial Completion has been executed and all necessary items of work and other requirements have been completed.

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

**1.8.36** The Architect/Engineer shall receive and forward to the Principal Representative for review, written warranties and related close-out 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. When such materials have been received and approved the Architect/ Engineer shall certify the Construction Manager's Final Application for Payment and forward the same to the Principal Representative

**1.8.37** Except as otherwise agreed below in 1.9, POST CONSTRUCTION PHASE, the Architect/Engineer, the Principal Representative and the Construction Manager shall make at least two complete inspections of the work after the work has been accepted. One such inspection, the Six-Month Warranty Inspection, shall be made approximately six (6) months after the Date of Substantial Completion or the Date of Partial Substantial Completion; and another such inspection, the Eleven-Month Warranty Inspection, shall be made approximately eleven (11) months after the Date of Substantial Completion or the Date of Partial Substantial Completion. The Principal Representative shall schedule and so notify all parties concerned, including State Buildings Programs, of these inspections.

**1.8.38** 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 list items and notify the Principal Representative when such have been completed.

## **1.9 POST CONSTRUCTION PHASE**

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

## **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 Programs delegate, including assisting in developing a completed Design Program/Facilities Program Plan, **Exhibit E**, 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 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 \_\_\_\_ (\_\_\_\_) ~~working~~ calendar days for the review of the Design Development Documents plus an additional \_\_\_\_ (\_\_\_\_) working days for final development of the Guaranteed Maximum Price.
- .2 A period of \_\_\_\_ (\_\_\_\_) ~~working~~ calendar days at 50% and 95% completion of the construction documents together with an additional \_\_\_\_ (\_\_\_\_) ~~working~~ calendar days after receipt of all bid documents for each bid package.

#### **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).

**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 A**, Architect/Engineer's Proposal including items which under usual contracting for Architectural/Engineering services could be considered as additional services, and reimbursable items excepting those specifically identified in Article 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 ARCHITECT/ENGINEER'S ACCOUNTING RECORDS**

**6.4.1** 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.

### **6.5 CONDITION PRECEDENT**

**6.5.1** *(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 \_\_\_\_\_ . Therefore, it shall be a Condition Precedent to the Architect/Engineer's performance of the remaining services specified in \_\_\_\_\_ and the State's Liability to pay for such performance, sufficient funding must be appropriated and made available to the Principal Representative for the Project prior to \_\_\_\_\_ and, as a further Condition Precedent, a written Amendment is entered into in accordance with the State of Colorado Fiscal Rules, stating that additional funds are lawfully available for the project. If either Condition Precedent is not satisfied by \_\_\_\_\_, the Architect/Engineer's obligation to perform services for (scope of work) \_\_\_\_\_ and the State's obligation to pay for such service is discharged without liability to each other. If funding is eventually made available*

after \_\_\_\_\_, the Architect/Engineer has no right to perform services under \_\_\_\_\_ (article referencing scope of work) of this Agreement and the State has no right to require the Architect/Engineer to perform the said services.)

## **6.6 INTENT OF DOCUMENTS**

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

1. The Special Provisions, Article 10 of this Agreement (State Form SC-5.1);
2. Any Amendment of this Agreement;
3. All other terms of this Agreement (other than the Special Provisions); and
4. The Architect/Engineer's proposal letter.

The Special Provisions of this Agreement, Article 10, shall in all cases, and without exception, take precedence, rule and control over all other provisions of this Agreement, any exhibits or amendments.

## **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 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 files and one (1) hard copy bound set that conforms with the latest requirements of the UCB CAD Standards. The UCB CAD Standards can be found on the Office of Facilities Management website at <http://www.colorado.edu/facilitiesmanagement/pdc/construction/standards/index.html>.* The Architect/Engineer shall also provide the Principal Representative with the As-Built Drawings as received from the Construction Manager. *Final payment to the Design/Build Entity shall be withheld until all Record Drawings have been submitted and approved by the Principal Representative.*

## **ARTICLE 8. INSURANCE**

### **8.1 GENERAL**

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

### **8.2 COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)**

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

General Aggregate	\$1,000,000
Products — Completed Operations Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
Personal Injury	\$1,000,000

The following coverages shall be included in the CGL:

- ~~1. Additional Insured status in favor of the State of Colorado.~~
- ~~2. The policy shall be endorsed to be **primary and non-contributory** with any insurance maintained by Additional Insureds.~~
- ~~3. A waiver of Subrogation in favor of all Additional Insured parties.~~

~~8.3~~ ~~AUTOMOBILE LIABILITY INSURANCE and business auto liability covering liability arising out of any auto (including owned, hired and non-owned autos).~~

~~Combined Bodily Injury and Property Damage Liability  
(Combined Single Limit): \$1,000,000 each accident~~

