



March 31, 2023

Clinton Brown
Central State University
1400 Brush Row Road
Wilberforce, Ohio 45384

RE: Proposal for Engineering Services
Central State University - FY24 State Capital Project
Basic Renovations / Roof Repairs and Water Intrusion
Wilberforce/Dayton, Ohio

Dear Clinton:

Thank you for the opportunity to submit a Proposal for architectural and engineering services for the Basic Renovations and Roof Repairs and Water Intrusion projects which are part of the Central State University FY24 State Capital Projects.

Project Budgets:	Roof Repairs and Water Intrusion	\$1,900,000
	<u>Basic Renovations (Restrooms)</u>	<u>\$800,000</u>
	Total Budget	\$2,700,000

Initial project goals, subject to availability of budget:

1. C.J. McLin -Roof Repairs and Water Intrusions
2. Carl Jenkins – Roof Repair and Water Intrusions
3. Paul Roberson – Entry Foyer Water Intrusion
4. Norman Ward Center – Toilet Room Renovations - minor ADA upgrades to existing restrooms and replace fixtures.
5. Paul Roberson – Toilet Room Renovations and replace fixtures.
6. Charles Wesley – Toilet Room Renovations - Minor ADA upgrades to existing toilet rooms and replace fixtures.
7. Charles Smith – Toilet Room Renovations - Minor ADA upgrades to existing toilet rooms and replace fixtures.
8. Newsom Admin Building - Toilet Room Renovations - Minor ADA upgrades to existing toilet rooms and replace fixtures.

DESIGN PHASE SERVICES

1. IMEG will evaluate project priorities and make recommendations of priorities to include in final bid documents based on approved budgets. It is understood that not all priorities may be included in the final bid/construction documents.

2. IMEG's architectural subconsultant will conduct non-destructive investigation of roofs and walls to identify scope of roofing and water infiltration corrections necessary. IMEG will evaluate existing fixtures and equipment to identify items necessary for replacement/upgrade.
3. Design of architectural items (by IMEG's architectural subconsultant)
 - a. Roof and wall/window system repairs and replacement components for water infiltration
 - b. Toilet room flooring, walls, ceilings, partitions, and toilet room accessories
4. Testing of materials for asbestos containing materials and lead based paint in areas of work. Scope is included as an estimated allowance. Scope includes design phase testing. Construction Contractor or University to be responsible for construction phase testing and oversight.
5. Design of mechanical and electrical systems including:
 - a. Plumbing fixtures and minor piping adjustments for connections.
 - b. Restroom exhaust adjustments - to connect to existing exhaust fan branch ductwork in space (no new equipment)
 - c. New lighting fixtures as required in the restrooms.
 - d. Document existing roof equipment which will be lifted and reinstalled to allow for roof repairs.
 - e. Fire protection systems - no work anticipated.
 - f. Fire alarm - no work anticipated.
 - g. Lightning protection systems are to be reinstalled - no additional lightning protection design is included.
6. Prepare front end and applicable technical specifications.
7. Prepare contract documents that are suitable for pricing and construction purposes.
8. Submit construction drawings to the Ohio Industrial Commission for plan review. Costs are estimated and will be reimbursable from the University.
9. Prepare an opinion of probable construction cost. Note that IMEG has no control over 1) the cost of labor, material, or equipment; 2) the means, methods and procedures of the contractor's work; or 3) the competitive bidding market at the time the project goes out to bid. IMEG's opinion of probable construction costs will be based on the firm's experience and qualifications and represents our judgment as Design Professionals. IMEG makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from our opinion of probable cost.
10. Project design meetings:
 - a. Conduct up to four (4) project conference calls / web conferences as required to review design and obtain approvals/decisions from the University.

BIDDING PHASE SERVICES

1. Provide bid documents to the University for public bidding.
2. Conduct up to two (2) prebid meetings.
3. Respond to contractor questions.



4. Prepare addenda information as required.
5. Assist with bid evaluation and recommend award to successful contractor(s).

CONSTRUCTION PHASE SERVICES

1. Attend up to two (2) preconstruction meetings.
2. Contract administration including:
 - a. Answer contractor questions and Requests for Information (RFIs).
 - b. Review contractor proposals.
 - c. Review monthly applications and recommend all or partial payment.
3. Review shop drawing submittals for items requested in the contract documents.
4. Conduct up to 12 job site observation(s) during construction, plus one final job site observation at the end of the construction period. Site visits will observe construction in one or more buildings/work areas depending on progression of the work. Each visit may not include all buildings/work areas.
5. Owner/Architect/Contractor (OAC) meetings:
 - a. Participate in approximately bi-weekly OAC telephone / web conference meetings as required.
6. Prepare record documents based upon contractor-supplied as-installed documents, with no additional verification.

ASSUMPTIONS

1. Drawings of the existing architectural, mechanical, and electrical systems, which accurately represent the existing conditions, will be provided to IMEG.
2. The Revit® model or AutoCAD files are only inclusive of those systems and trades designed by IMEG. The Revit® model or AutoCAD files are intended for internal coordination among the design team. It is understood these are not intended to be an exact and complete representation of how the Contractor will route and locate utilities and equipment.
3. Modeling of existing conditions will be limited to the extent required to produce specifications and 2D contract documents.
4. Documents prepared by the Engineer will be prepared based upon reasonable assumptions derived from existing information provided by the Owner and from limited observation of accessible and visible existing conditions by the Engineer without the benefit of extensive field measurements and investigation prohibited by expense and inconvenience to the Owner. It is understood and agreed that unforeseen conditions uncovered during the progress of the project may require changes in the project, resulting in additional cost and delay.
5. Existing base building systems are code compliant and have adequate capacity to support the project requirements. The design for base building system modifications, replacements or new installations to support the project will be considered an additional service.
6. Where existing systems are to be revised and reused, pre-testing documentation of system capabilities in the area of work will be provided to IMEG, as requested. The cost of the testing firm and its documentation of the systems is not included in IMEG's fee.



7. Identification and testing of hazardous materials will be by other a hazardous materials consultant which will be billed against an approved allowance. Should additional testing beyond the allowance be required, an additional services proposal will be prepared.
8. Removal of hazardous materials and testing/oversight during construction will be by others.
9. Prepare an opinion of probable construction cost. Note that IMEG has no control over 1) the cost of labor, material, or equipment; 2) the means, methods and procedures of the contractor's work; or 3) the competitive bidding market at the time the project goes out to bid. IMEG's opinion of probable construction costs will be based on the firm's experience and qualifications and represents our judgment as Design Professionals. IMEG makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from our opinion of probable cost.
10. The projects will be awarded as a single prime contract for construction. Phased design and/or issue of early documents are not required.
11. The Owner will distribute bidding documents and prepare and administer the contract for construction.

COMPENSATION

Compensation will be a fixed fee, lump sum, billed monthly according to progress on the project. Refer to table below.

PROJECT EXPENSES

The following reimbursable expenses **are not** included in Compensation for Basic Services and will be invoiced at actual cost. Estimates are included in the fee worksheet below:

1. Travel expense: Automobile mileage will be invoiced at the IRS rate in effect at the time of travel.
2. Reproduction costs for existing facility documents, record set of contract documents, deliverables at each project phase/milestone.
3. Payment of plan review fees or other imposed governmental agency fees. State filing and/or permit fees.
4. Necessary consultants as approved by Client - Including Hazardous Materials testing consultant

Fee Worksheet			
<u>Basic Services:</u>	Design Phase	\$149,562.00	<i>(7.9% of Construction Budget)</i> \$213,660.00
	Bidding Phase	\$8,546.00	
	Construction Administration	\$55,552.00	
<u>Reimbursables and Allowances (Estimated)</u>			
	Transportation and Reproduction Costs	\$4,500.00	\$44,500.00
	State of Ohio - Plan Approval (IC)	\$15,000.00	
	Hazardous Materials Testing	\$25,000.00	
Total Basic Services, Reimbursables, Allowances		\$258,160.00	



ADDITIONAL SERVICES

IMEG can include the following as additional services. Additional services will be performed on a time and material basis using IMEG's standard hourly rates in effect at the time the service is performed, or for a negotiated fee, and only after approved in writing.

1. Invasive field takeoff to determine existing conditions that are not readily accessible or visible.
2. Lightning protection system evaluation and design.
3. Life cycle cost analysis.
4. ASHRAE 90.1 Energy Standards confirmation or building modeling.
5. LEED, WELL, or building certification criteria evaluation, energy modeling, calculation, justification, and documentation.
6. Assistance with grants and other related funding applications.
7. Revising IMEG design documents as a result of equipment lead times or supply chain delays.
8. Field testing, adjusting, balancing, or field time to assist installation contractor. Initial startup is the responsibility of the various contractors and/or subcontractors.
9. Performing a confirmation site observation after the final job site observation (punch list) has been completed.

GENERAL

We will begin our services following acceptance of this Proposal for Engineering Services. We look forward to working with you and your staff on this project and appreciate this opportunity to be of service. Acceptance may be conveyed via email to the address listed below or by signing this offer and returning it to our office.

Please refer to the attached State of Ohio - A/E Agreement form and associated exhibits.

Sincerely,

IMEG CORP.

Douglas R. Smith, PE, CEM, LEED AP, GGP
Principal, Project Executive
douglas.r.smith@imegcorp.com

DRS
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Architect/Engineer Agreement Form (University Project)

State of Ohio Professional Services Agreements for Public Facility Construction

This Agreement is made as of the date set forth below between the State of Ohio, acting by and through the University, and the Architect/Engineer in connection with the Project.

Project Number: CSU FY24
Project Name: FY24 State Capital Project - Basic Renovations
Restrooms / Roof Repairs and Water Intrusion
Site Address: 1400 Brush Row Road
Wilberforce, Ohio 45384
Green County

Owner ("University"): Central State University
Owner's Representative: Curtis Pettis
Address: 1400 Brush Row Road
Wilberforce, Ohio 45384

Contracting Authority: The University above
Project Manager: Clinton Brown

Architect/Engineer ("A/E"): IMEG Corp
A/E's Principal Contact: Douglas Smith
Address: 855 Grandview Ave., Suite 300
Columbus, Ohio 43215

ARTICLE 1 - SCOPE OF WORK; CONSTRUCTION BUDGET; EDGE COMMITMENT

1.1 The A/E shall perform and provide all of the Services described in the Agreement.

1.1.1 The project delivery method for this Project shall be General Contracting.

1.1.2 During the Construction Stage, the A/E and appropriate Consultants shall be present at the Site not less than 4 hours per week (excluding travel time to and from the Site) whenever any Work is in preparation or progress, unless otherwise expressly provided in writing by the University.

1.2 The Construction Budget is \$2,700,000.

1.3 The A/E shall contract with EDGE-certified Business Enterprise(s) for not less than 0 percent of the A/E's total compensation.

ARTICLE 2 - COMPENSATION

2.1 The total compensation for the A/E's Services is \$258,160.00, which includes the sum of (1) the Basic Fee, (2) Additional Services Fees, and (3) Reimbursable Expenses. The University shall pay the total compensation amount to the A/E in exchange for the A/E's proper, timely, and complete performance of the Services.

2.2 Basic Fee.

2.2.1 For Basic Services provided by the A/E and all Consultants in accordance with the A/E Scope of Services attached as Exhibit B, the University shall pay the A/E the Basic Fee of \$213,660.00, which shall not be exceeded without the prior written approval of the University, and an amendment to this Agreement. The Basic Fee is subject to the following allocation:

Project Stage/Task	Associated Fee	Portion of Basic Fee
Construction Documents	\$149,562.00	70.0%
Bidding and Award	\$8,546.00	4.0%
Construction	\$55,552.00	26%
Total Basic Fee	\$213,660.00	100%

2.3 Additional Services Fees.

2.3.1 For Additional Services provided by the A/E and all Consultants, the University shall pay the A/E Additional Services Fees of up to **\$25,000.00**, which shall not be exceeded without the prior written approval of the University, and an amendment to this Agreement. For Additional Services performed by a Consultant, Additional Services Fees shall be based on the Consultant's associated invoices to the A/E, and may include an A/E mark-up of «insert percentage» percent. Additional Services Fees are subject to the following allocation:

Description of Additional Services	NTE/LS*	Associated Fee
Hazardous Materials Testing	NTE	\$25,000.00
Total Additional Services Fees		\$25,000.00

* NTE = Not to Exceed Amount / LS = Lump Sum

2.4 Reimbursable Expenses.

2.4.1 For Reimbursable Expenses incurred by the A/E and all Consultants, the University shall pay the A/E up to **\$19,500.00**, which shall not be exceeded without the prior written approval of the University, and an amendment to this Agreement. No A/E or Consultant mark-up shall be permitted on Reimbursable Expenses. Reimbursable Expenses are subject to the following allocation:

Description	NTE/LS*	Associated Amount
Additional Review Document Printing	NTE	\$4,500.00
Plan Approval Fees	NTE	\$15,000.00
Total Reimbursable Expenses		\$19,500.00

* NTE = Not to Exceed Amount / LS = Lump Sum

ARTICLE 3 - KEY PERSONNEL

3.1 The A/E's key personnel for the Project are:

3.1.1 Douglas Smith, Senior Management Lead;

3.1.2 Michael Spengler, Project Management Lead;

3.1.3 Michael Spengler, Project Design Lead – Plumbing;

3.1.4 David Kirk, Project Architect;

3.2 The identities of the A/E's key personnel, and the extent of their participation in performing the A/E's services as identified above, shall not be altered without the University's prior written consent.

3.3 The A/E shall dismiss from the Project any individual employed by the A/E or Consultant who the University finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

ARTICLE 4 - CONSULTANTS

4.1 The A/E's Consultants for the Project are:

4.1.1 Architecture:

DNK Architects
2616 Central Parkway
Cincinnati, Ohio 45214

ARTICLE 5 - GENERAL PROVISIONS

5.1 Effectiveness.

5.1.1 It is expressly understood by the A/E that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that

there is a balance in the University's appropriation not already encumbered to pay existing obligations and until all relevant statutory provisions of the Ohio Revised Code, including ORC Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of such funds is approved by the State Controlling Board, or other applicable approving body.

5.1.2 In addition, if federal funds are to be used to pay fees and expenses under this Agreement, none of the rights, duties, and obligations contained in this Agreement shall be binding on any party until the University gives the A/E written notice that such funds are available from the University's funding source.

5.1.3 Subject to **Section 5.1.1**, the Agreement shall become binding and effective upon execution by the University, A/E, and Ohio Attorney General.

5.1.3.1 If the A/E is a joint venture, **(1)** each individual joint venturer shall **(a)** sign the Agreement in its own name and **(b)** be a party to the Contract, and **(2)** the Contract shall be binding on and apply to all joint venturers jointly and severally.

5.1.3.2 If the A/E is a limited liability company, which the Contracting Authority reasonably believes to be a special purpose or similar entity, the Contracting Authority may in its discretion require the limited liability company and each member of the limited liability company to **(1)** sign the Agreement in its own name and **(2)** be a party to the Contract. In that case, the Contract shall be binding on and apply to the limited liability company and to all of its members jointly and severally.

5.1.4 This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

5.2 Representations.

5.2.1 The A/E represents and warrants that it is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, the Agreement is void, and the A/E shall immediately repay to the University any funds paid under this Agreement.

5.2.2 The A/E hereby certifies that neither the A/E nor any of the A/E's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC Section 3517.13.

5.2.3 The A/E, by signature on this Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

5.2.4 The A/E affirms to have read and understands Executive Order 2019-12D and shall abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid for services the A/E performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Agreement.

5.2.5 The A/E affirms to have read and understands Executive Order 2022-02D regarding the prohibition of purchases from or investment in a Russian institution or company and shall abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid to the A/E for purchases or investments in a Russian institution or company in violation of this paragraph. The provisions of this paragraph will expire when the applicable Executive Order is no longer effective.

5.2.6 During the performance of this Agreement, if the A/E changes the location(s) disclosed on the **Affirmation and Disclosure Form** (a page in its **Statement of Qualifications**), the A/E must complete and submit a revised **Affirmation and Disclosure Form**.

5.2.7 Pursuant to ORC Section 9.76(B), the A/E warrants that it is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

ARTICLE 6 - ENUMERATION OF DOCUMENTS

6.1 This Agreement includes the following documents:

6.1.1 A/E Standard Terms and Conditions attached as **Exhibit A**;

6.1.2 A/E Scope of Services attached as **Exhibit B**; and

6.1.3 Contracting Definitions attached as **Exhibit D**;

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below:

IMEG Corp**OWNER**

Signature

Douglas R. Smith

Printed Name

Principal, Project Executive

Title

Signature

Printed Name

*Title***OHIO ATTORNEY GENERAL**

Approval as to Form

Signature

Printed Name

Title

*Date***END OF DOCUMENT**

Exhibit A - Consultant Standard Terms and Conditions

State of Ohio Professional Services Agreements for Public Facility Construction

ARTICLE 1 - CONSULTANT'S RESPONSIBILITIES

1.1 Nondiscrimination

1.1.1 The Consultant shall comply with Applicable Law regarding equal employment opportunity, including Ohio Revised Code ("ORC") Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 The Consultant shall cooperate fully with the State Equal Opportunity Coordinator ("EOC"), with any other official or agency of the state or federal government that seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Agreement.

1.2 Royalties and Patents

1.2.1 The Consultant shall inform the State if the Consultant is aware that a particular invention, design, process, or device specified in the Contract Documents is subject to patent rights or copyrights calling for the payment of a license fee or royalty.

