

Town of Pelham
6 Village Green
Pelham, NH 03076

TOWN OF PELHAM, NEW HAMPSHIRE

DESIGN TEAM

REQUEST FOR QUALIFICATIONS/PROPOSAL SUBMISSION

FOR A

NEW FIRE STATION FACILITY



JULY 12, 2007

QUALIFICATION/PROPOSAL SUBMISSION REQUIREMENTS

Submission Format and Location

All submissions (see requirement for FEE submission under Submission Requirements section below) shall be provided in an 8-1/2"x 11" format. Mail or hand deliver submissions to:

Mr. David M. Mermelstein, Project Manager
Trident Project Advantage Group
155 N Broadway, 2nd Floor
Salem, New Hampshire 03079

RE: "Qualifications Submission - Pelham, New Hampshire Fire Station Submission"

Submission Deadline

All interested parties shall submit six (6) copies of their qualifications submission as noted above simultaneously with one (1) separate sealed Fee submission proposal response as noted below no later than:

Monday July 30, 2007 – 3:00 PM

SCOPE OF SERVICES

The Scope of Services to be provided by the Design Team is as follows:

In general, the scope of services includes the review/validation/recommendations for revisions of existing conceptual layout and providing of full Architectural, sub-consultant MEP/FP engineering and other required services to complete the Schematic Design, Design Development and Construction Document Phases, onto Construction Administration services and Close-out of the Project. The Town reserves the right to modify, by addition or deletion, the scope of services set forth below in whole or in part at any time during the proposal phase or during the course of the Project. In performing services on the Project, wherever practical, appropriate and cost justifiable, the Design Team shall consider energy efficiency and sustainable design practices/systems/items, using current industry standards and other similar guidelines for recognized associations/groups as planning tools, and shall advise the Town of the financial impact which may result from the implementation of such design elements and offer recommendations so that the Town is able to make an informed decision as to include or not include same.

In the Conceptual Phase, the selected Design Team shall:

- Meet with representatives of the Town and/or the OPM to review Project objectives.
- Review any drawings or documents provided by the Town and/or the OPM.

- Provide a preliminary Code review for the Project.
- With the assistance of the OPM, develop a preliminary Project schedule outlining the proposed/estimated time required to obtain all necessary approvals, complete each design phase and a final design, bid the Project, award a contract, complete construction, FF&E installation, commission and occupy the building. Revise and distribute the agreed upon Project schedule after review, discussion and direction of the Town and/or OPM.
- Review/validate/make recommendations of revisions to existing conceptual layout(s).
- Confirm a detailed building program based on: (i) a functional needs analysis provided by the Town; (ii) user interviews; and (iii) knowledge of similar facilities.
- Provide conceptual design drawings depicting options for the organization of programmed spaces for each floor.
- Present diagrams and/or narratives to describe options for the building's systems, including the mechanical, electrical, elevators, plumbing, fire protection, telecommunications, and information technology systems.
- Provide an analysis of significant characteristics of each alternative building system proposed including, but not limited to, an order of magnitude comparison of construction costs, maintenance costs, life cycle costs, etc., and overall Project budget.
- Provide a comprehensive Final Conceptual Study Report that compiles and summarizes all of the services and work product described above. The Final Conceptual Study Report shall make specific recommendations regarding the program, layout, building systems, site improvements, accessibility, etc. The Report shall present the rationale for the recommendations relative to each element or component of the Project. Make a presentation to the Town.
- Notwithstanding and in addition to the above, shall provide services as described in AIA B141 (modified) attached hereto as Exhibit B.

In the Schematic Design Phase, the selected Design Team shall:

- Provide a schematic design cost estimate, detailed to the extent possible, based upon the drawings and program developed through the Conceptual/Pre-Schematic Study.
- With the assistance of the OPM, validate and provide a detailed Project schedule outlining the proposed/estimated time required to obtain all necessary approvals, complete each design phase and a final design, bid the Project, award a contract, complete construction, FF&E installation, commission and occupy the building. Revise and distribute the agreed upon Project schedule after review, discussion and direction of the Town and/or OPM.
- Develop strategies and alternatives to present options to the Town to maximize energy efficiency and sustainable building design.