~~Coverages:  
Specific waiver of subrogation~~

~~8.4~~ ~~PROFESSIONAL ERRORS AND OMISSIONS LIABILITY~~

~~The Architect/Engineer promises and agrees to maintain in full force and effect an Errors and Omissions Professional Liability Insurance Policy in the amounts (indicated in the following table) as minimum coverage or such other minimum coverage as determined by the Principal Representative and approved by the State Buildings 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.~~

<del>For a Fixed Limit of Construction Cost</del>	<del>Minimum Coverage per Claim</del>	<del>Minimum Coverage in the Aggregate</del>
<del>\$999,999 and under</del>	<del>\$250,000</del>	<del>\$500,000</del>
<del>\$1,000,000 to \$4,999,999</del>	<del>\$500,000</del>	<del>\$1,000,000</del>
<del>\$5,000,000 to \$19,999,999</del>	<del>\$1,000,000</del>	<del>\$2,000,000</del>
<del>\$20,000,000 and Above</del>	<del>\$2,000,000</del>	<del>\$2,000,000</del>

~~The Architect/Engineer shall obtain and maintain, at its own expense and for the duration of the contract including any warranty periods under the Contract are satisfied, the insurance coverages set forth below.~~

~~By requiring such insurance, the Principal Representative shall not be deemed or construed to have assessed the risk that may be applicable to the Architect/Engineer its agents, representatives, employees or sub-consultants under this contract. The insurance requirements herein for this Contract in no way limit the indemnity covenants contained in the Contract.~~

~~The Principal Representative in no way warrants that the limits contained herein are sufficient to protect the Architect/Engineer from liabilities that might arise out of the performance of the work under this Contract by the Architect/Engineer, its agents, representatives, employees, or sub-consultants. 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 AND LIMITS OF INSURANCE** - *Architect/Engineer shall provide coverage with limits of liability not less than those stated below.*

**1. Commercial General Liability** – Occurrence Form – ISO CG 0001 or equivalent.  
Coverage to include:

- Premises and Operations
- Personal / Advertising Injury
- Products / Completed Operations
- Liability assumed under an Insured Contract (including defense costs)
- Broad Form Property Damage

General Aggregate	\$ 2,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Each Occurrence Limit	\$ 1,000,000
Personal/Advertising Injury	\$ 1,000,000

a. The policy shall be endorsed to include the following additional insured language:  
**The Regents of the University of Colorado, a Body Corporate** (ISO Form CG 2010, or equivalent). Further, all policies of insurance shall include a Separation of Insureds Clause (Cross Liability).

**2. Automobile Liability**

Bodily Injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this contract.

Bodily Injury/Property Damage (Each Accident)	\$ 1,000,000
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**3. Workers Compensation and Employers' Liability**

- Statutory Benefits (Coverage A)
- Employers Liability (Coverage B)

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each accident	\$100,000
Disease each employee	\$100,000
Disease policy limit	\$500,000

This requirement shall not apply when an Architect/Engineer or sub-consultant is exempt under Colorado Workers' Compensation Act, **AND** when such Architect/Engineer or sub-consultant executes the appropriate sole proprietor waiver form.

**Professional Liability (Errors and Omissions) for Architect/Engineer**

- **The Architect/Engineer shall maintain Errors and Omissions Liability** covering negligent 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:

*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 negligent acts."*

- *In the event that any professional liability insurance required by this Contract is written on a claims-made basis, Architect/Engineer warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.*
- *Policy shall contain a waiver of subrogation against The Regents of the University of Colorado, a Body Corporate.*

*Wrongful Act \$2,000,000  
General Aggregate \$2,000,000*

#### **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. Professional Liability is acceptable on a claims-made basis.*
2. *On insurance policies where the Principal Representative is named as an additional insured, the Principal Representative shall be an additional insured to the full limits of liability purchased by the Architect/Engineer even if those limits of liability are in excess of those required by this Contract.*
3. *The Architect/Engineer shall provide the Principal Representative a Certificate of Insurance Form evidencing all required coverages, prior to commencing work or entering Principal Representative Premises. Upon request by the Principal Representative, Architect/Engineer must provide a copy of the actual insurance policy effecting coverage(s) required by the contract.*
4. *The Architect/Engineer insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.*
5. **The Architect/Engineer shall advise the Principal Representative 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 Principal Representative a new certificate of insurance showing such coverage is in force.*
6. *Architect/Engineer's insurance carrier should possess a minimum A.M. Best's Insurance Guide rating of A- VI.*
7. *Provide a minimum of 30 days advance written notice to the Principal Representative 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 Principal*

*Representative. The Principal Representative 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 Principal Representative 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, et seq., as from time to time amended, or otherwise available to the Principal Representative or its officers, employees, agents, and volunteers.*

**Mutual Cooperation**

*The Principal Representative 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.*

**ARTICLE 9. TERMINATION OR SUSPENSION OF AGREEMENT**

**9.1 DEFAULT**

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

**9.2 TERMINATION FOR CONVENIENCE OF STATE**

**9.2.1** 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.

**9.2.2** 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.

**9.2.3** 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) month 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) month period or authorized extension thereof. Upon failure of the Architect/Engineer to submit its termination claim within the time allowed, the Principal Representative may determine, on the basis of information available to 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.