1.3 Assignment of Antitrust Claims

1.3.1 Each party to this Agreement recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser of goods and services; in this instance the ultimate purchaser is the State. Therefore, the following assignment is made: The Consultant hereby assigns, sells, conveys and transfers to the State any and all rights, title, and interest in and to any and all claims and causes of action which the Consultant may now have or hereafter acquire under the antitrust laws of the United States of America or the state of Ohio, provided that the claims or causes of action relate to the particular goods, products, commodities, intangibles, or services purchased, procured, or acquired by, or rendered to, the State pursuant to this Agreement, and except as to any claims or causes of action which result from antitrust violations commencing after the compensation is established under this Agreement, which are not passed on to the State by any means. In addition, the Consultant warrants and represents that it will require any and all of its Sub-consultants and suppliers to assign any and all federal and state antitrust claims and causes of action to the State, subject to the proviso and exception stated above.

1.4 Use of Domestic Steel

1.4.1 The Consultant shall comply with ORC Section 153.011 regarding the specification and use of domestically produced steel products. Copies of ORC Section 153.011 may be obtained from the Ohio Facilities Construction Commission or downloaded at <http://codes.ohio.gov/orc/153.011v1>.

1.5 Drug Free Safety Program

1.5.1 The Consultant shall comply with Applicable Law regarding smoke-free and drug-free workplaces and shall make a good-faith effort to ensure that none of its or its Sub-consultants' employees engaged in the Services purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way while on or about the Project.

1.6 Use of the State's Web-based Project Management Software

1.6.1 If the State decides, in its sole discretion, to utilize the State's web-based project management software for the Project, the Consultant shall use such software for all compatible Services required under this Agreement.

1.6.2 All costs for the Consultant's use of the State's web-based project management software for the Project shall be included in its Basic Services Fee, and additional compensation shall not be permitted. If the Consultant's staff or its Sub-consultants are unfamiliar with the proper use of such software, the Consultant shall provide its staff and Sub-consultants for training without additional compensation.

1.7 Consultant's Services

1.7.1 If the Consultant is providing professional design services, the Consultant shall be **(1)** a registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ORC Chapter 4703, **(2)** a registered landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ORC Chapter 4703, or **(3)** a professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ORC Chapter 4733.

1.7.2 The Consultant shall provide Services for the Project, including, but not limited to, Services customarily furnished in accordance with generally accepted architectural, landscape architectural, engineering, surveying, commissioning, construction management, or other relevant specialty consulting practice as appropriate, in accordance with the terms of this Agreement.

1.7.3 The Consultant shall provide the Services in accordance with Applicable Law, the applicable announcement issued pursuant to ORC Section 153.67 ("Announcement"), and the State's Standards of Design, if any.

1.7.4 The Consultant shall not be responsible for and shall not have control or charge of construction means, methods, techniques, sequences, procedures, or scheduling used by a Contractor to comply with the Contractor's obligations under its Contract for the Project or for safety precautions and programs in connection with the Contractor's Work on the Project.

1.7.5 The Consultant shall not be responsible for or have control or charge over the acts or omissions of Contractors or Subcontractors, any of their agents or employees, or any other persons performing any Work on the Project.

1.7.6 If the Consultant is providing professional design services and construction contract administration, the Consultant shall render interpretations and decisions in connection with a Contractor's responsibilities under the Contract Documents and submit recommendations to the State for enforcement of the Contractor's contract as necessary.

1.7.6.1 The Consultant is the initial interpreter of all requirements of the Contract Documents.

1.7.6.2 The Consultant's interpretations and decisions are subject to final determination by the State.

1.8 Standard of Care

1.8.1 Notwithstanding any other provision of this Agreement to the contrary, the Consultant shall perform its Services consistent with the professional skill and care ordinarily provided by registered architects, registered landscape architects, professional engineers, professional surveyors, commissioning agents, construction managers, or other relevant specialty consultant discipline as appropriate in the same or similar locality under the same or similar circumstances.

1.8.2 The Consultant shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

1.9 Construction Budget

1.9.1 The State shall provide written notice to the Consultant of any change in the Construction Budget.

1.9.2 The Consultant shall perform its Services so that the Project is completed within the Construction Budget.

1.9.3 The Consultant and the State do not have control over the cost of labor, materials, or equipment, over Contractors' methods of determining prices, or over competitive bidding, market, or negotiating conditions. Accordingly, the Consultant does not warrant or represent that competitively bid or negotiated prices will not vary from the Construction Budget or from any estimate of cost or evaluation prepared, or agreed to, by the Consultant.

1.10 Cooperation

1.10.1 The Consultant shall perform the Services so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or Work of the Contractors. The Consultant shall cooperate and coordinate fully with all Separate Consultants and Contractors and shall freely share all of the Consultant's Project-related information with them to facilitate the timely and proper performance of the Services and of the services and work of Separate Consultants and Contractors.

1.10.2 If the Consultant damages the property or work of any Separate Consultant or Contractor, or by failure to perform the Services with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Contractor who suffers additional expense and damage as a result, the Consultant is responsible for that damage, injury, or expense.

1.10.3 If the proper execution or results of any part of the Services depends upon work performed or services provided by the State, a Separate Consultant, or a Contractor, the Consultant shall review that other work and appropriate instruments of service, and promptly report to the State in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Services. The Consultant's failure so to report will constitute an acceptance of the other work and services as fit and proper for integration with the Consultant's Services except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the Consultant's inspection.

1.10.4 The Consultant shall not delay the Services on account of any claim, dispute, or action between the Consultant and a Separate Consultant or Contractor.

1.11 Records

1.11.1 The records of all of the Consultant's Direct Personnel Expenses, Reimbursable Expenses, and payments to Sub-consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the State at all times and shall be maintained for seven years after Substantial Completion of all Work.

1.11.2 All other records kept by the Consultant related to the Project shall be available to the State at all times and shall be maintained for six years after Substantial Completion of all Work.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 The State

2.1.1 The State shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the State to perform specific responsibilities under the Agreement.

2.1.2 The State shall furnish information and services required of it in a timely manner.

2.2 Required Actions

2.2.1 The State shall review, approve, or take such actions as are required of it by this Agreement, the Contract Documents, and Applicable Law in a reasonable and timely manner.

2.3 State's Requirements

2.3.1 The State shall provide to the Consultant full information regarding the State's requirements for the Project including, but not limited to, the Program of Requirements, design and construction standards, and work rules, which shall set forth the State's use, design, time, and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, and systems and Site requirements.

2.4 Site Description

2.4.1 If reasonably requested by the Consultant as necessary for the Project, the State 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 available service and utility lines, both public and private, above and below grade, including inverts and depths.

2.5 Provided Information

2.5.1 The State does not warrant or guarantee the accuracy of Project-related information they provide to the Consultant, but the Consultant may rely upon that information to the extent consistent with the standard of care described under **Section 1.8**.

2.6 Notice to Consultant

2.6.1 If the State observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt written notice thereof shall be given to the Consultant.

2.7 Legal Representation

2.7.1 The State shall not be responsible to provide or pay for any legal representation of the Consultant.

2.8 Limitation of Authority

2.8.1 The Consultant shall not have any authority to bind the State for the payment of any costs or expenses without the prior express written approval of the State.

2.8.2 The Consultant shall have authority to act on behalf of the State only to the extent provided in this Agreement and the Contract Documents.

2.8.3 The Consultant's authority to act on behalf of the State may be modified only by an amendment to this Agreement in accordance with **Section 4.3**.

2.9 Approval or Disapproval of Consultant's Services

2.9.1 The State may disapprove any portion of the Services.

2.9.2 If the State disapproves of the Services at any Stage, the Consultant shall proceed, when requested by the State, to re-perform the Services to satisfy the objections without additional compensation to the Consultant or its Sub-consultants.

2.9.3 The Consultant acknowledges that any review or approval by the State of any Services shall not relieve the Consultant of the Consultant's responsibility to properly and timely perform the Services.

2.10 Performance Evaluations

2.10.1 The State shall evaluate the Consultant during performance of the Services, at completion of a phase of the Project, completion of the Project, or any or all of the foregoing. The State shall retain the evaluation(s).

2.10.1.1 The Consultant may request a copy of the completed evaluation(s). If the Consultant wishes to comment or take exception to any rating or remark, the Consultant shall send a response in writing to the State within 30 days after receiving the evaluation(s).

2.10.1.2 The State may use the evaluation(s) in determining the qualifications of the Consultant for future contracts.

2.10.1.3 The State may request information from the Consultant for use in evaluating the Contractor's or the State's performance. If such information is requested, the Consultant shall comply in a timely and responsive manner.

ARTICLE 3 - SUB-CONSULTANTS

3.1 Sub-consultant Services

3.1.1 The Consultant may provide a portion of the Services through one or more Sub-consultants, provided, however, that the Consultant shall remain responsible for all of the Consultant's duties and obligations under this Agreement.

3.1.2 By appropriate written agreement, the Consultant shall require each Sub-consultant, to the extent of the Sub-consultant's portion of the Services, to be bound to the Consultant by the terms of this Agreement, and to assume toward the Consultant all of the obligations and responsibilities which the Consultant assumes toward the State.

3.1.2.1 The Consultant shall not retain any Sub-consultant on terms inconsistent with this Agreement.

3.1.2.2 All agreements between the Consultant and a Sub-consultant shall identify the State as the agreement's intended third-party beneficiaries.

3.1.2.3 Upon the request of the State, the Consultant shall submit a copy of the agreement between the Consultant and each Sub-consultant.

3.1.3 The Consultant shall obtain the State's written approval before engaging any Sub-consultant not named in the Agreement. The Consultant shall not employ any Sub-consultant against whom the State has a reasonable objection. The State's approval or disapproval of any Sub-consultant, however, will not relieve the Consultant of the Consultant's full responsibility for performance of the Services.

3.1.4 The Consultant shall not remove any Sub-consultant from the Project or reduce the extent of any Sub-consultant's participation in providing the Services without the State's prior written consent. The Consultant shall not permit any Sub-consultant to replace any previously identified team member except with the State's prior written consent unless the Sub-consultant ceases to employ that person. On notice from the State, the Consultant shall immediately and permanently remove from the Project any Sub-consultant or person under a Sub-consultant's control whose performance is not satisfactory to the State.

3.1.5 The State may communicate with any Sub-consultant either through the Consultant or directly with the Sub-consultant, but the State may not modify the agreement between the Consultant and any Sub-consultant. The State will advise the Consultant with reasonable promptness of direct communication with any Sub-consultant.

3.1.6 The Consultant hereby assigns to the State each Sub-consultant's agreement provided that the assignment is effective only after the State terminates this Agreement in whole or in part and only for those agreements that the State accepts by notifying the Sub-consultant and Consultant in writing. The State may re-assign accepted agreements.

3.2 Payments by Consultant

3.2.1 Within ten business days after receipt of payment made pursuant to this Agreement, the Consultant shall pay all portions thereof due to Sub-consultants and to persons who provided items, the expenses of which are Reimbursable Expenses.

3.2.2 The State has no obligation to pay or see to the payment of money to any Sub-consultant except as otherwise required under Applicable Law.

ARTICLE 4 - MODIFICATIONS

4.1 Compensation for Extension of Project Time

4.1.1 If the Consultant notifies the State not less than 30 days before the date for completion of the Project identified in the approved Project Schedule, that the time for completion is reasonably expected to be exceeded by more than ten percent through no fault of the Consultant, the Consultant's compensation for Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the State and Consultant.

4.1.2 If, through such negotiation, the State agrees that the Consultant shall be paid additional compensation, an amendment to that effect shall be executed in accordance with **Section 4.3**.

4.1.3 That amendment shall be executed before the Consultant renders any Services made necessary by the extension of the time of completion, unless otherwise agreed in writing by the State.

4.2 Compensation for Change of Scope of Project or Construction Budget

4.2.1 The Project Scope is defined by the Approved Program of Requirements, as provided in **Exhibit B**.

4.2.2 The Construction Budget is defined in the Agreement.

4.2.3 If the State, through no fault of the Consultant, materially changes the Project Scope after the Schematic Design Stage or materially changes the Construction Budget at any time after the execution of this Agreement, any necessary adjustment in the Consultant's compensation shall be negotiated to the mutual reasonable satisfaction of the State and Consultant.

4.2.4 If, through such negotiation, the State agrees that the Consultant shall be paid additional compensation, an amendment to that effect shall be executed in accordance with **Section 4.3**.

4.2.5 That amendment shall be executed before the Consultant renders any Services made necessary by the change in the Project Scope or the Construction Budget, unless otherwise agreed in writing by the State.

4.3 Amendments

4.3.1 This Agreement may be modified only by an amendment prepared by the State and executed by both the Consultant and the State.

4.3.2 If the Attorney General approved the original Agreement, Amendments involving changes to the legal terms and conditions of this Agreement shall require approval by the Attorney General of the state of Ohio.

4.3.2.1 Changes to the legal terms and conditions do not include amendments to the scope or cost of the Services governed by this Agreement, which include changes to **Exhibit B**.

4.3.3 If the Project is administered using the State's web-based project management software, the Consultant shall submit its request for an amendment to the State through the "Professional Services Amendments" or "Contract Modifications" business process.

4.4 Allocation Adjustments

4.4.1 Without exceeding the total compensation for this Agreement, the allocation of costs, as described in the Agreement, may be adjusted upon request of the Consultant and approval by the State without a formal signed amendment.

4.4.2 If the Project is administered using the State's web-based project management software, the Consultant shall submit its request for an allocation adjustment to the State through the "Professional Services Amendments" or "Contract Modifications" business process.

ARTICLE 5 - DISPUTE RESOLUTION

5.1 Notice and Filing of Requests

5.1.1 Any request by the Consultant for additional fees or expenses shall be made in writing to the State and filed prior to payment of the final five percent of the Basic Fee. The Consultant's failure to comply with the requirements of this Section 5.1.1 shall constitute an irrevocable waiver by the Consultant of any request for such fees and expenses.

5.2 Substantiation of Request

5.2.1 In every written request filed pursuant to **Section 5.1**, the Consultant shall provide the nature and amount of the request; identification of persons, entities, and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

5.3 Meeting with the Project Manager

5.3.1 Within 30 days after receipt of the request filed with the State pursuant to **Section 5.1**, or other period mutually agreed by the parties, the Project Manager shall schedule a meeting to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting.

5.3.2 The meeting scheduled by the Project Manager shall be attended by persons expressly and fully authorized to resolve the request on behalf of the Consultant.

5.4 Appeal to Commission

5.4.1 If the efforts of the Project Manager do not lead to resolution of the request, the Consultant may request review of the Project Manager's decision by written notice delivered by certified mail to the Executive Director of the Commission within 14 days after the Project Manager's decision.

5.4.2 Within 30 days after receipt of notice or other period mutually agreed by the parties, the Commission shall schedule a meeting to resolve the dispute and render a decision on the appeal promptly thereafter or render a decision on the appeal without a meeting.

5.4.3 The meeting shall be attended by persons expressly and fully authorized to resolve the matters on behalf of the Consultant.

5.4.4 ORC Chapter 119 shall not be applicable to any proceedings of the Commission under this **Section 5.4**.

5.4.5 The decision of the Commission shall serve as the State's final and conclusive determination.

5.5 Delegation

5.5.1 No provision of this **Article 5** shall prevent the Executive Director from delegating the duties or authorities of the Commission to any other person selected at the Executive Director's sole discretion.

5.6 Alternative Dispute Resolution

5.6.1 At any point in Claims and dispute resolution processes, the Project's key stakeholders may agree in writing to enter into non-binding ADR including progressive negotiation, Dispute Review Board, mediation, or another non-binding ADR procedure accepted by all of the Project's key stakeholders.

5.7 Performance

5.7.1 The Consultant shall proceed with the Consultant's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Consultant and the State in writing.

5.7.2 The State shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute.

5.8 Mutual Waiver of Consequential Damages

5.8.1 Except as provided under **Section 5.8.2**, the State and Consultant each waive against the other all claims for consequential damages that may arise out of or relate to this Agreement.

5.8.1.1 The State's waiver includes claims for loss of use, income, profit, revenue, financing, cost of capital, business and reputation, management and employee productivity, and consequential damages arising from termination of the Agreement or related to insolvency.

5.8.1.2 The Consultant's waiver includes claims for overhead; delay damages except as otherwise specifically provided for in the Agreement; increased cost of funds for the Project; lost opportunity to work on other projects; losses of financing, business, and reputation; loss of profit except anticipated profit arising directly from properly performed Services; and consequential damages arising from termination of the Agreement or related to insolvency.

5.8.2 Notwithstanding **Section 5.8.1**, this **Section 5.8**:

5.8.2.1 does not apply to any damages that would be covered by insurance required or provided in connection with the Project if the Agreement did not include **Section 5.8.1**;

5.8.2.2 does not apply to the Consultant's indemnity obligations for third-party claims against the Indemnified Parties even if those claims are for damages that **Section 5.8.1** would otherwise preclude; and

5.8.2.3 does not apply to Claims for damages arising from the State or Consultant's gross negligence or willful misconduct.

5.8.3 This **Section 5.8** shall survive termination of the Agreement.

ARTICLE 6 - COMPENSATION AND PAYMENT

6.1 Direct Personnel Expense

6.1.1 If the Consultant is providing construction management services, including services as an Owner Agent, the State shall pay the Consultant the amount identified in the Agreement for Direct Personnel Expense provided by the Consultant and all Sub-consultants.