- Provide six (6) copies of all submissions, including both progress and final documents.
- Prepare a complete set of Schematic Design documents for the Project, which shall include:
 - Schematic design drawings depicting the organization of programmed spaces for each floor s.
 - Site plans of building addressing impact of any exterior program criteria including ADA and other accessibility, servicing, and utilities.
 - Floor plans of each building level identifying all program spaces and building components in sufficient detail to evaluate Project and associated costs.
 - Building elevations, cross-sections, and three-dimensional views, as required providing a full visual description of the Project.
 - Drawings and narrative description of building systems requirements and performance standards (including the structural, mechanical, electrical, plumbing, fire protection, elevator, and telecommunications systems).
 - An outline specification of all building components, systems requirements, and performance criteria.
- Update and finalize the Code review for the Project.
- Provide a detailed estimate of the total Project costs, including hard and soft costs, developed in coordination with all team members.
- Provide a comprehensive Final Schematic Design Report that compiles and summarizes all of the services and work product described above. The Final Schematic Design Report shall make specific and clear representations of the above Schematic Design phase services. The Report shall present the rationale for the representations relative to each element or component of the Project. Make a presentation to the Town.
- Notwithstanding and in addition to the above, shall provide services as described in AIA B141 (modified) attached hereto as Exhibit B.

In the Design Development Phase, the selected Design Team shall:

- Provide Design Development Documents based on the Schematic Design Documents and updated budget for the cost of the work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, further defining the scope, relationships, forms, size and appearance of the Project by means of detailed plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

- During the development of the Design Development Documents, the Design Team shall assist the Town in the development and preparation of RFQ/P or bidding and procurement information as determined by the OPM. The Design Team also shall compile the Project Manual that will be included in the RFQ/P or bid documents.
- Provide six (6) copies of all submissions, including both progress and final documents.
- Assemble final Design Development phase documents compiling and summarizing all of the services and work product described above. This compilation shall show specific and clear representations of the above Design Development phase services and shall present the rationale for the representations relative to each element or component of the Project. Make a presentation to the Town.
- Notwithstanding and in addition to the above, shall provide services as described in AIA B141 (modified) attached hereto as Exhibit B.

In the Construction Document Phase, the selected Design Team shall:

- Provide complete Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail all the requirements for construction of the Project. The Construction Documents shall include complete Drawings and Specifications that establish in detail the quality levels of materials, details, and systems required for the Project.
- If not completed during Design Development, then during the development of the Construction Documents, the Design Team shall assist the Town in the development and preparation of the Design Team shall assist the Town in the development and preparation of RFQ/P or bidding and procurement information as determined by the OPM. The Design Team also shall compile the Project Manual that will be included in the RFQ/P or bid documents.
- Notwithstanding and in addition to the above, shall provide services as described in AIA B141 (modified) attached hereto as Exhibit B.

During the Contractor RFQ/P or bid procurement period within a phase above, the Design Team shall:

- As requested by the Town, shall assist the Town in establishing a list of prospective bidders or contractors.
- As requested by the Town, shall assist the Town in awarding the contract for construction.
- As requested by the Town, shall assist the Town in RFQ/P or bid evaluation and determination of the successful bid or proposal, if any.

- If requested by the Town, the Design Team shall arrange for procuring the reproduction of Proposal Documents and for distribution to prospective contractors. The Town shall pay directly for the cost of reproduction or shall reimburse the Design Team for such expenses.
- If requested by the Town, the Design Team shall participate in selection interviews with prospective contractors.
- Consider requests for substitutions, if permitted by the RFQ/P or bid documents or as requested by the Town, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

During the Construction Administration Phase, including close-out, the Design Team shall provide services as described in AIA B141 (modified) attached hereto as Exhibit B.

FORM OF CONTRACT

The selected Design Team shall execute an AIA B141 (modified) contract with the Town, which shall be in the form attached hereto as Exhibit B. At the Town's sole discretion, the Town may make minor non-material changes to the form of contract. Design Team's submission of a proposal in response to this RFQ/P shall be deemed an acceptance of all terms and conditions of the contract and an agreement to execute same without revision or modification within ten (10) business days after notice of selection or the Town reserves its right to withdraw its selection and award this scope of services to another design team.

SUBMISSION REQUIREMENTS

All submissions must be provided in accordance with the instructions contained in this RFQ/P. Any submission that is not in the required format **may not be accepted**.