**9.2.4** 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.

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

**9.2.6** 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.

### **9.3 SUSPENSION**

**9.3.1** In the event of an occurrence of non-appropriation, including without limitation restriction, limitation, delay or retraction of appropriation, the Principal Representative may, upon the giving of seven (7) days written notice, suspend the performance of the Architect/Engineer after which the Architect/Engineer shall perform no further work and shall be due no further fees, reimbursable costs or other compensation until the Principal Representative gives notice that the period of suspension has ended. Suspension of services may be in whole or in part, as specified by the Principal Representative.

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

## **ARTICLE 10. SPECIAL PROVISIONS**

### **10.1 CONTROLLER'S APPROVAL, CRS 24-30-202(1)**

This contract shall not be valid until it has been approved by the Colorado State Controller or designee.

### **10.2 FUND AVAILABILITY, CRS 24-30-202(5.5)**

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

### **10.3 GOVERNMENTAL IMMUNITY**

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 1346(b) and 2671 et seq., as applicable now or hereafter amended.

### **10.4 INDEPENDENT CONTRACTOR**

Architect/Engineer shall perform its duties hereunder as an independent contractor and not as an employee. Neither Architect/Engineer nor any agent or employee of Architect/Engineer shall be deemed to be an agent or employee of the State. Architect/Engineer and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Architect/Engineer or any of its agents or employees. Unemployment insurance benefits will be available to Architect/Engineer and its employees and agents only if such coverage is made available by Architect/Engineer or a third party. Architect/Engineer shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Architect/Engineer shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Architect/Engineer shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.

### **10.5 COMPLIANCE WITH LAW**

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

### **10.6 CHOICE OF LAW**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or

any other Special Provision in whole or in part shall not 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 shall not invalidate the remainder of this contract, to the extent capable of execution.

#### **10.7 BINDING ARBITRATION PROHIBITED**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

#### **10.8 SOFTWARE PIRACY PROHIBITION, Governor's Executive Order D 002 00**

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

#### **10.9 EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST, CRS 24-18-201 and CRS 24-50-507**

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

#### **10.10 VENDOR OFFSET, CRS 24-30-202(1) & CRS 24-30-202.4**

*[Not Applicable to Intergovernmental Agreements]* Subject to CRS 24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS 39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

#### **10.11 PUBLIC CONTRACTS FOR SERVICES, CRS 8-17.5-101**

*[Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Architect/Engineer certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS 8-17.5-102(5)(c), Architect/Engineer shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a sub-consultant that fails to certify to Architect/Engineer that the sub-consultant shall not knowingly employ or contract with an illegal alien to perform work under this contract. Architect/Engineer **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify

the sub-consultant and the contracting State agency within three days if Architect/Engineer has actual knowledge that a sub-consultant is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a sub-consultant does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS 8-17.5-102(5), by the Colorado Department of Labor and Employment. If Architect/Engineer participates in the Department program, Architect/Engineer shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written notarized affirmation, affirming that Architect/Engineer has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Architect/Engineer fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Architect/Engineer shall be liable for damages.

#### **10.12 PUBLIC CONTRACTS WITH NATURAL PERSONS, CRS 24-76.5-101**

Architect/Engineer, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS 24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

### **ARTICLE 11. MISCELLANEOUS PROVISIONS**

#### **11.1 PROFESSIONAL ASSOCIATION PERMITTED**

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, and enter into an association.

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

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

#### **11.3 DEATH OR DISABILITY**

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 theretofore 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 SUCCESSORS AND ASSIGNS**

Except as otherwise provided for herein, Architect/Engineer's rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior, written consent of the State. Any attempt at assignment, transfer, subcontracting without such consent

shall be void. All assignments, subcontracts or sub-consultants approved by Architect/Engineer or the State are subject to all of the provisions hereof. Architect/Engineer shall be solely responsible for all aspects of subcontracting arrangements and performance.

**11.5 WAGE RATES**, in accordance with CRS 24-30-1404 (1)

As amended, the Architect/Engineer has executed a schedule, which is attached hereto and made a part hereof by reference as **Exhibit B**, Wage Rates Schedule, and in doing so is certifying that wage rates and other factual unit costs supporting the compensation paid by the State for these professional services are accurate, complete and current.