6.1.1.1 Direct Personnel Expense for the Consultant's and its Sub-consultant's employees for such hours of their time as are devoted to performing Basic Services to the Project shall be determined in accordance with the Consultant's Staffing Plan. Such Direct Personnel Expense shall be evidenced by time records certified by the Consultant.

6.1.1.2 The Consultant shall use all reasonable means to minimize Direct Personnel Expense.

6.2 Basic Fee

6.2.1 For Basic Services provided by the Consultant and all Sub-consultants, the State shall pay the Consultant a Basic Fee in accordance with the amount identified in the Agreement.

6.2.2 A change in the Basic Fee may be made only by an amendment to this Agreement in accordance with **Section 4.3**.

6.3 Additional Services Fee

6.3.1 The State shall pay the Consultant the Additional Services Fees for the associated Additional Services, when those Services are performed in accordance with the Agreement.

6.3.1.1 For Additional Services performed by a Sub-consultant, the Additional Services Fees shall be based on the Sub-consultant's associated invoices to the Consultant and may include a Consultant mark-up negotiated between the State and Consultant.

6.3.2 Except for the Additional Services and Additional Services Fees listed above, Additional Services and any Additional Services Fees shall be approved only by an amendment to this Agreement in accordance with **Section 4.3**.

6.3.2.1 For Additional Services not included in the original Agreement that are provided by the Consultant and any Sub-consultants in accordance with **Section 4.3**, the State shall pay the Consultant Additional Services Fees in an amount negotiated to the mutual reasonable satisfaction of the State and the Consultant, but in all events, such Additional Services Fees shall not exceed two-and-one-half times the Direct Personnel Expense incurred by the Consultant and any applicable Sub-consultant in providing those Additional Services.

6.3.3 The Consultant, with the prior written consent of the State, may provide Additional Services through one or more Sub-consultants.

6.4 Reimbursable Expenses

6.4.1 The Consultant shall use its best efforts to minimize Reimbursable Expenses.

6.4.2 In all events, total Reimbursable Expenses shall not exceed the amount identified in the Agreement, without the prior written approval of the State and an amendment to this Agreement in accordance with **Section 4.3**.

6.4.3 Reimbursable Expenses shall only be permitted for the items identified in the Agreement and shall not exceed the respective amounts.

6.4.4 No Consultant or Sub-consultant mark-up shall be permitted on Reimbursable Expenses.

6.4.5 Limits on Transportation and Living Expenses: The cost for all travel expenses in connection with the Project shall be included in the Basic Fee.

6.4.6 Limits on Tangible Property: The determination of whether to purchase or rent tangible property as Reimbursable Expenses must be approved in advance by the State. The Consultant shall maintain a current inventory of all such property and any such property, which has been purchased and has a useful life after Project Closeout shall be delivered to the State.

6.5 Method and Terms of Payment

6.5.1 Direct Personnel Expense. Payments of Direct Personnel Expense in accordance with **Section 6.1**, shall be made monthly based upon services performed, and as shown by a properly completed Professional Services Pay Request.

6.5.2 Basic Fee.

6.5.2.1 Payment of the Basic Fee shall be made monthly in proportion to Basic Services performed in each Stage, in accordance with **Section 6.2**, and the percentages of the Basic Fee described in the Agreement.

6.5.2.2 The State may, in its sole discretion, waive the withholding of any final balance or part thereof if the Consultant has performed to the satisfaction of the State.

6.5.2.3 Payment of the last five percent of the Basic Fee for any Stage of the Services shall be made only after all deliverables required for the Stage have been submitted by the Consultant to the State, in form and substance reasonably satisfactory to the State.

6.5.2.4 The entire Basic Fee is subject to all setoffs for claims against the Consultant in favor of the State.

6.5.2.5 Payments for Basic Services shall be based upon a properly completed Professional Services Pay Request and shall be made within the applicable time limits provided by ORC Section 126.30, which requires payment of interest on overdue payments. The interest rate shall be at the rate per calendar month, which equals one-twelfth of the rate per annum, prescribed by ORC Section 5703.47.

6.5.3 Additional Services Fees and Reimbursable Expenses. Payments of the Additional Services Fees in accordance with **Section 6.3** and for Reimbursable Expenses in accordance with **Section 6.4** shall be made monthly based upon Additional Services performed or expenses incurred, as applicable, and as shown by a properly completed Professional Services Pay Request.

6.5.4 If the Project is administered using the State's web-based project management software, the Consultant shall submit its Professional Services Pay Request to the State for approval and payment through the "Professional Services Pay Request" or "Applications for Payment" business process.

ARTICLE 7 - INSURANCE AND INDEMNIFICATION

7.1 Consultant's General Insurance Requirements

7.1.1 Throughout the performance of the Services or longer as may be described below, the Consultant shall obtain, pay for, and keep in force, the minimum insurance coverage described in this **Article 7**.

7.1.1.1 Each requirement of this **Article 7** applies to Sub-consultants just as it applies to the Consultant.

7.1.1.2 If a Sub-consultant's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Sub-consultant, the Consultant shall submit to the State **(1)** a certificate of insurance evidencing the insurance the Sub-consultant will carry without additional compensation and **(2)** if the State requests, a written proposal from the Sub-consultant to provide coverage that meets the minimum coverage requirements. The State will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

7.1.1.3 Notwithstanding any other provision of this Agreement to the contrary, the Consultant will not be entitled to any Fee increase on account of the State's refusal to accept a Sub-consultant's nonconforming insurance coverage.

7.1.1.4 On a case-by-case basis, the State and Consultant may agree to adjust the below minimum coverage requirements for any particular Sub-consultant.

7.1.2 Before starting the Services, upon renewal of any policy, and upon a change of any insurance carrier, the Consultant shall deliver to the State certificates evidencing that the required insurance is in force.

7.1.2.1 Certificates of insurance for other than government-controlled workers' compensation insurance must identify **(1)** all below-required additional insureds and **(2)** the Project name.

7.1.3 With the exception of government-controlled workers' compensation coverage:

7.1.3.1 the Consultant shall place the insurance with companies that **(1)** are satisfactory to the State, **(2)** hold an A.M. Best Rating of A-, X, or higher, and **(3)** are authorized to conduct business in Ohio;

7.1.3.2 the policies shall be endorsed to require the Consultant's insurance carrier to **(1)** provide at least 30-days' written notice to the State (as certificate holder) of the cancellation or non-renewal of the insurance and **(2)** provide at least ten-days' written notice to the State (as certificate holder) of the cancellation of the insurance for non-payment of premium; and

7.1.3.3 within 30 days after the State's request, the Consultant shall submit insurance-company certified copies of the policies, the policy endorsements, or both from which the Consultant may redact the premium amount.

7.1.4 The Consultant shall pay all deductibles, or self-insured retentions, or both contained in the Consultant's policies of insurance required or provided in connection with the Project. The State reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the Consultant may use to comply with any insurance requirement.

7.1.5 The Consultant shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the State purchases for the Project. The Consultant's proportionate share will derive from the percentage of the associated claim or loss attributable to the negligence of the Consultant or a Sub-consultant.

7.1.6 The State does not represent that required coverage or limits are adequate to protect the Consultant.

7.1.7 Failure of the State to demand a certificate or other evidence of full compliance with the insurance requirements or failure of the State to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Consultant's obligation to maintain the required insurance.

7.1.8 The State may terminate the Agreement for cause on account of the Consultant's failure to maintain the required insurance.

7.2 Consultant's Minimum Coverage Requirements

7.2.1 Workers Compensation. The Consultant shall maintain workers' compensation coverage meeting the requirements of Applicable Law.

7.2.2 Employers' Liability Coverage. The Consultant shall maintain employers' liability coverage with **(1)** an each-accident limit of not less than \$1,000,000, **(2)** a disease each-employee limit of not less than \$1,000,000, and **(3)** a disease policy limit of not less than \$1,000,000.

7.2.3 Commercial General Liability. The Consultant shall maintain commercial general liability ("CGL") coverage, that provides **(1)** an each-occurrence limit of not less than \$1,000,000, **(2)** a general-aggregate limit of not less than \$2,000,000, and **(3)** a products and completed-operations aggregate limit of not less than \$2,000,000.

7.2.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

7.2.3.2 The Consultant shall include the State, the as an additional insured under the CGL policy using ISO endorsement CG 20 10 07 04 and ISO endorsement CG 20 37 07 04 or a substitute form(s) providing equivalent coverage.

7.2.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the insured's projects.

7.2.3.4 The CGL insurance shall not exclude coverage for property damage to electronic data.

7.2.3.5 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs, that cover the additional insured.

7.2.3.6 The CGL policy shall not exclude coverage to the additional insured for bodily injury or property damage arising out of the products/completed-operations hazard.

7.2.3.7 The Consultant shall maintain the CGL insurance in effect for no less than five years after the earlier of the termination the Agreement or Substantial Completion of all Work.

7.2.4 Business Automobile Liability. The Consultant shall maintain business automobile (“BA”) coverage written on ISO form CA 00 01 04 13 or a substitute form, providing at least equivalent coverage with a limit of not less than \$1,000,000 each accident.

7.2.4.1 The coverage shall extend to any auto: owned (if any), non-owned, leased, rented, hired, or borrowed.

7.2.4.2 The Consultant shall include the State as an additional insured under the BA policy.

7.2.5 Umbrella/Excess Liability. The Consultant may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

7.2.6 Professional Liability. The Consultant shall maintain professional liability (“PL”) insurance with a per-claim limit of not less than \$1,000,000 and an annual aggregate limit of not less than \$2,000,000.

7.2.6.1 The PL policy shall have an effective date, which is on or before the date that the Consultant first started to provide any Project-related Services.

7.2.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Consultant shall advise the State in writing of any actual or alleged claims that may erode the PL policy’s limits.

7.2.6.3 The Consultant shall maintain the PL insurance in effect for no less than five years after the earlier of the termination of the Agreement or Substantial Completion of all Work.

7.2.6.4 If the Project is using the design-build project delivery system, the PL policy shall not contain any design-build exclusions.

7.2.7 Pollution Liability. If the Services include environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the Consultant shall maintain a pollution liability (“Pollution”) policy with **(1)** a per-claim limit of not less than \$1,000,000 and **(2)** an annual-aggregate limit of not less than \$1,000,000, covering the acts, errors and/or omissions of the Consultant for damages (including from mold) sustained by the State by reason of the Consultant’s performance of the Services.

7.2.7.1 The Pollution policy shall have an effective date, which is on or before the date that the Consultant first started to perform any Project-related Services.

7.2.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Consultant shall advise the State in writing of any actual or alleged claims that may erode the Pollution policy’s limits.

7.2.7.3 The Consultant shall maintain the Pollution insurance in effect for no less than five years after the earlier of the termination of the Agreement or Substantial Completion of all Work.

7.2.7.4 The Consultant may achieve the Pollution insurance requirement through a PL policy, which provides the required pollution coverage or through a contractor’s pollution liability policy.

7.3 Waivers of Subrogation

7.3.1 To the fullest extent permitted by Applicable Law, the Consultant waives all rights against the State, and its agents and employees for damages to the extent covered by any insurance (not including professional liability insurance), except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

7.3.2 To the fullest extent permitted by Applicable Law, the Consultant waives all rights against the State, and its employees for damages to the extent covered by any professional liability insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

7.3.3 The State and Consultant waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or builder’s risk insurance applicable to the Work.

7.4 Indemnification for Injury or Damage

7.4.1 Liability Other than Professional Liability. To the fullest extent permitted by Applicable Law and with respect to liability other than professional liability claims, the Consultant shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense is attributable to: **(1)** bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the Consultant or a Person for whom the Consultant may be liable; **(2)** infringement of patent rights or copyrights by the Consultant or a person or entity for whom the Consultant may be liable; or **(3)** a violation of Applicable Law but only to the extent attributable to the Consultant or a Person for whom the Consultant may be liable.

7.4.2 Professional Liability. To the fullest extent permitted by Applicable Law and with respect to professional liability claims, the Consultant shall indemnify and hold harmless the State and its officers, officials, and employees from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals, and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with **(1)** the failure of the Consultant or a Person for whom the Consultant is legally liable to comply with the standard of care described under **Section 1.8**; and **(2)** infringement of patent rights or copyrights by the Consultant or a Person for whom the Consultant may be liable.

7.4.3 The Consultant's indemnification obligation under **Section 7.4** exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a party indemnified under **Section 7.4**. But nothing in **Section 7.4** obligates the Consultant to indemnify any individual or entity from and against the consequences of that Person's own negligence.

7.4.4 If the Consultant is not providing professional design services, the Consultant's obligations under **Section 7.4** shall not extend to the liability of the Consultant, the Consultant's Sub-consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the Consultant, except to the extent covered by the Consultant's insurance.

7.4.5 In claims against a Person indemnified under **Section 7.4** by any direct or indirect employee (or the survivor or personal representative of that employee) of the Consultant or a Person for whom the Consultant may be liable, the indemnification obligation under **Section 7.4** will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.4.6 The Consultant's indemnification obligation under **Section 7.4** will not be limited by any insurance policy provided or required in connection with the Project.

7.4.7 The Consultant's obligations under **Section 7.4** shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a Person indemnified under **Section 7.4**.

7.4.8 The Consultant's indemnification obligation under **Section 7.4** will survive termination of the Agreement and Final Acceptance of the Work.

7.4.9 The State may deduct from amounts due to the Consultant the claims, damages, losses, fines, penalties, and expenses for which the Consultant is liable under **Section 7.4**. If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of amounts due to the Consultant, the Consultant shall immediately pay the difference to the State.

ARTICLE 8 - SUSPENSION AND TERMINATION

8.1 Suspension of the Services

8.1.1 The State, without cause and without prejudice to any other right or remedy it may have, may order the Consultant in writing to suspend, delay, or interrupt the performance of the Services in whole or in part for such period as the State may determine.

8.1.1.1 If the State suspends the Services under this **Section 8.1.1** and the Consultant complies with **Article 5**, the Basic Fee, Additional Services Fee, and Reimbursable Expenses shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption.

8.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Basic Fee, Additional Services Fee, or Reimbursable Expenses to the extent that: **(1)** performance was or could have been suspended, delayed, or

interrupted by a cause for which the Consultant is responsible; or (2) an equitable adjustment is made or denied under another provision of the Agreement.

8.1.1.3 If the State suspends the Services under this **Section 8.1.1** and the Consultant submits a proper Professional Services Payment Request, but subject to all other provisions of the Agreement, the Consultant shall be entitled to payment of compensation due under the Agreement for Services performed before the suspension.

8.1.2 Upon receipt of notice of suspension under this **Section 8.1**, the Consultant shall cease providing the suspended Services and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Consultant shall furnish a report to the State, within five days after receiving the notice of suspension, describing the status of the Services, including results accomplished, resulting conclusions, and other information as the State may require.

8.2 Termination for Convenience

8.2.1 The State may terminate at any time the Agreement in whole or in part for the State's convenience and without cause, upon written notice to the Consultant. Upon receipt of the notice of termination for convenience, the Consultant shall immediately proceed with performance of the following duties in accordance with instructions from the State: (1) cease operation as specified in the notice; (2) no further Sub-consultant agreements except as necessary to complete continued portions of the Project; (3) terminate all Sub-consultant agreements to the extent they relate to the Services terminated; and (4) proceed with Services not terminated.

8.2.2 The State shall pay the Consultant for Services rendered before the date of termination in accordance with the allocations in the Agreement, including any Reimbursable Expenses incurred, but not in excess of the allocations and caps otherwise provided in the Agreement. In no event shall the Consultant be entitled to overhead and profit associated with Services the Consultant did not perform on account of the termination or otherwise.

8.2.3 If the State terminates the Services under this **Section 8.2**, the termination shall not affect the rights or remedies of the State against the Consultant then existing or which may thereafter accrue for Services performed before the termination.

8.2.4 Notwithstanding **Section 8.2.2**, if the State terminates the Services under this **Section 8.2**, but there exists an event of the Consultant's default, the Consultant shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in **Section 8.3**.

8.3 Termination for Cause

8.3.1 The State may terminate the Agreement in whole or in part if the Consultant commits a material breach of the Agreement including but not limited to: (1) failure to prosecute the Services with the necessary force or in a timely manner; (2) refusal to remedy disapproved Services; (3) failure to properly make payment to Sub-consultants; (4) performance of any services outside of the United States; (5) permitting Sub-consultants to perform any services outside of the United States; or (6) disregarding Applicable Law, or orders of a public authority with jurisdiction over the Project.

8.3.2 If the State intends to exercise its termination rights under this **Section 8.3**, the State shall notify the Consultant in writing of the State's intent to terminate this Agreement and the cause(s) for that termination.

8.3.3 If the Consultant fails to cure the identified cause(s) for termination within seven days after receiving the notice described under **Section 8.3.2**, the State may terminate the Agreement by giving written notice of the termination to the Consultant.

8.3.4 If the Agreement is terminated, the State may complete the Services by means the State determines appropriate. The State may take immediate possession of all Consultant Documents.

8.3.5 If the Agreement is terminated, the Consultant shall not be entitled to further payment.

8.3.5.1 If the unpaid balance of the sum of the Basic Fee plus Additional Services Fees plus Reimbursable Expenses is exceeded by the costs of finishing the Services, including without limitation the fees and charges of contractors, engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the State and not expressly waived, the Consultant shall immediately pay the amount of the insufficiency to the State. This obligation for payment shall survive termination of the Agreement.