Submissions may be modified by written amendment only, containing pages clearly marked for substitution, addition or deletion. **NO** submission may be amended after the deadline for receipt of submissions.

Promotional materials not directly associated with this specific RFQ/P submission are not desired and will not be considered during evaluation.

The Ten (10) items below are required for this RFQ/P submission and must be responded to:

1. Description of the Design Team

- a. Description of the proposing Design Team's background, including a description of its experience with particular attention to identifying public projects in which similar services were performed, including an outline of the scope of each such project.
- b. Identification of the Design Team's proposed Project members, including, but not limited to identification of the Principal-in-Charge and the Project Manager for the

Project with overall responsibility for completion of the scope of services as well as identification of the specific responsibilities of all other members of the proposed Design Team. Describe individual and project team experience with design for and knowledge of energy efficiency and sustainability.

- c. A resume for each proposed Design Team Project member. The resume shall outline the individual's academic and professional achievements including the number of years of experience working on similar projects and tenure with the proposing Design Team. It shall also describe the individual's experience with energy efficient design. Also provide a cross reference for each team member to the projects listed in Item 2 below.
- d. Statement of the Design Team's stability and certification of its financial ability to timely provide the required scope of services for the duration of the Project.
- e. Identification of any other firms or individuals who will be collaborating on this Project with the Design Team, as sub-consultants or otherwise. For each such firm or individual, provide a detailed description of the role of each in the Project, and a detailed description and resume of the experience of each such firm or individual as it relates to the Project. Also include qualifications for all consulting firms considered appropriate and necessary for the scope of services to be provided including, but not limited to, each of the following disciplines:

Civil Engineer
Structural Engineer
Telecommunications Consultant
Information Technology Consultant
Mechanical Engineer
Landscape Architect

Plumbing Engineer
Fire Protection Engineer
Cost Estimator
Building Code Consultant
Electrical Engineer
Others as proposed.

2. Examples of Similar Services, Projects or Work

List of all projects completed within the past five (5) years of comparable size, scope of services, and complexity. For each project, provide a complete description, including estimated and actual project costs, planned and actual project schedule, and the names, telephone numbers and other contact information for reference person(s). If the Design Team is a joint venture, describe all projects on which the joint venture partners have previously worked together identifying the duties and responsibilities of each firm on each of such projects.

3. References

Submit a minimum of three (3) and a maximum of five (5) references of persons who are familiar with the work of the Design Team and submit a minimum of three (3) and a maximum of five (5) references of Design Team's Project Manager. By submission of references, the respondent agrees that the Town or its OPM shall have express permission to contact either in person, or by phone and/or correspondence as to past performance.

4. Project Approach and Schedule to Complete Design Team Services

Provide (i) a synopsis of the Design Team's approach to the design and construction of the Project and (ii) your proposed schedule duration to complete each phase listed herein and under scope of services (Conceptual Phase; Schematic Design Phase; Design Development Phase; Construction Document Phase; Construction Administration Phase, including Closeout). Please use a 12 month duration for the Construction Administration Phase, including Closeout, for this schedule response purpose. Note any precedent activity or action requirements for any task/phase.

5. List of Claims and Litigation

Provide a complete list of all projects on which (i) monies were paid by your firm, or on your firm's behalf, as a result of a professional liability claim occurring within the last seven (7) years and in excess of \$25,000 per claim. Detailed information regarding the project, client names, and an explanation of the circumstances surrounding the claims must be provided and (ii) past, present and pending litigation activity dealing with architectural/client or project issues occurring within the last seven (7) years in excess of \$10,000 per action. Detailed information regarding the project, client names, and an explanation of the circumstances surrounding the litigation must be provided. Write "none" in this section of your response for each if the Design Team has not had any such claims or litigation.

6. Current Workload

Please provide a description of all your current, active design projects, designating "private" or "public" project, and including responsibilities and time constraints on those projects for any of your proposed Design Team members that might affect their ability to participate on the Project.

7. Other Information

Any other relevant information about the Design Team that will provide a clear picture of the Design Team's ability to adequately provide the services necessary to undertake and complete the requirements of the Scope of Services section outlined below.

8. Certificate of Non-Collusion

To be considered valid, each submission must be accompanied by a signed and completed Certificate of Non-Collusion in the exact form as contained herein as Exhibit A.