The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Principal Representative determines the contract price had been increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of this contract.

**11.6 CONTINGENT FEE PROHIBITION**, in accordance with CRS 24-30-1404 (4)

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 the making of this contract.

For breach or violation of this warranty, the Principal Representative shall have the right to terminate this contract 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.

**11.7 STATUTORY DESIGN REQUIREMENTS**

Principal Representative and Architect/Engineer understand and agree they are familiar with the provisions of Colorado Revised Statutes, as amended, CRS 24-82-601 to 602, CRS 24-30-1304 to 1305, and CRS 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:

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.

Headnote (4) - Operating and maintenance costs shall be a major consideration in the design and construction of any project involving renovation.

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.

**11.8 COPYRIGHT/PATENT VIOLATION LIABILITY**

The Architect/Engineer shall pay all license fees for the use of any copyright and shall be responsible for and hold the State of Colorado harmless from and against all losses from copyright infringement contained in the Contract Documents or in the product resulting from the Architect/Engineer's instruments of service, in accordance with paragraph 11.18, Indemnification. The Architect/Engineer shall also be responsible for and hold the State of Colorado harmless from and against all losses from patent infringement based on specified processes contained in the Contract Documents, in accordance with paragraph section 11.18, Indemnification, unless the

existence of patents on such processes are brought to the attention of the Principal Representative and the Architect/Engineer. On request of the Principal Representative the Architect/Engineer shall defend against any such suits or claims of copyright or patent infringement.

#### **11.9 EXTENT OF AGREEMENT**

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

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.

**11.10 PUBLIC ART LAW**, in recognition of the Public Art Law, CRS 24-80.5-101 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.

**11.11 DESIGNATED REPRESENTATIVES**, The Principal Representative 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:      For the Architect/Engineer:

#### **11.12 CONSTRUCTION OF LANGUAGE**

The language used in this Agreement shall be construed as a whole according to its plain meaning, and not strictly for or against any party. Such construction shall, however, construe language to interpret the intent of the parties giving due consideration to the order of precedence noted in Article 1.6, Intent of Documents.

#### **11.13 SEVERABILITY**

Provided this Agreement can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

#### **11.14 SECTION HEADINGS**

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

#### **11.15 VENUE**

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

#### **11.16 NO THIRD PARTY BENEFICIARIES**

Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

#### **11.17 WAIVER**

Waiver of any breach under a term, provision, or requirement of this Agreement, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

#### **11.18 INDEMNIFICATION**

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, sub-consultants 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 Architect/Engineers or assignees, or other parties not under the control of or responsible to the Architect/Engineer.

#### ~~11.19 STATEWIDE CONTRACT MANAGEMENT SYSTEM~~

~~If the maximum amount payable to Architect/Engineer under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this section shall apply.~~

~~Architect/Engineer agrees to be governed, and to abide, by the provisions of CRS 24-102-205, 24-102-206, 24-103-601, 24-103.5-101, 24-105-101, and 24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.~~

~~Architect/Engineer's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including C.R.S 24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Architect/Engineer's performance shall be part of the normal contract administration process and Architect/Engineer's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Architect/Engineer's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Architect/Engineer's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Architect/Engineer shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.~~

~~Should the final performance Evaluation and Review determine that Architect/Engineer demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Principal Representative, and showing of good cause, may debar~~

~~Architect/Engineer and prohibit Architect/Engineer from bidding on future contracts. Architect/Engineer may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS 24-105-102(6)), or (b) under CRS 24-105-102(6), exercising the debarment protest and appeal rights provided in CRS 24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Architect/Engineer, by the Executive Director, upon a showing of good cause.~~

#### **11.20 BINDING EFFECT**

Except as otherwise provided in 11.4, all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

#### **11.21 COUNTERPARTS**

This Agreement may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

#### **11.22 MODIFICATION**

By the Parties, except as specifically provided in this Agreement, modifications hereof shall not be effective unless agreed to in writing by the Parties in an amendment hereto, properly executed and approved in accordance with the Office of the State Architect.

By Operation of Law, This Agreement is subject to such modifications as may be required by changes in federal or Colorado state law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Agreement on the effective date of such change, as if fully set forth herein.

#### **11.23 SURVIVAL OF CERTAIN CONTRACT TERMS**

Notwithstanding anything herein to the contrary, provisions of this Agreement requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Architect/Engineer fails to perform or comply as required.

#### **11.24 TAXES**

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS 39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services are rendered to benefit the State; provided however, that certain political subdivisions may require payment of sales or use taxes even though the product or service is provided to the State. Architect/Engineer shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Architect/Engineer for such taxes.