8.3.6 If the State terminates the Services under this **Section 8.3**, the termination shall not affect any rights or remedies of the State against the Consultant then existing or which may thereafter accrue. The State's retention or payment of funds due the Consultant shall not release the Consultant from liability for performance of the Services.

8.3.7 If the State is adjudged to have improperly or unjustifiably terminated the Services under this **Section 8.3**, the termination will be deemed to have been a termination under **Section 8.2**.

8.4 Consultant's Termination for Cause

8.4.1 The Consultant may terminate this Agreement for cause if the State fails to pay undisputed amounts owed to the Consultant when required under this Agreement.

8.4.2 If the Consultant elects to terminate this Agreement for cause, the Consultant must give the State written notice of (1) the Consultant's intention to terminate the Agreement and (2) an accounting of the undisputed amounts owed to the Consultant and the date(s) on which the Consultant believes payment of those amounts was due. If the State does not cure the cause for termination by initiating the process to pay the undisputed amounts owed to the Consultant within ten days after receiving the notice, the termination will take effect upon the State's receipt of the Consultant's written notice of termination, which is in addition to the Consultant's notice of intention to terminate.

8.4.3 If the Consultant properly terminates this Agreement for cause, but subject to other provisions of this Agreement, the State must pay the Consultant for Services performed by the Consultant before the date of termination. In no event will the State be obligated to pay anything on account of Services the Consultant does not perform.

8.4.4 If the Consultant improperly terminates this Agreement under this **Section 8.4**, the Consultant shall be obligated to the State as described under **Section 8.3.5.1**.

ARTICLE 9 - GENERAL PROVISIONS

9.1 Consultant's Documents and Contract Documents

9.1.1 Except as provided under **Section 9.1.2** and subject to **Section 9.1.6**, the State alone owns the Consultant's Documents and the Contract Documents and every right, title, and interest in the Consultant's Documents and the Contract Documents from the moment of creation.

9.1.2 **Section 9.1.1** does not apply to standard details and specifications regularly used by the Consultant or any of its Sub-consultants in its normal course of business that are included in the Consultant's Documents. The Consultant grants to the State an irrevocable, non-exclusive, perpetual, freely assignable, and royalty-free license to copy, reproduce, distribute, and otherwise use those standard details and specifications for all Project-related purposes such as but not limited to owning, financing, constructing, testing, commissioning, decommissioning, using, operating, maintaining, repairing, modifying, selling, obtaining insurance for, and obtaining permits for the Project before, during, and after termination or completion of this Agreement.

9.1.3 The Consultant must execute and deliver and cause its employees and agents and all Sub-consultants to execute and deliver, to the State any transfers, assignments, documents, or other instruments (if any) necessary to vest in the State complete right, title, interest in and ownership of all of the Consultant's Documents and the Contract Documents under **Section 9.1.1** and the license described under **Section 9.1.2**.

9.1.4 The Consultant may retain copies, including reproducible copies of Consultant's Documents and the Contract Documents for information, reference, and the performance of the Services. The State grants to the Consultant and its Sub-consultants a non-exclusive, royalty-free license to copy, reproduce, distribute, and otherwise use the Consultant's Documents and the Contract Documents in relation to the performance of the Services, including any Additional Services.

9.1.5 The submission or distribution of Consultant's Documents and the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the State's reserved rights in the Consultant's Documents and the Contract Documents. Any unauthorized use of the Consultant's Documents and the Contract Documents will be at the sole risk of the entity making the unauthorized use of the Consultant's Documents and the Contract Documents.

9.1.6 Should the State desire to use any of the Consultant's Documents for an addition to, remodeling or rehabilitation of, or change to any one or more of the Project improvements built on the basis of the Consultant's Documents, the State shall engage one or more suitably licensed design professionals under terms that require each of those design professionals to independently evaluate any design or related features in the Consultant's Documents without reliance on any information in the Consultant's Documents that would be inconsistent with the standard of care applicable to that design professional.

9.1.7 The Consultant shall provide Electronic Files to the Contractor for the Contractor's and Subcontractors' use in connection with the Project. The Consultant shall provide the Electronic Files (1) at no additional cost to the Contractor,

Subcontractors, or State and **(2)** without requiring the Contractor, Subcontractors, Separate Consultants, or State to agree to any terms or conditions concerning the provision, receipt, or use of the Electronic Files that differ in any material respect from the Contract.

9.1.8 Use of Electronic Files.

9.1.8.1 The State, Consultant, and Contractor reasonably expect that they will provide Electronic Files to each other to facilitate the design and construction of the Project consistent with current practices and customs in the construction industry.

9.1.8.2 Before relying on any Electronic File it receives, the recipient is responsible for verifying that the Electronic File was not altered through transmission, degradation of the recipient's own storage media, or other causes.

9.1.8.3 In the event of a discrepancy between information contained in a paper version of a document and the Electronic File of that document, the paper version will govern.

9.1.8.4 This **Section 9.1.8** does not relieve the Consultant of its responsibility for the preparation, completeness, or accuracy of the Consultant's Documents.

9.2 Public Relations

9.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control and with the consent of the State.

9.2.2 Publicity after completion of the Project. After completion of the Project, the Consultant may exercise reasonable public relations and marketing efforts related to the Project, provided the Consultant properly identifies the State, and its participation in the Project.

9.3 Application and Governing Law

9.3.1 This Agreement and the rights of the parties hereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding hereunder or related to the Project. The Consultant irrevocably consents to such jurisdiction.

9.3.2 The parties to the Agreement shall comply with Applicable Law.

9.3.3 Other rights and responsibilities of the Contractor, the Consultant, and the State are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

9.4 Written Notice

9.4.1 Notice under this Agreement shall be validly given if: **(1)** delivered personally to a member of the organization for whom the notice is intended; **(2)** delivered by trackable delivery service, or sent by registered or certified mail, to the last known business address of the organization; or **(3)** sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within three business days after the date of the electronic transmission.

9.4.2 When the State, the Consultant, or a Contractor gives notice to one of the other two, it shall also simultaneously send a copy of that notice to the others.

9.4.3 A copy of all notices, certificates, requests, or other communications to the State shall be sent to the Project Manager.

9.4.4 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the Consultant shall immediately notify the State by the most expedient means available.

9.4.5 The State or the Consultant may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

9.5 Computing Time

9.5.1 When this Agreement refers to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

9.5.2 Except as excluded under **Section 9.5.1**, all periods referred to in this Agreement include Saturdays, Sundays, and legal holidays.

9.5.3 The standard workdays for State projects are Monday through Friday, excluding legal holidays.

9.6 Time of the Essence

9.6.1 Time limits stated in the Agreement are of the essence of the Agreement and all obligations under the Agreement. By signing the Agreement, the Consultant acknowledges that those time limits are reasonable.

9.6.1.1 The Consultant acknowledges that the State has entered into, or may enter into, other contracts based upon the Consultant properly providing the Services in a timely manner.

9.6.1.2 The Consultant shall perform the Services in a reasonable, efficient, and economical sequence, and in the order and time as provided in the Project Schedule.

9.6.1.3 The Consultant acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Services from any cause including without limitation acts of Nature or the public enemy, acts of the government not arising from the Consultant's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the Consultant's control. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the time for performance of the Services, unless otherwise required by ORC Section 4113.62.

9.7 Successors and Assigns

9.7.1 The State and the Consultant each bind themselves, their successors, assigns, and legal representatives, to the other party to this Agreement and to the successors, assigns, and legal representatives of the other party with respect to all terms of this Agreement.

9.7.2 The Consultant shall not assign or transfer any right, title, or interest in this Agreement without the State's prior written consent.

9.8 Extent of Agreement

9.8.1 Entire Agreement. This Agreement, including the attached documents, and the Contract Documents represent the entire and integrated agreement between the State and the Consultant and supersede all prior negotiations, representations, or agreements, either written or oral.

9.8.1 Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.8.2 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

9.8.3 Precedence. If there are any inconsistencies between the provisions of the Contract Documents and the provisions of this Agreement, the provisions of this Agreement shall prevail.

9.9 Severability

9.9.1 If any term or provision of this Agreement, or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

9.10 Electronic and Facsimile Signatures

9.10.1 Any party hereto may deliver a copy of its counterpart signature page to this Agreement via electronic signature software, fax, e-mail, or web-based project management software. Each party hereto shall be entitled to rely upon an electronic, scanned, or facsimile signature of any other party delivered in such a manner as if such signature were an original.

9.11 Ohio Retirement System

9.11.1 All individuals employed by the Consultant that provide personal services to the State are not public employees for the purposes of ORC Chapter 145, as amended.

9.11.2 If the Consultant is a PERS retiree, as defined by ORC Section 145.38, the Consultant shall notify the State of such status in writing prior to commencement of Work. The State is not responsible for changes to the Consultant's retirement benefits resulting from entering into this Agreement.

9.12 No Third-Party Interest

9.12.1 Except as expressly provided under **Section 3.1**, (1) no person or entity, other than the State and the Consultant, will have any right or interest under the Agreement, and (2) the Agreement does not create a contractual relationship of any kind between any people or entities other than the State and the Consultant.

9.13 No Waiver

9.13.1 The failure of the State or the Consultant to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Agreement or to exercise any rights under the Agreement or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

9.14 Rights and Remedies

9.14.1 The duties, obligations, rights, and remedies under the Agreement are in addition to and not a limitation of the duties, obligations, rights, and remedies otherwise imposed by or available under Applicable Law.

9.15 Survival of Obligations

9.15.1 All representations, indemnity obligations, warranties, guarantees, and necessarily continuing obligations under the Agreement, will survive final payment, completion and acceptance of the Work, and termination or completion of the Agreement.

ARTICLE 10 - DEFINED TERMS AND ABBREVIATIONS

10.1 For the purposes of this Agreement, the words, terms, and abbreviations set forth below have the following meanings:

10.1.1 "Consultant" means the Person identified in the Agreement responsible for providing professional consulting services for the Project.

10.1.2 "Consultant's Documents" means all Project-related documents, including those in electronic form, prepared by the Consultant or Sub-consultants.

10.1.3 "Contract Documents" means collectively, the documents that constitute the substance of the Contract including the final Drawings, final Specifications, Addenda if any, General Conditions, Supplementary Conditions if any, Project Manual, Bid Form, Wage Rates; and the executed Agreement, Bid Guaranty and Contract Bond if any, GMP Documents if any, and Modifications if any.

10.1.4 "Contractor" means a Person, which is party to a contract for the performance of Work on the Project in cooperation with Separate Contractors and Persons, and in accordance with the Contract Documents. As used in the Agreement, the term Contractor may include a Construction Manager at Risk or a Design-Builder.

10.1.5 "Direct Personnel Expense" means the portion of direct salaries and wages of all personnel of the Consultant or any Sub-consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to 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, social security contributions, insurance, sick leave, holidays, vacations, pensions, profit sharing, and similar benefits related to their time devoted to the Project.

10.1.6 "Equal Opportunity Coordinator" means the public official who exercises the duties and responsibilities of the position of the equal employment opportunity coordinator identified in ORC Section 121.04, including but not limited to issuing certificates of compliance with the State's affirmative action and EDGE programs.

10.1.7 "Fee" (as in "Basic Fee," "Additional Services Fees," and otherwise) means all of the compensation to be paid by the State to the Consultant on account of the proper, timely, and complete performance of the associated Services by the Consultant or its Sub-consultants, including, but not limited to, salaries or other compensation of the Consultant's employees at the principal office, branch offices, and the field office, general operating expenses of the Consultant's principal office, branch offices, and the field office, any part of the Consultant's capital expenses, including interest on the Consultant's capital employed for the Project, overhead or expenses of any kind, except Direct Personnel Expense and Reimbursable Expenses, any costs incurred due to the Consultant's negligence, the Consultant's general advertising,

federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

10.1.8 “Indemnified Parties” means the State, and its respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.

10.1.9 “Project Schedule” means a document that, with respect to each phase of the Project, identifies, coordinates and integrates the anticipated design and construction schedules, the State’s responsibilities, government authority reviews and other activities as are necessary for the timely completion of the Work.

10.1.10 “Reimbursable Expenses” means actual expenditures incurred by the Consultant or its Sub-consultants in the interest of the Project, approved by the State for reproduction of Contract Documents for distribution to Bidders, plan approval fees, building permits, and, if requested by the State, reformatting Project Record Submittals to a computer medium different than the computer medium used by the Consultant.

10.1.11 “Services” includes all of the Consultant’s obligations, individually or collectively, under the Agreement including all items reasonably inferable from the Agreement, whether provided or to be provided by the Consultant, a Sub-consultant, or any other entity for whom the Consultant is responsible. The Services include both Basic Services and Additional Services as defined in the Agreement.

10.1.12 “Sub-consultant” means a Person engaged by the Consultant to provide or perform a portion of the Services.

10.1.13 “Submittals” means Shop Drawings, Product Data, Samples, and other items for the Consultant’s review and action provided by a Contractor for any item required by the Contract Documents, but not fully described in the Contract Documents.

END OF DOCUMENT

Exhibit B - Consultant Scope of Services (A/E - General Contracting)

State of Ohio Professional Services Agreements for Public Facility Construction

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ARTICLE 1 - BASIC SERVICES

1.1 General

1.1.1 Basic Services to be provided by the Consultant shall consist of the activities and stages set forth in **Article 2** through **Article 8**, inclusive, and include usual and customary architectural, civil, structural, mechanical, electrical, and landscape design and engineering services for the Project, and any necessary signage and graphics.

1.1.2 The Consultant is identified in the General Conditions and other Contract Documents as the A/E.

1.2 Sustainability Requirements

1.2.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and resulting rules, policy, and procedures adopted by the Commission establishing Sustainability Requirements for Capital Improvements Projects, including applicable provisions of OAC 3318-3:

1.2.1.1 The Consultant shall incorporate cost-effective, energy-efficient, green building practices to the maximum extent possible into the Project.

1.3 Consultation

1.3.1 The Consultant shall schedule and attend regular meetings with the Contracting Authority and Owner. The Consultant shall consult with the Contracting Authority and Owner regarding Site use and improvements and the selection of materials, building systems, and equipment. The Consultant shall give recommendations to the Contracting Authority, Owner, and Consultant on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, budgets and possible economies.

1.3.2 At all appropriate times throughout performance of the Work, the Consultant shall contact, meet, consult, and otherwise coordinate with the Contracting Authority, Owner, governmental authorities with jurisdiction over the Project, and others for the purpose of facilitating the Project's design and construction.

1.4 Design Schedule

1.4.1 Within 10 days after execution of this Agreement, or other period agreed with the Contracting Authority, the Consultant shall submit, for approval by the Contracting Authority and Owner, a Design Schedule for the performance of the Consultant's Services.

1.4.2 The Design Schedule shall include allowances for reasonable periods required for review and approval of items by the Contracting Authority and Owner, and for approvals of governmental authorities having jurisdiction over the Project.

1.4.3 Unless the Contracting Authority or Owner notify the Consultant of objections to the Design Schedule within 30 days of receipt thereof, the Contracting Authority and Owner shall be deemed to have approved the Design Schedule.

1.4.4 The Consultant shall coordinate the Design Schedule with the Project Schedule.

1.4.5 The Consultant shall not exceed or adjust the Design Schedule after its initial approval without the prior written consent of the Contracting Authority and Owner.

1.4.6 The Consultant shall perform its Services in a timely manner consistent with the Project Schedule.

1.5 Project Schedule

1.5.1 The Consultant shall provide and maintain a Project Schedule with a logical sequence of events coordinated with the Design Schedule; reasonable periods of time for the Contracting Authority, Owner, and Consultant to review the Contractor's deliverables and for the Contractor to revise and resubmit those deliverables; and sufficient detail to properly anticipate and monitor progress on the Project.

ARTICLE 2 - PROGRAM VERIFICATION

2.1 Commencement

2.1.1 The Consultant's Services will begin on the date set forth in a notice that the Contracting Authority will issue to the Consultant ("Notice to Commence Services").

2.2 Organizational Meeting

2.2.1 Unless the Contracting Authority agrees otherwise in writing, the Consultant's Services will begin with an organizational meeting between the Contracting Authority, Owner, and Consultant. All of the Consultant's key personnel involved in the Project shall attend the organizational meeting.

2.2.2 During the organizational meeting, the attendees will:

2.2.2.1 review the responsibilities of each of the Contracting Authority and Owner's key personnel involved in the Project;

2.2.2.2 review the scope of the Consultant's Services and the responsibilities of each of the Consultant's key personnel involved in the Project;

2.2.2.3 review and establish lines of communication between the Contracting Authority, Owner, and Consultant;

2.2.2.4 develop a list of the Owner's Project-stakeholder representatives to be involved in the Program Verification Stage to inform development of the Program of Requirements; and

2.2.2.5 review then-available information and documents which reflect the Owner's requirements and objectives for the Project including Project Schedule and Construction Budget requirements and objectives.

2.2.3 Within 5 days after the organizational meeting is adjourned, the Consultant shall prepare and submit to the Contracting Authority and Owner:

2.2.3.1 detailed minutes of the organizational meeting; and

2.2.3.2 a proposed Project Schedule reflecting performance of the Consultant's Services and progression of the Project through award of the Contract to the Contractor.