[Continued on Next Page]

Under SEPARATE SEALED envelope marked as follows:

Mail or hand deliver Fee submission response simultaneously with the above Qualifications submission response to:

Mr. Gino J. Baroni, Managing Principal
Trident Project Advantage Group
155 N Broadway, 2nd Floor
Salem, New Hampshire 03079

RE: "FEE SUBMSSION - Pelham, New Hampshire Fire Station
Submission"

Include:

9. Fee Schedule

A schedule of lump sum and/or not to exceed and/or unit price FEE(s) to be charged for the Tasks/Phases outlined in the Scope of Services section above, as well as any other required costs or fees.

10. Hourly Chargeable Rates and Reimbursable List

Provide your detailed schedule of proposed hourly rates and effective dates. Provide your standard list of reimbursables with associated charges, and your estimated budget for reimbursable expenses, by Task/Phase, on this Project.

INQUIRIES

Respondents may submit written questions concerning this RFQ/P to Mr. David M. Mermelstein and received no later than one (1) week prior to the date that this RFQ/P submission is due. All inquiries must be in writing and may be mailed, faxed or hand delivered. Written inquiries received after the stated deadline will not be accepted or considered. Mr. David M. Mermelstein will review and consolidate inquiries received before the stated deadline, prepare and mail/fax/e-mail written answers to all respondents that have provided written confirmation of their intent to provide a submission to this RFQ/P to Mr. David M. Mermelstein.

RFQ/P SUBMISSION PREPARATION COSTS

Respondents shall bear all costs associated with their submission including, but not limited to, preparation, printing, copying, postage, and delivery costs. The Town of Pelham, New Hampshire or the OPM will not be responsible for any costs or expenses incurred by respondents to this RFQ/P.

CANCELLATION OF RFQ/P

The Town of Pelham, New Hampshire retains the right to cancel this RFQ/P at any time prior to the execution of a contract with a respondent. If this RFQ/P is canceled, all RFQ/P submissions received will be rejected.

RETURN OF RFQ/P SUBMISSIONS

The Town of Pelham, New Hampshire or the OPM shall be under no obligation to return any RFQ/P submissions or materials provided by any respondent for any reason.

SELECTION PROCESS

All submissions will be reviewed and ranked by a Selection Committee.

The Selection Committee will review all proposals and may select, but shall not be obligated to do so, one or more respondents for interviews. The selection of the finalists will be based on the following criteria:

- Completeness, thoroughness, and Project specific applicability of the Design Team's response submission to the Project RFQ/P.
- Quality of prior experience and performance on projects of similar size, scope of services, and complexity, including:
 - Quality, clarity, completeness and accuracy of design concepts and studies.
 - Effectiveness of meeting established program requirements and function within allotted budget and schedule.
 - Management ability to meet schedules including submission of design and study documents.
 - Coordination and management of sub-consultants
 - Frequency of claims and/or litigation.
 - Past project and proposed Project manager references.
- Identity and qualifications of the key persons and sub-consultants who will work on the Project.
- Proposed Project approach and schedule duration of services.
- Financial stability, including prompt payment of sub consultant fees.
- Current total workload with private clients and public agencies.

The Board of Selectmen will make the final selection decision, and whose decision shall be final, after giving full consideration to the recommendations given by the Selection Committee. Each respondent, by the act of providing its submission, understands, acknowledges, and fully agrees and accepts that the decision of the Board of Selectmen is final.

The Town of Pelham, New Hampshire reserves the right to (i) accept or reject any and/or all submissions or any part of any submission or (ii) delay consideration of submissions or (iii) to select the Design Team whose submission is not the lowest price or deemed in the best interest of the Town.

Interviews

The Selection Committee shall review all submissions and may, but shall not be required to, make recommendations to the Board of Selectmen for a limited number of Design Teams for interviews.