#### **11.25 CORA DISCLOSURE**

To the extent not prohibited by federal law, this Agreement and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

**SIGNATURE APPROVALS:**

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

\*Persons signing for Architect/Engineer hereby swear and affirm that they are authorized to act on Architect/Engineer's behalf and acknowledge that the State is relying on their representations to that effect. **Principal is not a recognized title and will not be accepted.**

Project Name/Number: \_\_\_\_\_  
Contract ID No.: \_\_\_\_\_

**THE ARCHITECT/ENGINEER**

**STATE OF COLORADO**, acting by and through:  
*The Regents of the University of Colorado, a Body Corporate*

\_\_\_\_\_  
Legal Name of Contracting Entity

By: \_\_\_\_\_  
*Bruce D. Benson, President*

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

\_\_\_\_\_  
\*Signature

**APPROVED**  
DEPARTMENT OF PERSONNEL & ADMINISTRATION  
STATE BUILDINGS PROGRAMS  
State Architect (or authorized Delegate)

By \_\_\_\_\_  
Name (print) Title

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

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

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

**APPROVED**  
DEPARTMENT OF LAW  
ATTORNEY GENERAL (or authorized Delegate)

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

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

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

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Architect/Engineer is not authorized to begin performance until such time. If Architect/Engineer begins performing prior thereto, the State of Colorado is not obligated to pay Contactor for such performance or for any goods and/or services provided hereunder.

**APPROVED:**  
STATE OF COLORADO  
STATE CONTROLLER'S OFFICE  
State Controller (or authorized Delegate)

By: \_\_\_\_\_  
*Steve McNally  
Associate Vice Chancellor & Controller*

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

\_\_\_\_\_  
*approved by*  
\_\_\_\_\_  
*approved by*

**STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

**EXHIBIT A**

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

Sample

**STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

**EXHIBIT B**

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**WAGE RATES SCHEDULE**  
(attached)

Sample

**STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

**EXHIBIT C**

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**APPROVED CODES**

Sample

## APPROVED STATE BUILDING CODES

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 2009 edition of the International Building Code (IBC)**

(as adopted by the Colorado State Buildings Program as follows: Chapter 1 as amended, Chapters 2-35 and Appendices C and I)

### **The 2009 edition of the International Mechanical Code (IMC)**

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

### **The 2009 edition of the International Energy Conservation Code (IECC)**

(as adopted by the Colorado State Buildings Program)

### **The 2011 edition of the National Electrical Code (NEC)**

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

### **The 2009 edition of the International Plumbing Code (IPC)**

(as adopted by the Colorado Examining Board of Plumbers as follows: Chapter 1 Section 101.2, 102, 105, 107, Chapters 2-13 and Appendices B, D, E, F and G)

### **The 2009 edition of the International Fuel Gas Code (IFGC)**

(as adopted by the Colorado Examining Board of Plumbers as follows: Chapter 1 Section 101, 102, 105, 107, Chapters 2-8 and Appendices A, B, and C)

### **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) and 2001 (2004))  
*NFPA-45 (latest edition)*

### **The 2007 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 2007 edition of the National Boiler Inspection Code (NBIC)**

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

### **The 2006 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 2007 edition of the Boiler and Combustion Systems Hazards Code, NFPA 85**

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

**The 2007 edition of ASME A17.1 Safety Code for Elevators and Escalators**

(as adopted by the Department of Labor and Employment/Conveyance Section and as amended by ASME International)

**The 2005 edition of ASME A17.3 Safety Code for Existing Elevators and Escalators**

(as adopted by the Department of Labor and Employment/Conveyance Section and as amended by ASME International)

**The 2005 edition of ASME A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts**

(as adopted by the Department of Labor and Employment/Conveyance Section and as amended by ASME International)

**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)*

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 2009 edition of the IBC became effective on July 1 of 2010. Consult the state electrical and plumbing boards and the state boiler inspector and conveyance administrator 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 C, 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 2009 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 2006 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.

**B. Amendments**

1. International Building Code, Chapter 1 as amended

**CHAPTER 1**

**SCOPE AND ADMINISTRATION**

**PART 1—SCOPE AND APPLICATION**

**SECTION 101  
GENERAL**

**101.1 Title.** These regulations shall be known as the *Building Code* of the Department of Personnel & Administration/Office of the State Architect (DPA/OSA), hereinafter referred to as “this code”.

**101.2 Scope.** The provisions of this code shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

**Exception:** Detached one- and two-family *dwelling*s and multiple single-family *dwelling*s (*townhouses*) not more than three *stories* above *grade plane* in height with a separate *means of egress* and their accessory structures shall comply with the *International Residential Code*.