.1 The Contracting Authority, Owner, and Consultant will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision.

2.2.3.3 If the Project is administered using the State's web-based project management software, the Consultant shall distribute the minutes of the organizational meeting through the "Meeting Minutes" business process.

2.3 General Requirements

2.3.1 In addition to performing those Services required to comply with **Sections 2.4 and 2.5**, during the Program Verification Stage, the Consultant shall:

2.3.1.1 identify the building type and research, analyze, and document relevant information specific to that type;

2.3.1.2 meet and otherwise work with the Contracting Authority, Owner, Owner's Project-stakeholder representatives, and others with an interest in the Project to establish goals and objectives for the Project;

2.3.1.3 gather, analyze, and document information relevant to the identified Project goals and objectives;

2.3.1.4 identify and evaluate strategies to achieve the identified Project goals and objectives;

- 2.3.1.5 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- 2.3.1.6 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents which depict the current status of the Program Verification Stage of the Project;
- 2.3.1.7 identify and analyze issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;
- 2.3.1.8 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;
- 2.3.1.9 notify the Owner of the need for professional services of any Separate Consultants required for the Project; and
- 2.3.1.10 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

2.4 Program Verification Submission

2.4.1 Based upon a mutual understanding of the Project's preliminary requirements, the Consultant shall prepare the Program Documents. The Consultant shall submit the provisional Program Documents to the Contracting Authority and Owner on or before the date identified in the Project Schedule for that submission.

2.4.2 The provisional Program Documents shall be in the form of a written report, which may include graphics, but shall include:

- 2.4.2.1 an executive summary of the Program Documents;
- 2.4.2.2 a narrative description of the Project and design goals;
- 2.4.2.3 a description of space requirements, including a listing of desired spaces and identification of each space's basic criteria such as dimensions, proportions, ceiling heights, and service, equipment, storage, utility, access, flexibility, configuration, security, adjacency, aesthetic, and other requirements;
- 2.4.2.4 a description of planning and design criteria such as workstation, office/room standards; clustering and layout criteria; circulation criteria; applicable space-planning modules; dimensional criteria; building systems interface criteria; envelope criteria; accessibility requirements; and a description of performance criteria applicable to building components such as envelope, structure, interior construction, and mechanical, electrical, and plumbing systems;
- 2.4.2.5 a preliminary estimate of Construction Cost ("Program Estimate") using area, volume or similar conceptual estimating techniques;
 - .1 If the Program Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the Consultant to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The Consultant will present those proposals as an addendum to the provisional Program Documents.
- 2.4.2.6 a preliminary evaluation of the Program, Project Schedule, and Construction Budget requirements, each in terms of the other including a description of the distribution of the Construction Budget between major Project components, contingencies, and other categories the Contracting Authority may designate;
- 2.4.2.7 preliminary recommendations regarding selection of materials, building systems, and equipment;
- 2.4.2.8 a review of feasible alternative approaches to design and construction of the Project, if any, including the estimated budget and schedule impacts of those alternative approaches;
- 2.4.2.9 an identification of Applicable Law; and
- 2.4.2.10 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

2.4.3 If the Project is administered using the State's web-based project management software, the Consultant shall submit the provisional Program Documents and any revisions through the "Program of Requirements" business process.

2.5 Program Documents Review

2.5.1 After the Contracting Authority and Owner have had a reasonable period to review the provisional Program Documents, the Contracting Authority, Owner, and Consultant shall meet to discuss the provisional Program Documents

and reach agreement on any Contracting Authority-authorized adjustments to the Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Program Documents.

2.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Consultant shall revise the Program Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and Contracting Authority.

2.5.3 When the Contracting Authority and Owner approve the revised Program Documents and sign the related Design Review Acceptance form, the revised Program Documents shall become the Approved Program of Requirements.

ARTICLE 3 - SCHEMATIC DESIGN

3.1 Commencement

3.1.1 Unless the Contracting Authority directs otherwise in writing, the Schematic Design Stage will begin upon completion of the activities described under **Article 2**.

3.2 General Requirements

3.2.1 In addition to performing those Services required to comply with **Sections 3.3** and **3.4**, during the Schematic Design Stage, the Consultant shall:

3.2.1.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

3.2.1.2 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents which depict the current status of the Schematic Design Stage of the Project;

3.2.1.3 further evaluate and refine the Approved Program of Requirements;

3.2.1.4 identify all issues related to compliance with Applicable Law and participate in related meetings with government authorities that have jurisdiction over the Project;

3.2.1.5 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

3.2.1.6 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project; and

3.2.1.7 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project.

3.3 Schematic Design Submission

3.3.1 The Consultant shall submit the provisional Schematic Design Documents to the Contracting Authority and Owner on or before the date identified in the Project Schedule for that submission.

3.3.2 The provisional Schematic Design Documents shall include:

3.3.2.1 a conceptual site plan and preliminary building plans, sections, and elevations illustrating the Project's scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;

3.3.2.2 if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials;

3.3.2.3 an estimate of Construction Cost ("Schematic Design Estimate") using area, volume or similar conceptual estimating techniques;

.1 If the Schematic Design Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the Consultant to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The Consultant will present those proposals as an addendum to the provisional Schematic Design Documents.

3.3.2.4 cost evaluations of alternative building systems and construction materials;

3.3.2.5 an identification of any unresolved issues related to compliance with Applicable Law;

3.3.2.6 a written description of all modifications of the Approved Program of Requirements;

3.3.2.7 if agreed in writing by the Contracting Authority, the Consultant will develop study models, perspective sketches, electronic modeling, or combinations of those media; and

3.3.2.8 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

3.3.3 If the Project is administered using the State's web-based project management software, the Consultant shall submit the provisional Schematic Design Documents and any revisions through the "Design Review" business process.

3.4 Schematic Design Documents Review

3.4.1 After the Contracting Authority and Owner have had a reasonable period to review the provisional Schematic Design Documents, the Contracting Authority, Owner, and Consultant shall meet to discuss the provisional Schematic Design Documents and reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the Schematic Design Documents.

3.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Consultant shall revise the Schematic Design Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and Contracting Authority.

3.4.3 When the Contracting Authority and Owner approve the revised Schematic Design Documents and sign the related Design Review Acceptance form, the revised Schematic Design Documents shall become the final Schematic Design Documents.

ARTICLE 4 - DESIGN DEVELOPMENT

4.1 Commencement

4.1.1 Unless the Contracting Authority directs otherwise in writing, the Design Development Stage will begin upon completion of the activities described under **Article 3**.

4.2 General Requirements

4.2.1 In addition to performing those Services required to comply with **Sections 4.3** through **4.4**, during the Design Development Stage, the Consultant shall:

4.2.1.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

4.2.1.2 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents which depict the current status of the Design Development Stage of the Project;

4.2.1.3 further evaluate and refine the Approved Program of Requirements;

4.2.1.4 prepare and submit a sole-source justification letter describing any materials, products, or systems included in the Work that are only available from a single manufacturer, supplier, or contractor to the Contracting Authority for its approval in writing;

4.2.1.5 resolve all issues related to compliance with Applicable Law (except to the extent stated otherwise in writing by the Consultant for necessary variances and waivers at the time of the Consultant's provisional Design Development Document submission) and participate in related meetings with government authorities that have jurisdiction over the Project;

4.2.1.6 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

4.2.1.7 notify the Owner of the need for and assist the Owner in selecting, retaining, and coordinating the professional services of any Separate Consultants required for the Project;

4.2.1.8 assist the Owner with filing documents required for the approvals of governmental authorities with jurisdiction over the Project; and

4.2.1.9 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment.

4.3 Design Development Submission

4.3.1 The Consultant shall submit the provisional Design Development Documents to the Contracting Authority and Owner on or before the date identified in the Project Schedule for that submission.

4.3.2 The provisional Design Development Documents shall include:

4.3.2.1 plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural, structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;

4.3.2.2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;

4.3.2.3 a detailed estimate of Construction Cost ("Design Development Estimate");

- .1** If the Design Development Estimate exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the Consultant to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The Consultant will present those proposals as an addendum to the provisional Design Development Documents.

4.3.2.4 a written description of all proposed or previously agreed upon Alternates, which description may be included in the specifications rather than as a separate document;

4.3.2.5 a written description of all proposed or previously agreed upon Allowances;

4.3.2.6 an identification of any unresolved issues related to compliance with Applicable Law;

4.3.2.7 a written description of all modifications of the Approved Program of Requirements; and

4.3.2.8 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

4.3.3 If the Project is administered using the State's web-based project management software, the Consultant shall submit the provisional Design Development Documents and any revisions through the "Design Review" business process.

4.4 Design Development Documents Review

4.4.1 After the Contracting Authority and Owner have had a reasonable period to review the provisional Design Development Documents, the Contracting Authority, Owner, and Consultant shall meet to discuss the provisional Design Development Documents and reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the Design Development Documents.

4.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Consultant shall revise the Design Development Documents to reflect the adjustments and clarifications agreed upon in the review meeting (including any comments from the Ohio Homeland Security Infrastructure Protection and Technology Unit, which have been reviewed and approved by the Owner), and resubmit those documents to the Owner and Contracting Authority.

4.4.3 When the Contracting Authority and Owner approve the revised Design Development Documents and sign the related Design Review Acceptance form, the revised Design Development Documents shall become the final Design Development Documents.

ARTICLE 5 - CONSTRUCTION DOCUMENTS

5.1 Commencement

5.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Documents Stage will begin upon the completion of the activities described in **Article 4**.

5.2 General Requirements

5.2.1 In addition to performing those services required to comply with **Sections 5.3** through **5.5**, during the Construction Documents Stage, the Consultant shall:

- 5.2.1.1** advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.2.1.2 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review Drawings and other documents which depict the current status of the Construction Documents Stage of the Project;

5.2.1.3 update and re-issue the Project Schedule as necessary to keep the Contracting Authority and Owner apprised of the schedule's current status;

5.2.1.4 develop, prepare, and compile all forms and information needed to properly bid and complete the Project;

5.2.1.5 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;

5.2.1.6 make recommendations to the Contracting Authority and Owner, for actions designed to minimize adverse effects of labor shortages;

5.2.1.7 file documents required for approvals of governmental authorities with jurisdiction over the Project; and

5.2.1.8 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

5.2.2 During the Consultant's completion of the Construction Documents:

5.2.2.1 The Consultant shall verify that the Drawings and Specifications include requirements and assignment of responsibilities for safety precautions and programs and for temporary facilities for common use of the Consultant and Contractor.

5.2.2.2 The Consultant shall prepare the Drawings and Specifications to encourage competition except where otherwise required to comply with the Approved Program of Requirements.

5.2.2.3 The Consultant shall identify areas that the Consultant recognizes as having incomplete documentation and uncoordinated multi-discipline Work.

5.2.2.4 With the prior written consent of the Owner, the Consultant shall develop and include Alternates in the Construction Documents.

5.3 Construction Documents Submission

5.3.1 The Consultant shall submit the provisional Construction Documents to the Contracting Authority and Owner on or before the date identified in the Project Schedule for that submission.

5.3.2 The provisional Construction Documents shall include:

5.3.2.1 Drawings setting forth in detail the requirements for construction of the Project;

5.3.2.2 Specifications prepared in accordance with the most-current CSI *MasterFormat* and that establish in detail the quality levels of all materials and systems required for the Project and include all stipulations pertaining to the furnishing and installation of the Work as required for completion of the Project;

5.3.2.3 a Detailed Estimate of Construction Cost; and

- .1** If the Detailed Estimate of Construction Cost exceeds the Construction Budget by more than 5 percent, the Contracting Authority may require the Consultant to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The Consultant will present those proposals as an addendum to the provisional Construction Documents.

5.3.2.4 an updated Project Schedule.

5.3.3 If the Project is administered using the State's web-based project management software, the Consultant shall create, approve, and submit the provisional Construction Documents and any revisions through the "Design Review" business process.

5.4 Construction Documents Review

5.4.1 After the Contracting Authority and Owner have had a reasonable period to review the provisional Construction Documents, the Contracting Authority, Owner, and Consultant shall meet to discuss the provisional Construction Documents and reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the Construction Documents.

5.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the Consultant shall revise the Construction Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner, and Contracting Authority.

5.4.3 When the Contracting Authority and Owner approve the revised Construction Documents and sign the related Design Review Acceptance form, the revised Construction Documents shall become the final Construction Documents, subject to **(1)** execution of an appropriate Modification to incorporate the adjustments into the Contract and **(2)** further revisions as provided in the General Conditions.

5.5 Government Approvals

5.5.1 Plan Approval.

5.5.1.1 The Consultant shall secure the required structural, plumbing, HVAC, and electrical plan approvals.

5.5.1.2 The Consultant shall attend all intermediate and final inspections required for any permit applicable to the Work including the life safety inspection for occupancy permits.

5.5.2 Local Permits.

5.5.2.1 The Consultant shall attend all intermediate and final inspections required for any local permit applicable to the Work.

5.5.3 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit.

5.5.3.1 The Consultant shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a "co-permittee" if required under Applicable Law.

5.5.3.2 The Consultant shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.5.3.3 The Consultant shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

ARTICLE 6 - BIDDING AND AWARD

6.1 Obtaining Bids

6.1.1 The Consultant shall develop and make recommendations for bidding criteria, bidding schedules, and bidding information and develop Bidders' interest in the Project.

6.1.2 The Consultant shall prepare and issue Addenda as necessary to render interpretations and clarifications of the Contract Documents.

6.2 Bid Packages

6.2.1 The Consultant shall obtain all necessary prevailing wage determinations and shall include them in the Contract Documents.

6.2.2 The Consultant, or its designee (e.g., its reprographer), shall assemble and distribute the Contract Documents to prospective Bidders, Contracting Authority, Owner, and other appropriate persons, including, but not limited to, any applicable local or regional plan room organizations.

6.2.2.1 If the Project utilizes the State's electronic bidding software, the Consultant or its designee shall provide the Contract Documents in PDF format to the Contracting Authority 1 business day before the first advertisement.

6.3 Pre-bid Conference

6.3.1 The Consultant shall conduct pre-bid conference(s) with prospective Bidders to familiarize Bidders with the Contract Documents, including any special requirements of the Contract Documents.

6.3.2 At the pre-bid conference(s), the Consultant shall also familiarize prospective Bidders with requirements of equal employment opportunity, prevailing wage, EDGE, Drug Free Safety Program, campaign contribution limits, ethics compliance, Sustainability Requirements, an overview of the State's electronic bidding software if applicable, an overview of the State's web-based project management software if applicable, and other requirements, as necessary.

6.3.3 The Consultant shall respond to questions from the pre-bid conference(s) by preparing and issuing pre-bid conference minutes attached to one or more written Addenda within 5 days of the conference.

6.4 Bid Review

6.4.1 The Consultant shall, in accordance with Applicable Law, review all Bids received for responsiveness, investigate responsibility of Bidders, and deliver a written recommendation to the Contracting Authority about award, or rejection, of any Bid or Bids for each contract for the Project.

6.4.2 In making the recommendation, the Consultant shall evaluate all applicable Alternates referenced in the Contract Documents.

6.5 Substitutions after Bid Opening

6.5.1 The Consultant shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the Consultant the following conditions:

6.5.1.1 The specified Basis of Design Components, Acceptable Components, or Substitutions approved prior to the bid opening, through no fault of the Contractor or Contractor's Subcontractors and Material Suppliers, are not available; or

6.5.1.2 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.6 Pre-award Conferences

6.6.1 The Consultant shall conduct pre-award conferences with the apparent successful Bidder and shall assist the Contracting Authority gather documentation for contract execution from such Bidder.

6.6.2 Upon failure of the apparent successful Bidder to provide such documentation in a timely manner, the Consultant shall assist the Contracting Authority in considering whether an extension of time for submitting such documentation is appropriate.

6.7 Subcontractor and Material Supplier Review

6.7.1 The Consultant, based upon review of the Contract Documents, any past experience, and reasonable inquiry, shall participate in investigating any Subcontractor or Material Supplier proposed by any Contractor and recommend approval or disapproval.

6.7.2 After receiving original or amended **Subcontractor and Material Supplier Declaration** forms from the Contractor, the Consultant shall verify that the forms are complete and deliver them to the Contracting Authority.

6.7.3 If the Consultant finds the forms are incomplete, the Consultant shall return them to the Contractor with no action and identify corrective action the Contractor shall perform prior to resubmitting the forms. If the Consultant returns such incomplete forms to the Contractor, the Contractor shall resubmit the forms with revisions complying with the corrective action identified by the Consultant.

6.7.4 Upon the Contracting Authority's receipt of the forms, the Consultant and Owner shall consult with the Contracting Authority in performing an initial review of each Subcontractor and Material Supplier listed.

6.7.5 If the Project is administered using the State's web-based project management software, the Consultant shall review and recommend approval or disapproval to the Contracting Authority of each Subcontractor and Material Supplier through the "Subcontractor Supplier Declaration" business process.

6.8 Over Budget Options

6.8.1 If the Construction Budget is exceeded by the total of the lowest responsive and responsible Bids and any legally negotiated prices for the Project, the Contracting Authority and Owner shall, at their option:

6.8.1.1 Approve in writing an increase in the Construction Budget and rebid the Project;

6.8.1.2 Authorize rebidding or renegotiation for some or all parts of the Project within a reasonable time without an increase in the Construction Budget;

6.8.1.3 Abandon the Project, in whole or in part, and terminate this Agreement; or

6.8.1.4 Cooperate in the revision of the Project Scope as defined in **Section 5.3.2.3.1** to reduce the actual cost of construction to the Construction Budget.