Minimum Evaluation Requirements

The Design Team must have and provide the following minimum information as requested in the "Submission Requirements" section of this RFQ/P in order for their submission to be considered responsive, compliant, and to be eligible for consideration/evaluation:

1. Description of Design Team
2. Examples of Similar Services, Projects or Work
3. References
4. Project Approach and Schedule to Complete Design Team Services
5. List of Claims and Litigation
6. Current Workload
7. Other Information
8. Certificate of Non-Collusion
9. Fee Schedule
10. Hourly Chargeable Rates and Reimbursable List

REJECTION OF SUBMISSIONS

The Town may disqualify any submissions it determines to be non-responsive or non-compliant, including, but not necessarily limited to:

- Submissions determined to be non-responsive or non-compliant to any requirements of this RFQ/P;
- Submissions that fail to meet the Minimum Evaluation Requirements listed in this RFQ/P;
- Submissions that are received after the submission deadline listed in this RFQ/P;
- Submissions that fail to meet, address or comply with material requirements in this RFQ/P, including instructions for submission, content or format;
- Submissions in which the respondent misrepresents or provides demonstrably false information.

CLARIFICATION OF RFQ/P SUBMISSIONS

The Selection Committee or the Town are not required to seek clarification of submissions but may do so if they so choose. Respondents should be as clear as possible in their submissions. Respondents are cautioned not to make claims or statements to which they are not prepared to commit to contractually.

OWNERSHIP/USE OF RFQ/P SUBMISSIONS

All submissions or materials provided by respondents shall become the irrevocable and sole property of the Town of Pelham, New Hampshire. The Town reserves the right to use any or all ideas, concepts, data, or configurations presented in the respondent's RFQ/P submission whether or not the respondent is selected.

OWNERSHIP/USE – POST CONTRACT EXECUTION

It is clearly understood by each respondent that all documents, drawings, specification, reports, maps, submissions and data bases and any other work product produced by the Design Team post contract execution and payment as required within said contract will become the property of the Town of Pelham, New Hampshire. All documents produced are public documents and cannot be copyrighted by the Design Team.

EXHIBIT A

TOWN OF PELHAM, NEW HAMPSHIRE

CERTIFICATE OF NON-COLLUSION

THE UNDERSIGNED CERTIFIES UNDER PENALTIES OF PURJURY THAT THIS RFQ/P SUBMISSION HAS BEEN MADE AND SUBMITTED IN GOOD FAITH AND WITHOUT COLLUSION OR FRAUD WITH ANY OTHER PERSON. AS USED IN THIS CERTIFICATION, THE WORD "PERSON" SHALL MEAN ANY NATURAL PERSON, BUSIENSS, PARTNERSHIP, CORPORATION, UNION, COMMITTEE, CLUB, OR OTHER ORGANIZATION, ENTITY, OR GROUP OF INDIVIUDALS.

(Name of person signing & Title - printed)

(Name of Business)

Signed: _____

This certification must be signed and returned with each respondent's submission

AIA Document B141™ - 1997 Part

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Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services

TABLE OF ARTICLES

- 1.1 INITIAL INFORMATION
- 1.2 RESPONSIBILITIES OF THE PARTIES
- 1.3 TERMS AND CONDITIONS
- 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS
- 1.5 COMPENSATION

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the Owner:
(Name, address and other information)

Town of Pelham, New Hampshire, Government
6 Village Green
Pelham, New Hampshire 03076
Telephone Number: (603) 635-8233

and the Architect:
(Name, address and other information)

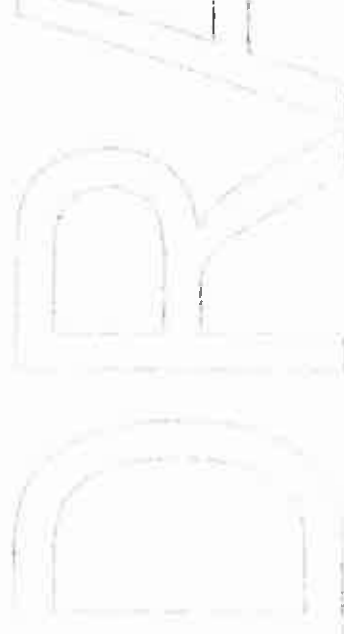
For the following Project:
(Include detailed description of Project)

Pelham Fire Station
Village Green
Pelham, New Hampshire 03076
New Fire Station

The Owner and Architect agree as follows:

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.



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ARTICLE 1.1 INITIAL INFORMATION

§ 1.1.1 This Agreement is based on the following information and assumptions.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement")

§ 1.1.2 PROJECT PARAMETERS

§ 1.1.2.1 The objective or use is:

(Identify or describe, if appropriate, proposed use or goals.)