**101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted.

**101.3 Intent.** The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, *means of egress* facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed

to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

**101.4 Referenced codes.** The other codes listed in Sections 101.4.1 through 101.4.6 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

**101.4.1 Gas.** The provisions of the *International Fuel Gas Code* shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

**101.4.2 Mechanical.** The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

**101.4.3 Plumbing.** The provisions of the *International Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

**101.4.6 Energy.** The provisions of the *International Energy Conservation Code* shall apply to all matters governing the design and construction of buildings for energy efficiency.

## **SECTION 102 APPLICABILITY**

**102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

**102.2 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

**102.3 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

**102.4 Referenced codes and standards.** The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

**102.5 Partial invalidity.** In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

**102.6 Existing structures.** The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code or as is deemed necessary by DPA/OSA through its code review agent for the general safety and welfare of the occupants and the public.

## **PART 2—ADMINISTRATION AND ENFORCEMENT**

**SECTION 104  
DUTIES AND POWERS OF BUILDING OFFICIAL**  
**104.1 General.** DPA/OSA as the building official is hereby authorized and directed to enforce the provisions of this code. DPA/OSA shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have

the effect of waiving requirements specifically provided for in this code.

**104.2 Plan reviews.** DPA/OSA through its code review agent shall review *construction documents* and issue compliance notices for the erection, and *alteration*, demolition and moving of buildings and structures and inspect the premises for which such compliance notices have been issued.

**104.4 Inspections.** DPA/OSA through its code review agent shall make all of the required inspections, or DPA/OSA shall have the authority to accept reports of inspection by *approved agencies* or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved agency* or by the responsible individual. DPA/OSA is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

**104.9 Approved materials and equipment.** Materials, equipment and devices *approved* by DPA/OSA through its code review agent shall be constructed and installed in accordance with such approval.

**104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless *approved* by DPA/OSA through its code review agent.

**104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, DPA/OSA shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided DPA/OSA shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of DPA/OSA.

**104.11 Alternative materials, design and methods of construction and equipment.** The

provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where DPA/OSA through its code review agent finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, *fire resistance*, durability and safety.

**104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

**104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, DPA/OSA through its code review agent shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, DPA/OSA through its code review agent shall approve the testing procedures. Tests shall be performed by an *approved agency*.

## SECTION 105 PLAN REVIEWS

**105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first contact a DPA/OSA code review agent.

## 105.2 Work exempt from plan review.

Exemptions from plan review requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Plan review shall not be required for the following:

### Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or *story* below and are not part of an *accessible route*.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family *dwelling*s.
12. Window *awnings* supported by an *exterior wall* that do not project more

than 54 inches (1372 mm) from the *exterior wall* and do not require additional support of Groups R-3 and U occupancies.

13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

### Electrical:

**Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles.

**Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

**Temporary testing systems:** A plan review shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

### Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

### Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

## Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a plan review shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

**105.2.1 Emergency repairs.** Where equipment replacements and repairs must be performed in an emergency situation, plan review information shall be submitted promptly to DPA/OSA through its code review agent.

**105.2.2 Repairs.** Application or notice to DPA/OSA through its code review agent is not required for ordinary repairs to structures, replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition* to, *alteration* of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**105.2.3 Public service agencies.** A plan review shall not be required for the installation, *alteration* or repair of generation, transmission, distribution or metering or other related

equipment that is under the ownership and control of public service agencies by established right.

**105.4 Validity of compliance notice.** The issuance or granting of a compliance notice shall not be construed to be an approval of any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. The issuance of a compliance notice based on *construction documents* and other data shall not prevent DPA/OSA through its code review agent from requiring the correction of errors in the *construction documents* and other data.

**105.7 Placement of building inspection record.** The building inspection record based on the compliance notice inspection recommendations shall be kept on the site of the work until the completion of the project.

## SECTION 106 FLOOR AND ROOF DESIGN LOADS

**106.1 Live loads posted.** Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m<sup>2</sup>), such design live loads shall be conspicuously posted by the owner in that part of each *story* in which they apply, using durable signs. It shall be unlawful to remove or deface such notices

**106.2 Issuance of notice of approval of occupancy/use.** A notice of approval of occupancy/use required by Section 111 shall not be issued until the floor load signs, required by Section 106.1, have been installed.

**106.3 Restrictions on loading.** It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this code.

## SECTION 107 SUBMITTAL DOCUMENTS

**107.1 General.** Submittal documents consisting of *construction documents*, statement of *special inspections*, geotechnical report and other data

shall be submitted. The *construction documents* shall be prepared by a *registered design professional* where required by the statutes of the state of Colorado. Where special conditions exist, DPA/OSA through its code review agent is authorized to require additional *construction documents* to be prepared by a *registered design professional*.