6.8.2 If the Contracting Authority and Owner adopt the option in **Section 6.8.1.1** above and such increase in the Construction Budget is more than 10 percent, the Consultant may request, in writing, an adjustment to the Basic Fee.

6.8.3 If the Contracting Authority and the Owner adopt the option in **Section 6.8.1.4** above, the Consultant shall appropriately modify the Approved Program of Requirements, Project Schedule, and Contract Documents and cooperate in any necessary bidding or negotiation without additional charge.

6.9 Further Revisions to Cost Estimate and Project Schedule

6.9.1 If necessary, the Consultant shall inform the Contracting Authority and Owner of the need for any adjustments in the Detailed Estimate of Construction Cost and Project Schedule.

6.9.2 Upon approval of the Contracting Authority and Owner of any such adjustments, the Consultant shall prepare a revised Detailed Estimate of Construction Cost or revised Project Schedule, as applicable, incorporating such adjustments, obtain the Owner's signature thereon, and deliver the signed, revised Detailed Estimate of Construction Cost or Project Schedule to the Contracting Authority.

6.10 Conformed Documents

6.10.1 During the entire Bidding and Award Stage, the Consultant shall incorporate all Addenda information into the Contract Documents; and, between the date that the Contracting Authority issues a Notice of Intent to Award for the first construction contract for the Project and the effective date of the Notice to Proceed, the Consultant shall provide updated Contract Documents that conform in every regard to the documents originally issued for bidding purposes plus all of the information in all Project Addenda and accepted Alternates ("Conformed Documents").

6.10.2 The Consultant shall issue 5 sets of Conformed Documents to the successful Bidder upon award of its contract.

6.10.3 The Consultant shall provide Electronic Files to the Contractor for the Contractor's convenience for the purpose of preparing its submittals, including, but not limited to, Shop Drawings and Coordination Drawings. The Consultant shall provide such Electronic Files at no additional cost to the Contractor or the Owner.

ARTICLE 7 - CONSTRUCTION

7.1 Duration; Extent, Access

7.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Contract Completion.

7.1.2 The Consultant shall have access, at all times, to the Project whenever any Work is in preparation or in progress.

7.2 Progress of the Project

7.2.1 The Consultant shall record the progress of the Project and provide written reports to the Contracting Authority and Owner on a monthly basis, unless otherwise agreed in writing. Such reports shall include information on the Contractor's Work, as well as completion status on the entire Project, showing percentages of completion.

7.2.1.1 If the Project is administered using the State's web-based project management software, the Consultant shall issue written reports to the Contracting Authority, Owner, and Contractor through the "Field Reports" business process.

7.3 Construction Progress Schedule

7.3.1 The Consultant shall review the Construction Progress Schedule for conformance with the Contract Documents, provide a copy of the Construction Progress Schedule and schedule of submittals to the Contracting Authority and Owner.

7.3.1.1 If the Project is administered using the State's web-based project management software, the Consultant shall receive initial and updated schedules from the Contractor, and forward them to the Contracting Authority and Owner, through the "Schedule Approvals" business process.

7.3.2 The Consultant shall periodically inform the Contracting Authority and Owner of the need to update the Project Schedule as required to show current conditions, including conformance to the Construction Progress Schedule, as updated from time to time.

7.3.2.1 If such conditions indicate that Milestone completion dates shown on the Project Schedule may not be met, the Consultant shall recommend corrective action to the Contracting Authority and Owner and carry out the

directions of the Contracting Authority so that the Milestone completion dates may be met, unless the Contracting Authority and Owner agree in writing to revise the Milestone completion dates.

7.4 Meetings

7.4.1 The Consultant shall schedule, conduct, and participate in weekly progress meetings with the Contracting Authority, Owner, appropriate Sub-consultants, Contractor, Subcontractors, and any other parties involved in the Project to discuss such matters as procedures, progress, problems, and scheduling.

7.4.1.1 The Consultant shall prepare and distribute written agendas and minutes of all progress meetings to the Contracting Authority, Owner, Contractor, and any other parties involved. The Consultant shall not delegate the duty to prepare such agendas and minutes and shall distribute the written minutes of each meeting within 3 business days after the meeting.

- .1** If the Project is administered using the State's web-based project management software, the Consultant shall distribute meeting agendas and minutes to the Contractor, Contracting Authority, and Owner through the "Meeting Minutes" business process, and document issues identified during progress meetings that require resolution by one or more construction participants through the "Action Items" business process.

7.4.1.2 The Consultant shall attach the minutes of each progress meeting to the Contractor's weekly written report as submitted to the Consultant, describing progress on the Contractor and its Subcontractors' past, current, and upcoming activities.

7.4.1.3 The minutes of each progress meeting shall reflect any objection made to the minutes of the previous meeting and any response.

7.4.1.4 The Consultant shall notify the Contractor, and other Persons involved in the Project of the time and place of the progress meetings that shall thereafter be the same day and hour of the week for the duration of the Project, unless the Consultant notifies the Contractor and other persons involved in the Project of a different day and hour at least 2 days in advance.

7.4.2 The Consultant shall attend and participate in preconstruction, quality-control, pre-installation, and special meetings with the Contracting Authority, Owner, appropriate Sub-consultants, Contractor, Subcontractors, and any other parties involved in the Project.

7.5 Site Visits and Observation

7.5.1 The Consultant shall notify, advise, and consult with the Contracting Authority and Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

7.5.2 The Consultant shall designate a field representative, subject to the Contracting Authority's approval, to review the Work of the Contractor for Defective Work, to maintain familiarity with the progress and quality of the Work on the Project, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

7.5.3 The Consultant, and appropriate Sub-consultants, shall also visit the Project at such intervals as the Contracting Authority requires, to review the Work of the Contractor for Defective Work, to become familiar with the progress and quality of the Work on the Project, and to determine if the Work is proceeding in conformity with the Contract Documents.

7.5.3.1 Such visits shall specifically include those listed in the Agreement, observation of large excavations, observation of footings during placement of concrete and observation of masonry work, structural steel erection, roofing work and interior finishes.

7.5.4 In all events, the Consultant and appropriate Sub-consultants, shall be at the Site for such purposes not less than the number of hours per week identified in the Agreement whenever any Work is in preparation or progress, unless otherwise expressly provided in writing by the Contracting Authority.

7.5.5 If the Consultant becomes aware, either through such visits or otherwise, of any Defective Work on the Project, then the Consultant shall immediately report the Defective Work to the Contracting Authority and Owner, together with recommendations for the correction thereof, and shall deliver written notice to the Contractor to correct such Defective Work. Such written notice shall specify the time within which the Contractor shall correct the Work ("72-Hour Notice").

7.5.5.1 If the Project is administered using the State's web-based project management software, the Consultant shall issue written notice of Defective Work to the Contractor with copies to the Contracting Authority and Owner, through the "72 Hour Notice" business process.

7.5.6 The Consultant may disapprove or reject any item of Work that it believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents.

7.5.7 The Consultant shall immediately notify the Contracting Authority and Owner any time the Consultant disapproves or rejects an item of Work.

7.6 Investigation of Conditions for Renovation or Remodeling

7.6.1 For renovation and remodeling, the Consultant shall, as portions of the Project become accessible, investigate existing conditions, and verify the accuracy of information provided by the Owner about such existing conditions.

7.7 Interpretations

7.7.1 The Consultant shall render interpretations of the Contract Documents necessary for the proper execution or progress of the Work on the Project.

7.7.2 The Consultant shall respond to the Contractor's Request for Interpretation ("RFI") within 3 days of receiving the RFI.

7.7.3 All interpretations shall be in writing, shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be delivered to the Contracting Authority, Owner, and Contractor.

7.7.4 The Consultant shall keep a log of all RFIs and their respective responses.

7.7.5 If the Project is administered using the State's web-based project management software, the Consultant shall render its interpretations to the Contracting Authority, Owner, and Contractor through the "Request for Interpretations" business process.

7.8 Differing Site Condition Investigation

7.8.1 Promptly after receiving notice of a Differing Site Condition from the Contractor, the Consultant shall investigate to determine whether the Contractor has encountered a Differing Site Condition.

7.8.2 The Consultant shall give written notice of its determination to the Contracting Authority and Contractor within 10 days after completing the investigation.

7.8.3 If the Consultant determines that the Contractor has encountered a Differing Site Condition, the Consultant shall prepare (as appropriate) a resulting Change Order or a Change Directive through which the Contracting Authority may convey its disagreement with the Consultant's determination.

7.9 Coordination Drawings

7.9.1 The Consultant shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals established in the coordination meetings.

7.9.2 The Consultant shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

7.9.3 If installed Work causes or contributes to interference with subsequent Work of a Separate Contractor, the Consultant shall determine the needed modifications to the installed Work to accommodate the subsequent Work.

7.9.4 If the Project is administered using the State's web-based project management software, the Consultant shall receive and forward Coordination Drawings to its Sub-consultants using the "Submittals" business process.

7.10 Submittal Review

7.10.1 The Consultant shall review Submittals such as Shop Drawings, Product Data, and Samples for conformity with design intent and conformity with the Contract Documents within 14 days of receiving Submittals or in accordance with the approved submittal schedule, or other period as mutually agreed by the Consultant and Contractor.

7.10.2 The Consultant shall also review drawings, calculations, and designs required of the Contractor and its Subcontractors and provided with such Submittals (except calculations and designs of manufacturers of original equipment and systems to be installed in the Project and except calculations and designs which the Contract Documents expressly make the sole responsibility of the Contractor or one or more Subcontractors, Material Suppliers, or other persons).

7.10.3 The Consultant shall act upon resubmission of corrected Submittals within 14 days of receiving them, or other period as mutually agreed by the Consultant and Contractor.

7.10.4 The Contractor shall review and stamp “approved” all Submittals before forwarding them to the Consultant. If it is apparent to the Consultant that the Contractor has not reviewed the Submittals, or has conducted an incomplete review of them, the Consultant may reject the Submittals.

7.10.5 The Consultant may hold samples and other Submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until Submittals for adjacent materials are available. The Consultant shall issue a written notice to the Contractor stating that its Submittal is being held, within 7 days of receiving it.

7.10.6 If the Project is administered using the State’s web-based project management software, the Consultant shall receive and forward submittals to its Sub-consultants, and return reviewed submittals to the Contractor, using the “Submittals” business process.

7.11 Additional Tests and Inspections

7.11.1 If the Consultant determines that any portion of the Work requires inspection, testing, or approval not otherwise required under the Contract Documents, the Consultant shall order the inspection, testing, or approval.

7.11.2 Within 5 days after completion of an inspection, test, or approval, the Consultant shall provide an original report of the inspection, test, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

7.11.3 The Owner shall reimburse the Consultant for the special inspection, test, or approval as a change in the Services.

7.11.4 The Consultant shall not be reimbursed or otherwise compensated for any special inspection, testing, or approval made necessary by the act or omission of the Consultant or any Sub-consultant.

7.12 Change Order Procedure

7.12.1 Paperwork Consolidation.

7.12.1.1 Related Modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same Change Order.

7.12.1.2 Add and deduct Modifications, with the same or similar justification, may be included on the same Change Order.

7.12.1.3 Modifications resulting from errors or omissions shall not be combined with other modifications.

7.12.2 Change Order Numbering.

7.12.2.1 The Consultant shall assign a number to each Modification, which shall uniquely identify it.

7.12.2.2 The Consultant shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.12.2.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

7.12.3 Modification Log.

7.12.3.1 The Consultant shall create and maintain a Modification Log for the Project, which shall contain the following minimum information:

- .1 number of the Modification;
- .2 a brief description of the Modification;
- .3 cost of the Modification;
- .4 schedule impact of the Modification; and
- .5 dates sent to, and received from, the parties.

7.12.4 Reconciliation of Unit Price Items.

7.12.4.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.12.4.2 The Consultant shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.12.4.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or the Contractor, the Consultant shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

- .1** If a Unit Price is adjusted as described under **Section 7.12.4.3**, the new Unit Price will only apply to the units of Work performed that are **(1)** less than the 20 percent threshold if the Unit Price is changed on account of an over-estimation of the scheduled quantity of a Unit Price item involved in the Work or **(2)** in excess of the 20 percent threshold if the Unit Price is changed on account of an under-estimation of the scheduled quantity of a Unit Price item involved in the Work.

7.12.4.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the Consultant, who shall issue a Change Directive and subsequent Change Order to authorize an adjustment in the scheduled quantity.

7.12.5 Change Orders.

7.12.5.1 The Consultant shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order form to the Contractor for signature.

7.12.5.2 When the Consultant receives the Change Order signed by the Contractor, the Consultant shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.12.5.3 If the Project is administered using the State's web-based project management software, the Consultant shall prepare and recommend Change Orders for approval, using the "Change Order" or "Contract Modifications" business process.

7.12.6 Proposal Requests.

7.12.6.1 The Consultant shall prepare Proposal Requests with estimated costs and other necessary documentation seeking Proposals from the Contractor for adjustments of the Contract Sum or the Contract Times, or both, associated with potential and proposed changes in the Work.

7.12.6.2 If the Project is administered using the State's web-based project management software, the Consultant shall prepare and distribute Proposal Requests using the "Change Order" or "Contract Modifications" business process with the "Proposal Request" workflow.

7.12.7 Request for Change Order.

7.12.7.1 The Contractor may initiate a change in the Work by submitting written notice to the Consultant accompanied by a Proposal. The Consultant shall promptly evaluate the Request for Change Order and submit a written recommendation to the Contracting Authority and the Owner.

7.12.7.2 If the Project is administered using the State's web-based project management software, the Consultant shall respond to the Contractor's Request for Change Order using the "Change Order" or "Contract Modifications" business process.

7.13 Change Directives

7.13.1 A Change Directive may, if necessary:

7.13.1.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.13.1.2 Limit the scope of the change in the Work by a fixed adjustment of the Contract Sum.

7.13.2 If a change in the Contractor's Work must start immediately to avoid an imminent impact to the schedule of the Project, the Consultant shall prepare a Change Directive, for the Contracting Authority and Owner's signatures pursuant to **Section 7.13.1**, authorizing the Contractor to proceed.

7.13.3 A Change Directive shall be used to direct a change in a Contractor's Work in the absence of total agreement on the terms of a Change Order.

7.13.3.1 A Change Directive may also be used in the absence of agreement as to whether the subject of the Change Directive actually constitutes a change in the Work.

7.13.4 If the Project is administered using the State's web-based project management software, the Consultant shall prepare and recommend Change Directives for approval, using the "Change Order" or "Contract Modifications" business process with the "Change Directive" workflow.

7.14 Orders for Minor Changes in the Work

7.14.1 The Consultant may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents.

7.14.2 The Consultant shall issue orders for minor changes in the Contractor's Work by written order to the Contractor. The Consultant shall keep a log of all Orders for Minor Change in the Work.

7.14.3 If the Project is administered using the State's web-based project management software, the Consultant shall prepare and recommend Orders for Minor Changes in the Work for approval, using the "Action Items" business process.

7.15 Claims Analysis

7.15.1 The Consultant, in consultation with the Contracting Authority, shall respond to the Contractor's written notice of a Claim within a reasonable time of receipt, but not to exceed 10 days.

7.15.2 The Consultant shall review each Contractor Claim, prepare a written analysis of its content, and submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified Claim. The written analysis shall include:

7.15.2.1 A narrative of the Consultant's examination of the facts giving rise to the Claim;

7.15.2.2 Identification of relevant Contract Documents and language;

7.15.2.3 An analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to Claim initiation and substantiation including the issues of entitlement to, and calculation of, adjustments of the Contract Sum and Contract Times;

7.15.2.4 An analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

7.15.2.5 An analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

7.15.2.6 A concluding opinion regarding the Contractor's entitlement to, and the appropriateness and reasonableness of all, or any part of, the Claim; and

7.15.2.7 An appendix containing copies of contemporaneous documentation supporting the concluding opinion.

7.15.3 The Consultant shall attend dispute resolution meetings convened by the Contracting Authority related to each Claim.

7.16 Project Costs

7.16.1 The Consultant shall monitor Project cost accounting records on Work performed by the Contractor under unit costs, actual costs for labor and materials, or other appropriate basis. The Consultant shall afford the Contracting Authority and Owner access to these records at all times.

7.17 Schedule of Values

7.17.1 The Contractor shall submit to the Consultant a Schedule of Values with separate amounts shown for labor and materials for each branch of the Contractor's Work.

7.17.2 The Consultant shall review and may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the Consultant determines that it conforms to the requirements in the General Conditions.

7.17.3 If the Project is administered using the State's web-based project management software, the Consultant shall receive and process the Contractor's Schedule of Values, using the "Contract Schedule of Values" business process.

7.18 Payments

7.18.1 The Contractor may submit a Contractor Payment Request to the Consultant each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

7.18.1.1 If the Project is not administered using the State's web-based project management software, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the Consultant not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

7.18.1.2 The Consultant shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

7.18.1.3 The Contractor shall incorporate the Consultant's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

7.18.2 Based upon the Consultant's review of the applicable Work and evaluations of the Contractor Payment Request, the Consultant shall review and approve, modify, or reject the amounts shown on such Payment Request as being due to the Contractor.