The objective is:

§ 1.1.2.2 The physical parameters are:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)

Defined by site plan:

§ 1.1.2.3 The Owner's Program is:

(Identify documentation or state the manner in which the program will be developed.)

§ 1.1.2.4 The legal parameters are:

(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)

Site survey by:

§ 1.1.2.5 The financial parameters are as follows.

- .1 Amount of the Owner's overall budget for the Project, including the Architect's compensation, is:
unknown at time of execution of this Agreement
- .2 Amount of the Owner's budget for the Cost of the Work, excluding the Architect's compensation, is:
unknown at time of execution of this Agreement

§ 1.1.2.6 The time parameters are:

(Identify, if appropriate, milestone dates, durations or fast track scheduling.)

To be determined.

§ 1.1.2.7 The proposed procurement or delivery method for the Project is:

(Identify method such as competitive bid, negotiated contract, or construction management.)

§ 1.1.2.8 Other parameters are:

(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)

§ 1.1.3 PROJECT TEAM

§ 1.1.3.1 The Owner's Designated Representative is:

(List name, address and other information.)

Thomas Gaydos, Town Administrator

6 Village Green

Pelham, New Hampshire 03076

Or, in his absence:

Gino J. Baroni of Trident Building, LLC
155 N Broadway, Salem, New Hampshire 03079
As Agent For: Town of Pelham, New Hampshire

§ 1.1.3.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Architect's submittals to the Owner are:

(List name, address and other information.)

N/A

§ 1.1.3.3 The Owner's other consultants and contractors are:

(List discipline and, if known, identify them by name and address.)

[Insert Data Here]

§ 1.1.3.4 The Architect's Designated Representative is:

(List name, address and other information.)

[Insert Name Here]

§ 1.1.3.5 The consultants retained at the Architect's expense are:

(List discipline and, if known, identify them by name, address and license number(s).)

Structural:

M/E/P:

Fire Protection:

Landscape:

Code:

Acoustical:

[Insert Others Here]

§ 1.1.4 Other important initial information is:

N/A

§ 1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201 current as of the date of this Agreement, or as follows:

As amended by the Owner and the Owner selected builder, including any Supplementary General Conditions, as the case may be.

§ 1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the Owner and Architect in the administration of this Agreement and in determining the Architect's compensation. Both parties, however, recognize that such information may change materially and, in that event, the Owner and the Architect may negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Section 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

§ 1.2.1 The Owner and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

§ 1.2.2 OWNER

§ 1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide sufficient information in a timely manner regarding requirements for and limitations on the Project. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 1.2.2.2 The Owner will periodically inform the Architect of any material change in the budget for the Project specific to that portion allocated for the Cost of the Work and the Architect shall inform the Owner within ten (10) days if the Architect claims such a change constitutes a "Change in Service" under this Agreement. The Owner shall not significantly increase or decrease the overall budget as specific to the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of the Architect to a corresponding change in the Project scope and quality, said agreement by the Architect shall not be unreasonably withheld, conditioned or delayed.

§ 1.2.2.3 The Owner's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. The Architect is not entitled to rely upon consents, approvals, waivers or instructions from anyone other than the Owner's Designated Representative.

§ 1.2.2.4 The Owner shall furnish the services of consultants other than those designated in Section 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 1.2.2.5 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 1.2.2.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 1.2.2.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service but the failure of the Owner to give such notice shall not relieve the Architect of its responsibilities hereunder, and the Owner shall have no duty of observation, inspection or investigation except as expressly set forth herein.

§ 1.2.3 ARCHITECT

§ 1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4. Notwithstanding anything to the contrary contained in the Parts 1 or 2 of the Agreement

between the parties, the standard care for all services performed by the Architect shall be the care and skill exercised by experienced architects practicing under similar conditions in similar projects at the same time in the New Hampshire area. All such services shall be provided under the direction and supervision of architects and engineers licensed and duly qualified in the State of New Hampshire. If the parties agree upon specific performance standards for any aspect of the Work, which standards are to be set forth in an exhibit attached to the Agreement entitled "Performance Standard Requirements", then such services shall be performed to achieve such specific performance standards. The Architect shall be responsible for the quality, technical accuracy, timely completion and coordination of all of its Instruments of Service and other plans, studies, designs, drawings, specifications, schematics, reports and other services furnished by the Architect under this Agreement. The Architect shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in the Architect's Instruments of Service or in the Architect's or its consultants' plans, studies, designs, drawings, specifications, reports or other services.