**Exception:** DPA/OSA is authorized to waive the submission of *construction documents* and other data not required to be prepared by a *registered design professional* if it is found that the nature of the work applied for is such that review of *construction documents* is not necessary to obtain compliance with this code.

**107.2 Construction documents.** *Construction documents* shall be in accordance with Sections 107.2.1 through 107.2.5.

**107.2.1 Information on construction documents.** *Construction documents* shall be dimensioned and drawn upon suitable material. *Construction documents* shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations.

**107.2.2 Fire protection system shop drawings.** Shop drawings for the *fire protection system(s)* shall be submitted to indicate conformance to this code and the *construction documents* and shall be *approved* prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

**107.2.3 Means of egress.** The *construction documents* shall show in sufficient detail the location, construction, size and character of all portions of the *means of egress* in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-3, and I-1, the *construction documents* shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

**107.2.4 Exterior wall envelope.** *Construction documents* for all buildings shall describe the *exterior wall envelope* in sufficient detail to determine compliance with this code. The *construction documents* shall provide details of the *exterior wall envelope* as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The *construction documents* shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the *construction documents* maintain the weather resistance of the *exterior wall envelope*. The supporting documentation shall fully describe the *exterior wall* system which was tested, where applicable, as well as the test procedure used.

**107.2.5 Site plan.** The *construction documents* submitted with the application for *permit* shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from *lot lines*, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and *design flood* elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. DPA/OSA through its code review agent is authorized to waive or modify the requirement for a site plan when the application for *plan review* is for *alteration* or repair or when other wise warranted.

**107.2.5.1 Design flood elevations.** Where *design flood* elevations are not specified, they shall be established in accordance with Section 1612.3.1.

**107.3 Examination of documents.** DPA/OSA through its code review agent shall examine or cause to be examined the accompanying submittal

documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

**107.3.3 Phased approval.** DPA/OSA through its code review agent is authorized to issue a compliance notice for the construction of foundations or any other part of a building or structure before the *construction documents* for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such compliance notice for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a compliance notice for the entire structure will be granted.

**107.3.4 Design professional in responsible charge.**

**107.3.4.1 General.**

The *registered design professional in responsible charge* shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

**107.3.4.2 Deferred submittals.** For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the plan review and that are to be submitted to DPA/OSA through its code review agent within a specified period.

Deferral of any submittal items shall have the prior approval of DPA/OSA through its code review agent. The *registered design professional in responsible charge* shall list the deferred submittals on the *construction documents* for review by DPA/OSA through its code review agent.

Documents for deferred submittal items shall be submitted to the *registered design*

*professional in responsible charge* who shall review them and forward them to DPA/OSA through its code review agent with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by DPA/OSA through its code review agent.

**107.4 Amended construction documents.** Work shall be installed in accordance with the *approved construction documents*, and any changes made during construction that are not in compliance with the *approved construction documents* shall be resubmitted for approval as an amended set of *construction documents*.

**SECTION 108  
TEMPORARY STRUCTURES AND USES**

**108.1 General.** DPA/OSA through its code review agent is authorized to issue a compliance notice for temporary structures and temporary uses. Such compliance notice shall be limited as to time of service, but shall not be permitted for more than 180 days. DPA/OSA through its code review agent is authorized to grant extensions for demonstrated cause.

**108.2 Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, *means of egress*, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.

**108.3 Temporary power.** DPA/OSA through its code review agent is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70.

**SECTION 109  
FEES**

**109.1 Payment of fees.** Refer to DPA/OSA Building Code Compliance Policy.

## **SECTION 110 INSPECTIONS**

**110.1 General.** Construction or work for which a plan review is required shall be subject to inspection by DPA/OSA through its code review agent and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the holder of the notice to proceed to cause the work to remain accessible and exposed for inspection purposes. Neither DPA/OSA, its code review agent nor state agency shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

**110.2 Preliminary inspection.** Before issuing a compliance notice, DPA/OSA through its code review agent is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

**110.3 Required inspections.** DPA/OSA through its code review agent, upon notification, shall make the inspections set forth in Sections 110.3.1 through 110.3.10.

### **110.3.1 Footing and foundation inspection.**

Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

**110.3.2 Concrete slab and under-floor inspection.** Concrete slab and under-floor inspections shall be made after in-slab or

under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

**110.3.3 Lowest floor elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 shall be submitted to DPA/OSA through its code review agent.

**110.3.4 Frame inspection.** Framing inspections shall be made after the roof deck or sheathing, all framing, *fireblocking* and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are *approved*.

**110.3.5 Lath and gypsum board inspection.** Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

**Exception:** Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

**110.3.6 Fire- and smoke-resistant penetrations.** Protection of joints and penetrations in fire-resistance-rated assemblies, *smoke barriers* and smoke partitions shall not be concealed from view until inspected and *approved*.