7.18.3 The Consultant may request, from a Contractor, additional documentation in connection with each payment to the Contractor.

7.18.4 Each Contractor Payment Request that the Consultant determines that it will recommend shall be signed by the Consultant and delivered to the Contracting Authority.

7.18.5 The Consultant may recommend to the Contracting Authority that payments be withheld from, or Liquidated Damages be assessed against, a Contractor Payment Request.

7.18.6 If the Project is administered using the State's web-based project management software, the Consultant shall receive and approve the Contractor's Contractor Payment Request, using the "Contractor Pay Request" or "Applications for Payment" business process.

ARTICLE 8 - CLOSEOUT

8.1 Pre-closeout Conference

8.1.1 The Consultant shall participate in a pre-closeout conference conducted by the Contracting Authority to familiarize the Contractor with Closeout requirements and procedures, including any special requirements of the Contract Documents.

8.2 Substantial Completion

8.2.1 Within 3 business days of receipt of the Contractor's request for the Substantial Completion inspection of the Work, the Consultant shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

8.2.2 Within 7 days of its acceptance of a Contractor's request, the Consultant shall conduct the Substantial Completion inspection to determine whether the Contractor's Work, or the designated portion, is Substantially Complete.

8.2.3 The Consultant shall notify the Contractor, Contracting Authority, and Owner of the scheduled time of the Substantial Completion inspection.

8.2.4 If the Consultant determines that the Work is Substantially Complete, within 3 business days after the Substantial Completion inspection, the Consultant shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and include a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List"). The A/E's Punch List shall include **(1)** the items on the Contractor's Punch List that are not yet completed or corrected as of the date of the Substantial Completion inspection, and **(2)** comments from the Contracting Authority and Owner.

8.2.5 The Consultant shall submit the Certificate of Substantial Completion to the Contracting Authority, Owner, and Contractor for their written acceptance.

8.2.5.1 If the Project is administered using the State's web-based project management software, the Consultant shall receive the Contractor's Punch List and distribute the A/E's Punch List, using the "Punch List" business process.

8.2.6 If the Consultant accepts the request for the Substantial Completion inspection and subsequently determines that the Work is not Substantially Complete, the Consultant may request compensation for expenses related to excessive Punch List activities.

8.3 Partial Occupancy

8.3.1 The Consultant shall assist the Contracting Authority and Owner in determining dates of Partial Occupancy of the Work, or portions thereof designated by the Owner, and shall assist in obtaining any certification required by Applicable Law.

8.3.2 Before the Owner commences Partial Occupancy, the Consultant shall prepare and execute a Certificate of Substantial Completion for the designated area listing incomplete or Defective Work under the Contract.

8.3.2.1 If the Project is administered using the State's web-based project management software, the Consultant shall process the partial Certificate of Contract Completion, using the "Closeout - Contractor" business process.

8.4 Contract Completion

8.4.1 Within 3 business days of receipt of a the Contractor's notice that all Punch List items have been completed, the Consultant shall complete a Final Inspection of the Work for compliance with the Contract Documents.

8.4.2 If multiple inspections of items on the A/E's Punch List are required because of the Contractor's failure to properly and timely complete them, the Consultant may request compensation for expenses related to excessive Punch List activities.

8.4.3 When all items on the A/E's Punch List have been completed to the Consultant's satisfaction and all requirements of the Contract Documents have been completed, the Consultant shall prepare and recommend execution of a Certificate of Contract Completion.

8.4.3.1 When items of Work cannot be completed until a subsequent date, the Consultant may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the Contracting Authority's sole discretion. The Consultant shall list deferred items on a partial Certificate of Contract Completion with the dates the items are to be completed.

8.4.3.2 If the Project is administered using the State's web-based project management software, the Consultant shall process the Certificate of Contract Completion, using the "Closeout - Contractor" business process.

8.4.4 Upon execution of a Certificate of Contract Completion, the Consultant shall receive, review for conformity with the requirements of the Contract Documents, and transmit to the Contracting Authority any affidavits and turn over to the Owner any keys, manuals and the originals of any guarantees, warranties, releases, bonds, and waivers.

8.4.5 The Consultant shall transmit a copy of any guarantees, warranties, releases, bonds, and waivers to the Contracting Authority.

8.5 Record Documents

8.5.1 The Consultant shall prepare the Record Documents by revising the Contract Documents and related electronic files on the basis of the information contained on the As-Built Documents submitted by the Contractor and the Consultant's observations during the progress of the Project. The Record Documents shall detail the actual construction of the Project and contain such annotations by the Consultant as may be necessary for someone unfamiliar with the Project to understand the changes that were made to the Contract Documents.

8.5.2 The Consultant shall label the revised Contract Documents and related electronic files as "Record Documents" and reflect the date on which the Consultant finished preparing them.

8.5.3 The Consultant shall furnish to the Owner 1 set of Record Documents in the form of paper documents and one set in the form of electronic files.

8.5.4 By submitting the Record Documents to the Owner, the Consultant certifies that the Record Documents are complete, correct, and accurate, to the best of the Consultant's knowledge based upon the As-Built Documents delivered to the Consultant by the Contractor and the Consultant's observations during the progress of the Project.

8.6 Post-Occupancy

8.6.1 During the Correction Period, the Consultant shall work with the Contracting Authority, Owner, and Contractor to investigate suspected Defective Work and to design and coordinate its repair or completion. The Owner shall not be obligated to compensate the Consultant for the Consultant's performance of the Consultant's services under this **Section 8.6.1** unless it has been determined that the Defective Work was not the result of the Consultant's failure to meet its obligations under the Agreement.

8.6.2 The Consultant shall participate in a walk-through of the Project with the Owner 1 month prior to the expiration of each Correction Period. The Consultant shall consult with the Owner to address any issue identified in the walk-through according to the procedures specified in the General Conditions. The Consultant shall notify the Contractor of such defects in writing with a request that the Contractor correct the Defective Work, prior to the end of the Correction Period.

ARTICLE 9 - ADDITIONAL SERVICES

9.1 General

9.1.1 Services Not Included in Basic Services.

9.1.1.1 The Consultant shall provide the services listed in **Sections 9.1.2 through 9.1.19** as Additional Services only when identified in the Agreement Form and approved in writing by the Contracting Authority in consultation with the Owner.

9.1.1.2 The Fee for the Additional Services listed in **Sections 9.1.2 through 9.1.19** shall be paid as provided in the Agreement Form, in addition to payment for the Basic Services; however, the Consultant shall not be compensated for any of the Additional Services listed in **Sections 9.1.2 through 9.1.19** made necessary by any act or omission of the Consultant or any of the Consultant's Sub-consultants.

9.1.1.3 Unless waived by the Contracting Authority in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

9.1.2 Specialized Services. Providing specialized design and engineering services, including services for acoustical analysis or design, computer services, communication consultant services, design or specification of unusual or large volumes of fixtures, furnishings, and equipment.

9.1.3 Additional On-Site Services. Providing administration or observation of construction beyond the Basic Services provided pursuant to **Exhibit B**.

9.1.4 Extensive Change Orders. Preparing Drawings, Specifications, cost estimates, and other documents and supporting data in connection with Change Orders beyond those services to be reasonably provided as Basic Services, pursuant to **Exhibit B**.

9.1.5 Partnering and Scheduling Sub-consultants. Serving as a partnering or construction scheduling consultant or providing such consulting services.

9.1.6 Perspectives, Models, Renderings. Preparing professional perspectives, physical models, or renderings, which are not otherwise useful or necessary to the Consultant in providing the Basic Services required hereunder and which are provided at the prior written request of the Contracting Authority in consultation with the Owner.

9.1.7 Grant Applications. Preparing applications and supporting documents for governmental grants, loans, or advances.

9.1.8 Special Studies. Providing planning services, site evaluations, environmental studies, or comparative studies of prospective sites, preparing special surveys, studies, and submissions required under Applicable Law.

9.1.9 Surveys. Providing surveying services, including land surveys and rights-of-way studies.

9.1.10 Investigation of Conditions for New Construction. Providing services for new construction to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

9.1.11 Constructability and Cost Analyses. Preparing extensive analyses of the construction feasibility of the Project or of owning and operating costs, or preparing detailed quantity surveys or inventories of material, equipment, and labor beyond those services to be reasonably provided as Basic Services in **Exhibit B**.

9.1.12 Off-Site Services. Providing planning or design services for off-site utilities, which are not adjacent to the Project, building connections, or roadways.

9.1.13 Certain Revisions. Making revisions in Drawings, Specifications, or other Contract Documents at the request of the Contracting Authority when such revisions are inconsistent with written approvals or instructions previously given or are required by the enactment or revision of Applicable Law subsequent to the preparation of such documents.

9.1.14 Replacement Work. Providing consultation and other services in connection with replacement of any Work damaged by fire, casualty, or other incident not caused by negligence of the Consultant or any Sub-consultant.

9.1.15 Contractor Default. Providing services made necessary by the Contractor's default.

9.1.16 Additional Documents. Providing more sets of Contract Documents than the number required as Basic Services pursuant to **Exhibit B**.

9.1.17 Prototype Design. Use of the Consultant's Documents for one or more prototype projects as described in the Consultant Standard Terms and Conditions.

9.1.18 Special Inspections Required by the Ohio Building Code.

9.1.18.1 The special inspections indicated in the current edition of the OBC Chapter 17 are not included as Basic Services; however, in the event such special inspections are required as a condition of the Plan Approval issued by the Building Authority having jurisdiction for the Project, the Consultant shall provide the special inspections and be compensated for such as Additional Services, and shall provide written notice to the Contractor, the Owner, and the Contracting Authority of the Special Inspection to be performed.

9.1.18.2 The Consultant shall not be compensated for any such Additional Services made necessary by the act or omission of the Consultant or any Sub-consultant.

9.1.19 Quality Assurance Testing.

9.1.19.1 General Requirements. The Quality Assurance (“QA”) Testing services listed under **Sections 9.1.19.2** through **9.1.19.10**, which is not intended to be an exhaustive list, are not included as Basic Services, however, the Consultant shall provide such services when identified in the **Agreement Form** either itself (if qualified) or through a Sub-consultant properly licensed to perform the required inspections and all related testing services.

- .1** Unless otherwise specified in the Contract Documents, the Consultant shall apply for, secure, and pay for the costs of quality assurance testing, structural testing, and special inspections required under the current edition of Ohio Building Code (“OBC”) Chapter 17.
- .2** Such testing and inspections shall include geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing (e.g., medical gases testing, lead shielding, etc.); or approval required by Applicable Law.
- .3** The Consultant shall identify the name or names of the Sub-consultants it intends to use for all quality assurance and special inspections that would be reasonably anticipated for the Project and shall provide a Schedule of Fees for Typical Services for each Sub-consultant.

9.1.19.2 Geotechnical Analysis. Sampling and analysis of soils and hydrologies, and subsequent reporting and recommendations, upon which architectural and engineering designs may be based. Applicable to Construction Stage observation, testing, and reporting of soils conditions, including testing for types and quality of fill material and its installation, compaction, soil density testing, caisson borings inspections, cut and fill monitoring, etc.

9.1.19.3 Environmental Testing and Analysis. Sample and analysis of existing conditions or materials for any of a variety of environmental materials, including Hazardous Materials and suspected Hazardous Materials, and subsequent reporting.

9.1.19.4 Concrete. Test for general quality, such as: slump, air entrainment, cylinder test, core test, Swiss hammer.

9.1.19.5 Masonry. Includes such testing as prism tests, mortar cube, grout tests, water infiltration.

9.1.19.6 Structural Steel, Reinforcing Steel, Welding, Bolts and Connections. Includes any testing and reporting of any type of steel, including those listed above.

9.1.19.7 HVAC Systems and Controls. Includes testing and balancing of any or all HVAC components including controls systems.

9.1.19.8 Plumbing and Piping. Includes testing of water, waste, vent and process piping, and provide associated reporting.

9.1.19.9 Air and Water Testing and Balancing. Includes testing and balancing of various pneumatic and hydronic piping, and provide associated reporting.

9.1.19.10 Other. (e.g., Medical Gases testing, Lead Shielding, etc.)

END OF DOCUMENT

Document 00 71 00 - Contracting Definitions (General Contracting Project)

State of Ohio Standard Requirements for Public Facility Construction

Acceptable Component	A component listed in the Specifications after the Basis of Design Component.
Addenda or Addendum	Written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections. Addenda become part of the Contract Documents when the Agreement is executed.
A/E	See “Architect/Engineer.”
Agreement	The form furnished by the Contracting Authority (including all of its exhibits) that, when completed and signed by the Contractor and Contracting Authority evidences entry into the Contract.
Allowance	A sum stipulated in the Contract Documents for a defined scope of the Work that may not be completely defined at the time of bidding. Allowance amounts do not include the Contractor’s Fee on account of the associated Work.
Alternate	A change in the proposed Project scope, which may include but is not limited to alternate materials or methods of construction, and an amount stated on the Bid form to be added to or deducted from the Base Bid if the corresponding Alternate is incorporated into the Contract.
Alternative Dispute Resolution	A voluntary and non-binding process for the administrative review, consideration, and attempted settlement of a dispute, without resort to judicial process, including but not limited to partnering, negotiation, mediation, impartial fact-finding, dispute review board, and mini-trials, but shall not include arbitration.
Applicable Law	All federal, state, and local codes, statutes, ordinances, and regulations that apply to the performance of the Work or the A/E’s Services on the Project.
Architect/Engineer	The Person responsible for providing professional design services and construction contract administration for the Project as provided in the Contract Documents. The A/E shall be a (1) registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ORC Chapter 4703, (2) landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ORC Chapter 4703, or (3) professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ORC Chapter 4733.
As-Built Documents	Documents, including but not limited to Drawings, Addenda, Specifications, executed Change Orders, and other elements of the Contract Documents which the Contractor annotates and otherwise modifies to indicate changes made during the construction process, the location of concealed and buried items, and other information useful to the Owner throughout the life of the completed Project.
Base Bid	The amount stated in a Bid as the sum for which the Bidder offers to perform the Work in a particular trade or other category, which is described in the Contract Documents, excluding Alternates.
Basis of Design	A document that records the concepts, calculations, decisions, and product selections used to meet the Owner’s Project Requirements and to satisfy applicable regulatory requirements, standards, and guidelines. The document includes both narrative descriptions and lists of individual items that support the design process.
Basis of Design Component	A component listed first in the Specifications.
Bid	A written proposal to perform a Contract, submitted on a completed Bid Form, accompanied by other required documents. The term Bid includes a proposal that has been digitally signed, encrypted, and submitted through the State’s electronic bidding application pursuant to OAC Section 153:1-8-01.

Bidder	A Person that submitted a Bid.
BIM	See “Building Information Model.”
Bid Form	A form furnished by the Contracting Authority with the proposed Contract Documents that is to be completed, signed, and submitted containing the Bidder's Bid.
Bid Guaranty	A bid bond or other instrument of security authorized by ORC Section 153.54 submitted with the Bid to provide assurance that the Bidder will execute the Agreement.
Bond	A performance and payment bond in the format specified by ORC Section 153.57 submitted by the Contractor to provide assurance that the Contractor will perform the Work of the Contract, including making required payments to Subcontractors and Materials Suppliers.
Building Information Model	A digital representation of physical and functional characteristics of a facility; a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle, which is defined as existing from earliest conception to demolition; electronic files used to design and coordinate the Project; and may be used to describe a single model or multiple models used in the aggregate.
Certificate of Contract Completion	A form used to document that the Contractor’s achievement of Contract Completion. This form may also be used to document partial Contract Completion.
Certificate of Substantial Completion	A form used to document (1) that the Contractor has achieved Substantial Completion of the Work or a designated portion of the Work for which the Contracting Authority and the Owner have agreed to take Partial Occupancy, and (2) the date on which the associated Substantial Completion of the Work was achieved.
Change Directive	A written document prepared by the A/E and executed by the Contracting Authority that directs a change in the Work.
Change Order	A document recommended by the A/E and executed by the Contracting Authority and the Contractor that modifies the Contract.
Claim	A demand or assertion, initiated by written notice, certified by one of the parties to the Contract seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract.
Claim Affidavit	A sworn document used in conjunction with filing a lien, which contains a claim on the funds that are due to a Contractor, in favor of a Person supplying labor, materials, or services for the value of labor, materials, or services supplied.
Combined Bid	A Bid that combines bid items for separate Contracts stated on the Bid Form.
Commission	See “Ohio Facilities Construction Commission.”
Commissioning Agent	The Person identified by the Contracting Authority who leads, plans, schedules, and coordinates the commissioning team to implement the Commissioning Process for the Project.
Commissioning Plan	A document that outlines the organization, schedule, allocation of resources, and documentation requirements of the Commissioning Process.
Commissioning Process	A quality-focused process for enhancing the delivery of a project. The process focuses on verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the Owner’s Project Requirements.