§ 1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Section 1.1.2.6 and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner. The Owner shall not be responsible for delays due to delays caused by the Architect or its consultants or due to the failure of the Architect or its consultants to furnish its services or its information in a timely manner. The Project schedule shall be adjusted to reflect actual delays if and to the extent the Architect demonstrates in a clear and definitive manner to the Owner that a delay has been caused by the Owner and the actual duration of the delay.

§ 1.2.3.3 The Architect's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project. The Architect shall assign the following employees to the Project for its duration and in the following roles/responsibilities:

[ADD NAMES AND ROLES HERE]

With the exception of any person who leaves the employ of the Architect, the Architect shall not remove and/or replace any of the above employees to the Project without the approval of the Owner's Designated Representative. The Owner reserves the right to request the removal of any of the Architect's employees from performing services on the Project.

§ 1.2.3.4 The Architect shall maintain the strictest confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants identical agreements and provisions in its contracts with consultants to maintain the confidentiality of information specifically designated as confidential by the Owner. The Architect specifically acknowledges and agrees that the terms and conditions of this paragraph shall survive the termination of this Agreement, whether said termination was caused by Architect or Owner or whether said termination occurs as a result of the completion of the Architect's services to be furnished under this Agreement.

§ 1.2.3.5 Except with the Owner's knowledge and prior written consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.2.3.6 The Architect shall review and comply with all laws, codes, and regulations applicable to the Architect's services. The Architect shall make the design of the Project comply with the requirements imposed by governmental authorities having jurisdiction over the Project.

§ 1.2.3.7 The Architect shall be entitled to reasonably rely on the accuracy and completeness of services and information furnished by the Owner, provided that the Architect shall have exercised due professional care in reviewing the same. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any fault or defect in the Project, including any errors, omissions or deficiencies in the Architect's Instruments of

Service or other plans, studies, designs, drawings, specifications, schematics, reports or other services furnished by the Architect under this Agreement or furnished by its consultants

ARTICLE 1.3 TERMS AND CONDITIONS

§ 1.3.1 COST OF THE WORK

§ 1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

§ 1.3.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner. The Cost of Work does not include the cost of Owner's project management/manager or any payments to a contractor under shared savings of incentive clauses in the Contract for Construction or agreement for construction, construction management or project management.

§ 1.3.2 INSTRUMENTS OF SERVICE

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

§ 1.3.2.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply substantially with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain identical nonexclusive licenses from the Architect's consultants consistent with this Agreement and shall require identical provisions in its contracts with its consultants. If and upon the date the Owner is adjudged to be in default of this Agreement, the foregoing license shall be deemed terminated. Upon the occurrence of such judgment, the Owner shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by an irrevocable, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project. Upon payment by the Owner to the Architect for the services to be rendered under this Agreement, the Architect grants the Owner an irrevocable and nonexclusive license to use, reproduce or provide to others for their use in construction, using and maintaining the Project or use in connection with the Project the Instruments of Service or any data or documents of any kind produced or provided by the Architect, whether or not the Architect provides any future services to the Project.

§ 1.3.2.3 Except for the licenses granted in Section 1.3.2.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect, provided however that the Owner shall have the right to assign its license as reasonably required by any financial institution as a condition to providing financing to the Owner. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 1.3.2.2. Submission or distribution of Instruments of Service 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 reserved rights of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service by the Owner shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. To the fullest extent permitted by law, Architect shall indemnify, defend and hold the Owner harmless from and against any and all claims, damages, losses and judgments of any kind or nature which are caused by or which arise from a claim

that the Architect's Instruments of Service, or a portion thereof, violate or infringe in any way any copyright or patent.

§ 1.3.2.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, which agreement shall be consistent with the terms and provisions of this Agreement.