**110.3.7 Energy efficiency inspections.** Inspections shall be made to determine compliance with Chapter 13 and shall include, but not be limited to, inspections for: envelope insulation *R*- and *U*-values, fenestration *U*-value, duct system *R*-value, and HVAC and water-heating equipment efficiency.

**110.3.8 Other inspections.** In addition to the inspections specified above, DPA/OSA through its code review agent is authorized to make or

require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by DPA/OSA.

**110.3.9 Special inspections.** For *special inspections*, see Section 1704.

**110.3.10 Final inspection.** The final inspection shall be made after all work required is completed.

**110.4 Inspection agencies.** DPA/OSA through its code review agent is authorized to accept reports of *approved* inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

**110.5 Inspection requests.** It shall be the duty of the holder of the notice to proceed or their duly authorized agent to notify DPA/OSA through its code review agent when work is ready for inspection. It shall be the duty of the notice to proceed holder to provide access to and means for inspections of such work that are required by this code.

**110.6 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of DPA/OSA through its code review agent. The code review agent, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the holder of the notice to proceed or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the code review agent.

## **SECTION 111 CERTIFICATE OF OCCUPANCY**

**111.1 Use and occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until DPA/OSA has issued a notice of approval of occupancy/use therefor as provided herein. Issuance shall not be construed as an approval of a

violation of the provisions of this code or of other ordinances of the jurisdiction.

**Exception:** Notices of approval of occupancy/use are not required for work exempt from plan review under Section 105.2.

**111.3 Temporary occupancy.** DPA/OSA is authorized to issue a temporary notice of approval of occupancy/use for discrete portions of work before the completion of the entire work provided that such portion or portions shall be occupied safely.

### C. 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.

2009 International Fire Code (IFC)

2009 International Existing Building Code (IEBC)

### D. 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.

# APPROVED STATE BUILDING CODES

STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
(STATE FORM SC-5.2)

EXHIBIT D

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**CODE COMPLIANCE PLAN REVIEW PROCEDURES**

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

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 FLS. Other code issues shall be evaluated by the designated 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.

## 7.7 Fire Suppression Systems

- [ ] 7.7.1 Determine portable fire extinguisher requirements: type, spacing, and location.
- [ ] 7.7.2 Determine automatic sprinkler system requirements: type, hazard classification, water supply, drainage, fire department connection, zone limitations, test equipment, exempt areas, and supervision.
- [ ] 7.7.3 Determine standpipe system requirements: type/class, number, location, minimum pressure, supervision, and fire department connection.
- [ ] 7.7.4 Determine fire department access and suppression provisions: hydrant locations, fire department access roads, and fire lanes.

## 7.8 Fire Detection and Alarm Systems

- [ ] 7.8.1 Determine manual pull station requirements: type, spacing, and location.
- [ ] 7.8.2 Determine automatic detector requirements: type, spacing, and location.
- [ ] 7.8.3 Determine occupant notification and alarm requirements: type (horn, horn/strobe, speaker strobe, ...) and location. (Verify impact of interior rooms.)
- [ ] 7.8.4 Determine sequence of operation of all systems, e.g., that are connected to or monitored by the building detection and alarm system. Examples include, fan shut-down, smoke management systems, and stairwell pressurization systems.

## 7.9 Special Hazards

- [ ] 7.9.1 Limits of flammable liquids and other hazardous material (chemical/gas inventory)
- [ ] 7.9.2 Hazardous material spill control
- [ ] 7.9.3 Hazardous material containment
- [ ] 7.9.4 Explosion protection and venting
- [ ] 7.9.5 Hazardous material detection systems
- [ ] 7.9.6 Hazardous labs ventilation systems, hoods and chemical and gas storage cabinets.
- [ ] 7.9.7 Special suppression systems for special hazard areas

## 7.10 Building Services

- [ ] 7.10.1 Emergency generator
- [ ] 7.10.2 Elevators

[ ] 7.10.3 *Access to space and functions by persons with disabilities*

7.11 *Plumbing*

7.12 *Ventilation and Exhaust*

7.13 *Electrical*

7.14 *Other issues identified by the design team*

Sample

**STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR  
(STATE FORM SC-5.2)**

**EXHIBIT E**

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

Sample

**STATE OF COLORADO  
ARCHITECT/ENGINEER AGREEMENT  
CONSTRUCTION MANAGER/ GENERAL CONTRACTOR  
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**EXHIBIT F**

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**CERTIFICATION AND AFFIDAVIT REGARDING UNAUTHORIZED IMMIGRANTS** (required at contract signing prior to commencing work)

Sample