Commissioning Report	A document that records the activities and results of the Commissioning Process. The Commissioning Report is developed from the final Commissioning Plan with its attached appendices.
Conformed Documents	Contract Documents with all Addenda items and accepted Alternates incorporated by the A/E, published, and issued to a successful Bidder for its use during performance of the Contract. The Conformed Documents are furnished solely for the Contractor's convenience. In the event of any conflict between the Contract Documents modified by Addenda and the Conformed Documents, the Contract Documents take precedence.
Construction Budget	The amount identified in the Agreement as adjusted by the Owner and Contracting Authority.
Construction Cost	The sum of the Contract Cost amounts for a phase of the Project.
Construction Progress Schedule	The critical path schedule for performance of the Contract; showing the time for completing the Work within the Contract Times; the planned sequence for performing the various components of the Work; the interrelationship between the activities of the Contractor, A/E, Contracting Authority, and Owner; and the Contractor's resource and cost loading information; as periodically updated during the performance of the Work.
Contract	The state of legal obligation entered into by the State and the Contractor, whereby they have agreed to an exchange of certain acts, materials, equipment, and services for certain monetary consideration, under all terms and conditions specified in the Contract Documents, which shall remain in full force and effect until such time as all obligations under the Contract have been lawfully and completely discharged, or the Contract is terminated under other conditions specified in the Contract Documents.
Contract Completion	The schedule Milestone in the progress of any Phase when the Work is completed in accordance with the terms of the Contract Documents and Contractor has satisfied all of its other obligations under the Contract Documents, including but not limited to (1) all governmental authorities have given final, written approval of the Work, (2) a final unconditional certificate of occupancy has been granted and issued to the Owner by the appropriate governmental authorities, (3) the Contractor's Work is 100 percent complete, and (4) all Punch List items have been completed or corrected, and (5) the Contractor has complied with conditions precedent to final payment and release of retained funds.
Contract Documents	Collectively, the documents that constitute the substance of the Contract including but not limited to Drawings, Specifications, Addenda if any, General Conditions, Supplementary Conditions if any, Bid Form, Wage Rates; and the executed Agreement, Bid Guaranty and Contract Bond, and Change Orders if any.
Contract Sum	The Contract Sum is the Contractor's entire compensation for the Contractor's proper, timely, and complete performance of the Work and is subject to adjustment as provided in the Contract.
Contract Times	The periods stipulated in the Agreement for the achievement of associated Milestones, in consecutive days, beginning on the date established by the Notice to Proceed, including adjustments authorized by executed Change Orders.
Contracting Authority	The party identified in the Agreement, which may be the Ohio Facilities Construction Commission; an agency of the state of Ohio; an Institution of Higher Education or division thereof; a School District Board; or the legislative body of a political subdivision.
Contractor	A firm, which is party to the Contract for the performance of Work on the Project in accordance with the Contract Documents.
Contractor's Documents	All Project-related documents, including those in electronic form, prepared by the Contractor and its Subcontractors.

Contractor's Fee	The portion of the Contract Sum attributable to the aggregate of the Contractor's profit and home-office overhead related to the Contractor's proper, timely, and complete performance of the Work.
Contractor Payment Request	The form furnished by the Commission that is to be used by the Contractor in requesting payments and which, when signed by the Contractor, shall serve as an affidavit that payments requested are in proportion to the Work completed as shown on the Schedule of Values.
Contractor's Punch List	A document prepared by the Contractor that consists of a list of items of Work to be completed or corrected by the Contractor as a condition precedent to Contract Completion.
Coordination Drawings	Drawings and Electronic Files prepared by the Contractor to demonstrate how multiple-system and interdisciplinary work will be coordinated. Clash reports generated by BIM authoring software may be included in the Coordination Drawing submittals if applicable.
Correction Period	A period of one year commencing on the date of Substantial Completion of the Work or a designated portion of the Work which the Contracting Authority and Owner have agreed to take Partial Occupancy.
CxA	See "Commissioning Agent."
Date of Commencement	The date established in a Notice to Proceed issued by the Contracting Authority to the Contractor to mark the start of the Work and the beginning of the running of the Contract Times.
day	A calendar day of 24 hours measured from midnight to midnight, unless otherwise expressly specified to mean a business day.
Defective Work	Work that does not conform to the Contract Documents; or does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test or approval; or has been damaged prior to the A/E's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by the Owner; or that is not free from defects in workmanship, materials or equipment during the period of any warranty or guarantee.
Differing Site Condition	Either (1) a subsurface or otherwise concealed physical condition encountered at the Site that differs materially from the conditions indicated in the Contract Documents or (2) an unknown physical condition of an unusual nature encountered at the Site that differs materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.
Dispute Review Board	A form of Alternative Dispute Resolution that is typically comprised of three members, selected jointly by the Contractor and the Contracting Authority, to monitor the progress of construction and provide recommended resolutions to disputes that are brought before them.
Drawings	Graphic portions of the Contract Documents, showing the design, type of construction, location, dimension, and character of the Work to be provided by the Contractor, which generally includes plans, elevations, sections, details, schedules, diagrams, notes, and text.
Electronic File	Information maintained in a computer system or format that is intended to facilitate a Person's use and manipulation of the information including but not limited to Word, Excel, PDF, Primavera, CAD, and BIM files all in their native format.
Enclosure, Permanent	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and permanent windows and entrances are in place.
Enclosure, Temporary	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and windows and entrances are provided with suitable temporary enclosures.

Estimated Construction Cost	The sum of the Estimated Contract Cost amounts published in the Solicitation, as modified by Addenda, for a phase of the Project.
Estimated Contract Cost	The estimated amount for the Contract published in the Solicitation, including the Base Bid estimate and the estimates of selected Alternates, if any, as modified by Addenda.
Extra Materials	Materials required by the Contract Documents that are not incorporated into the Project but are given to the Owner to be used for future maintenance or repairs.
Final Inspection	The final review of the Work of the Contractor by the A/E to determine whether issuance of the Certificate of Contract Completion is appropriate.
furnish	Supply and deliver to the Site, or other specified location, ready for installation.
General Conditions	The State's Standard General Conditions currently in effect, which may be modified by the Commission from time to time.
General Conditions Costs	General Conditions Costs include only the Contractor's costs to provide the general conditions Work including without limitation the costs of all of the following Site-related items: scheduling and coordinating the Work. telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, and pre-approved travel, lodging, and parking costs. General Conditions Costs also include (1) Bond premiums and (2) premiums for builder's risk insurance if the Contractor purchases the builder's risk policy for the Project.
Hazardous Materials	Any material, substance, pollutant, or contaminant that is defined, regulated, referenced, or classified in the Comprehensive Environmental Response, Compensation and Liability Act, Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, Clean Air Act, Hazardous Materials Transportation Uniform Safety Act, Toxic Substances Control Act, or any other Applicable Law relating to any hazardous, toxic, or dangerous waste, substance, or material. Any substance or material that, after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will, or may reasonably be anticipated to, cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes but is not limited to asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.
Indemnified Parties	The State, Contracting Authority, Owner, A/E, other Separate Consultants, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.
install	Put into use or place in final position, complete and ready for intended service or use.
Institutional Designee	The party identified in the Agreement empowered with a level of authority similar to the Executive Director of the Commission, which may be the university architect or engineer, director of capital facilities, or an institution vice president.
Institution of Higher Education	Any state of Ohio university or college, community college, state of Ohio community college, technical college, university branch, community college district, technical college district, university branch district, and the applicable board of trustees or, in the case of a university branch district, any other managing authority.
Liquidated Damages	A sum established in the Contract Documents, pursuant to the statutory delay forfeiture authorized under ORC Section 153.19, to be paid to the Owner due to the Contractor's failure to complete the Work within the Contract Time for achievement of Substantial Completion, or any applicable portion of the Work on or prior to any Milestone date stated on the Agreement.
Material Supplier	A Person under a contract with the Contractor to furnish materials or supplies in furtherance of the Work, including all such Persons in any tier. Material Supplier

	does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.
mediation	A voluntary process in which a neutral third party meets with the parties who have a disagreement or dispute and attempts to facilitate a mutually satisfactory resolution.
Milestone	A principal event specified in the Contract relating to an intermediate completion date or time prior to and including Substantial Completion of all Work.
Modification	A (1) written amendment to the Contract signed by both parties, (2) Change Order, (3) Change Directive, or (4) an order for a minor change in the Work.
negotiation	A form of Alternative Dispute Resolution in which all parties involved are represented by those invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.
Neutral Facilitator	An nonpartisan third-party without decision-making authority who is engaged to assist the Project's key stakeholders in developing cooperative relationships, achieving project objectives, avoiding or minimizing disputes, and nurturing a more-collaborative ethic characterized by trust, cooperation and teamwork.
Notice of Commencement	A notice prepared by the Contracting Authority identifying the Project, the Contractors, the Surety for each Contractor, and the name of the Contracting Authority's representative upon whom a Claim Affidavit may be served.
Notice of Intent to Award	A written notice provided by the Contracting Authority to the apparent successful Bidder stating that upon satisfactory compliance with all conditions precedent for execution of a Contract within the time specified, the Contracting Authority intends to execute a Contract with the Bidder.
Notice to Proceed	A written notice provided by the Contracting Authority authorizing the Contractor to proceed with the Work and establishing the dates for commencement and completion of the Work.
OAC	Ohio Administrative Code
Ohio Facilities Construction Commission	The authorized contracting agent for public improvement projects in accordance with ORC Chapters 123 and 153, acting by and through its Executive Director.
ORC	Ohio Revised Code
Owner	The state of Ohio agency, Institution of Higher Education or division thereof, School District Board, or other instrumentality for whom the Project is being constructed.
Owner's Project Requirements	A written document that details the functional requirements of the Project and the expectations of how it will be used and operated. These include project goals, measureable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.
Partial Occupancy	The condition that occurs when the Owner occupies or uses a portion of the Project prior to Contract Completion, partial occupancy is approved by authorities having jurisdiction, and items of Work cannot be completed until a subsequent date.
partnering	A voluntary dispute prevention process involving team building activities to help define common goals, improve communication, and foster a problem solving attitude among a group of contracting parties that must work together throughout Contract performance to be less adversarial and more cooperative.
Person	An individual, corporation, business trust, estate, partnership, association, or other public or private entity.
Phase	A separation in the Work of the Project by sequence or time intervals, which may include separate contractors for each Phase.
Plan Holder	A prospective Bidder that received a set of Contract Documents prior to the bid opening.

Product Data	Manufacturer's standard illustrations, schedules, diagrams, performance charts, instructions, and brochures that illustrate physical appearance, size, and other characteristics of materials and equipment.
Project	The public improvement, of which the Work performed under the Contract Documents may be the whole or a part.
Project Manager	A permanent employee of the Contracting Authority assigned to the Project and authorized to perform specific responsibilities.
Project Manual	That part of Construction Documents which consists of bound volume(s) of primarily written material which generally contain Division 00 - "Procurement and Contracting Requirements," and Divisions 01 through 49 - "Specifications," and other documents pertaining to the Project.
Proposal	The offer of a Contractor to perform the Work set forth in a Proposal Request.
Proposal Request	A document issued after execution of the Contract requesting a Proposal from the Contractor(s), which may initiate a Change Order to modify the Contract.
provide	Furnish and install, complete and ready for intended use.
Punch List	A document listing items of Work requiring correction or completion by the Contractor as a condition precedent to Contract Completion.
Record Documents	Electronic files and printed documents of all nature prepared by the A/E, which incorporate the information shown on the Contractor's As-Built Documents. They consist of the "Record Drawings" and "Record Project Manual," Certificate of Substantial Completion, Certificate of Contract Completion (as complete), Contractor's Warranty, Manufacturers' Warranties, certificate(s) of occupancy, approved shop drawings and other action submittals, Change Directives, Proposal Requests, Requests for Interpretation, Addenda, Change Orders, Balancing Reports, and the final version of the approved Construction Progress Schedule.
Record Drawings	The Drawings, which have been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.
Record Model	The Building Information Model, which has been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.
Record Project Manual	The Project Manual of the Contract Documents, which has been revised by the A/E to show the changes made during the construction process, based on the As-Built Project Manual furnished by the Contractor.
Request for Change Order	A written notice from the Contractor accompanied by a Proposal for a change in the Work.
Request for Interpretation	A written request to the A/E seeking an interpretation or clarification of the Contract Documents.
RFI	See "Request for Interpretation."
Samples	Physical examples, color selection items, field samples, and mock-ups furnished by the Contractor to illustrate functional and aesthetic characteristics of products, materials, equipment, or workmanship and establish criteria by which the Work shall be judged.
Schedule of Values	A full, accurate, and detailed statement furnished by the Contractor reflecting a defined breakdown of the Contract Sum.
School District	A local, exempted village, or city school district as defined in ORC Chapter 3311, or a joint vocational school established pursuant to ORC Section 3311.18, performing essential governmental functions of state government pursuant to ORC Sections 3318.01 to 3318.20.

School District Board	The board of education of a School District.
Separate Consultant	A Person engaged by the Owner or Contracting Authority to provide Project-related professional services other than the services under this Contract. The term includes the Separate Consultant's authorized representatives, successors, assigns, and subconsultants regardless of tier.
Separate Contract	The contract between the Owner or Contracting Authority and a Separate Consultant or a Separate Contractor.
Separate Contractor	A Person under contract with the Owner or Contracting Authority to provide Project-related work other than the Work under this Contract. The term includes the Separate Contractor's authorized representatives, successors, assigns, and subcontractors regardless of tier.
Shop Drawings	Drawings, diagrams, illustrations, and schedules specifically prepared for the Project provided by the Contractor or a Subcontractor to illustrate some portion of the Work. Shop Drawings are not Contract Documents. Shop Drawings on equipment shall include a written statement from the manufacturer of the equipment certifying the equipment is in compliance with the Contract Documents.
Site	The location designated for the Project.
Specifications	Those portions of the Contract Documents consisting of detailed written administrative, procedural, and technical requirements, included in Divisions 01 through 49, for the construction of the Work, whether physically on the Drawings or bound in separate volumes, including identification of acceptable materials, methods, equipment, quality, and workmanship.
Stage	A distinct period in the life cycle of a facility from concept through construction, to use and deconstruction or demolition. Typical Stages include Program Verification, Schematic Design, Design Development, Construction Documents, Bidding and Award stages; and the Construction Stage, which includes Construction and Closeout activities.
Standard Requirements	The brief name of the "State of Ohio Standard Requirements for Public Facility Construction," including but not limited to General Conditions, and other Division 00 Documents and Division 01 Sections; currently in effect, which the Commission may modify from time to time.
State	The government of Ohio, including any organized body, office, or agency established by the laws of this state for the exercise of any function of state government, any state institution of higher education as defined in ORC Section 3345.011, or any School District Board as defined in ORC Section 3318.01.
Subcontract	Any contract or agreement between the Contractor and a Subcontractor for performance of a portion of the Work.
Subcontract Form	The State of Ohio Subcontract Form prescribed by OAC Section 153:1-3-02 and required for use with the General Contracting method of project delivery.
Subcontractor	A Person who undertakes to perform any part of the Work on the Project under a contract with a Contractor or with any Person other than the State, including all such Persons in any tier. The term "Subcontractor" includes Material Suppliers, but does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.
Substantial Completion	The stage in the progress of the Work when the Work (or designated portion of the Work for which the Contracting Authority and Owner have agreed to take Partial Occupancy) is sufficiently complete in accordance with the Contract that the Owner can utilize the Work for its intended use, as determined by the A/E. The issuance of a certificate of occupancy or partial certificate of occupancy (if applicable) is a condition precedent to the achievement of Substantial Completion.
Substantially Complete	See "Substantial Completion."

Substitution	An article, device, material, equipment, form of construction, or other item, proposed by a prospective Bidder prior to the bid opening and approved by the A/E by Addendum, for incorporation or use in the Work as being functionally and qualitatively equivalent to essential attributes of a Basis of Design or Acceptable Component specified in the proposed Contract Documents.
Supplementary Conditions	Amendments to the General Conditions, issued as a separate document, which describe conditions of the Contract unique to a particular Owner or Project, which may include provisions regarding the assignment of responsibility for refuse removal, safety and security precautions and programs, temporary Project facilities and utilities, weather and fire protection, scaffolding and equipment, materials and services to be used commonly by the Contractor and Subcontractors and requiring the Contractor to provide assistance in the utilization of any applicable equipment system, preparation of operation and maintenance manuals, and training of Owner personnel for operation and maintenance of the Project. The General Conditions shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the Commission.
Supplementary Instructions	Amendments to the Instructions to Bidders, issued as a separate document, which describe instructions unique to a particular Owner or Project. The Instructions to Bidders shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Instructions prepared by the Contracting Authority and approved by the Commission.
Surety	A Person providing a Bid Guaranty or a Bond to a Bidder or a Contractor, as applicable, to indemnify the State against all direct and consequential damages suffered by failure of the Bidder to execute the Contract, or of the Contractor to perform the Contract and to pay all lawful claims of Subcontractors, Material Suppliers and laborers, as applicable.
Systems Manual	A system focused composite document that includes the operation manual, maintenance manual, and additional information of use to the Owner after they begin using the facility.
Unit Price	The cost of providing a unit of Work including labor, materials, services, and associated expenses. Unit Prices do not include the Contractor's Fee on account of the associated Unit Price Work.
Work	The labor, materials, equipment, and services, individually or collectively which are required by the Contract Documents, to be performed or provided by the Contractor for the Project. The furnishing of all material, labor, detailing, layout, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, and all other services, facilities and items reasonably necessary for the full and proper performance and completion of the requirements of the Project as set forth in the Contract Documents, and items reasonably inferable therefrom and consistent therewith for the proper execution and completion of the construction and other services required by the Contract Documents, whether provided or to be provided by the Contractor or a Subcontractor, or any other entity for whom the Contractor is responsible, and whether or not performed or located on or off of the Site.

END OF DOCUMENT