§ 1.3.3 CHANGE IN SERVICES

§ 1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are materially affected as described in Section 1.3.3.2. In the absence of mutual agreement in writing, the Architect shall notify the Owner in writing prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide those services. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Section 1.5.2, and to any Reimbursable Expenses described in Section 1.3.9.2 and Section 1.5.5. Notwithstanding any of the foregoing, no Change in Services shall become effective unless and until approved by the Owner in writing prior to the performance of such services.

§ 1.3.3.2 If any of the following circumstances materially affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation upon the Owner's prior written approval:

- .1 change in the instructions or approvals given by the Owner that necessitate revisions in Instruments of Service;
- .2 enactment or revision of codes, laws or regulations or official interpretations that could not have been reasonably anticipated and which necessitate changes to previously prepared Instruments of Service;
- .3 decisions of the Owner not rendered in a timely manner, provided however that the Architect shall have first notified the Owner in writing of its need for a particular decision and timeframe (unless the timeframe is expressly set forth in the Agreement) or that the Owner is unable to render decisions in a timely manner as the result of actions or omissions by the Architect;
- .4 significant change in the Project or information contained in Article 1.1, including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method, provided however that said change was not caused by the Architect or required as a result of the Architect's failure to meet its obligations as set forth in the Agreement;
- .5 failure of performance on the part of the Owner or the Owner's consultants or contractors; and
- .6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto and except where Architect's preparation and/or attendance is specifically required by the terms and provisions of this Agreement and included in the Cost of the Work.

§ 1.3.4 MEDIATION

§ 1.3.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement, excluding any third-party or multi-party claims in which other parties have not agreed to mediation, shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. It is specifically understood and agreed to by the parties however that, notwithstanding anything to the contrary in this Agreement, the Owner may institute legal or equitable proceedings at any time and without first instituting mediation to protect against any threatened or imminent unauthorized disclosure or dissemination of information designated by the Owner to be confidential. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

§ 1.3.4.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction

Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a shorter or longer period by written agreement of the parties or unless stayed for a longer period by a court order.

§ 1.3.4.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof and Agreements for Judgments reached in mediation shall likewise be enforceable in any court having jurisdiction thereof.

§ 1.3.4.4 The Owner and the Architect further agree to use their best efforts to include this mediation provision in all agreements with their respective independent Contractors and Consultants, thereby providing for mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings and providing for mediation as the primary method for dispute resolution between the parties to those agreements.

§ 1.3.4.5 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Architect and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner to as to avoid unnecessary losses, delays and disruptions to the Work.

Architect and Owner will first attempt to resolve disputes or disagreements through discussions between Architect's Designated Representative and Owner's Designated Representative. If a dispute or disagreement cannot be resolved through Architect's Designated Representative and Owner's Designated Representative, then, upon the result of either party, senior management of Architect and Owner shall meet as soon as conveniently possible, but in no case later than fifteen (15) days after such a request is made, to attempt to resolve such dispute or disagreement. There shall be two (2) meetings at the Project site each for a period of two (2) hours, not more than seven (7) days apart prior to the commencement of mediation.

If after such meetings the parties determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit the dispute or disagreement to non-binding mediation within twenty-one (21) days. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules.

§ 1.3.5 ARBITRATION NOT USED

§ 1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES NOT USED

§ 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the State of New Hampshire without regard to conflicts of interest laws.

§ 1.3.7.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement subject to Section 2.6.1.1.

§ 1.3.7.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially

completed. Notwithstanding the foregoing, said time limitations shall be subject to the discovery rule as set forth in State of New Hampshire statutory and common law.

§ 1.3.7.4 To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for amounts actually received under said property insurance, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, as amended or modified. The foregoing waiver is void if and to the extent it results in the denial or reduction of insurance coverage. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 1.3.7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

§ 1.3.7.7 Subject to the Owner's prior written approval, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 1.3.7.8 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review in a reasonable time, but not less than seven (7) days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement, provided however, that the Architect shall execute industry standard certificates.

§ 1.3.7.9 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement, without need for such written consent, to an institutional lender providing financing for the Project, and the Architect shall, if requested, execute a consent to assignment reasonably required by the Owner's institutional lender. The Owner shall also have the right to assign this Agreement to a wholly owned subsidiary or to a company owned by the same interests as the Owner without need for such written consent. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all documents reasonably requested to facilitate such assignment.

§ 1.3.7.10 No General or Limited Partner, Member, Manager, stockholder, officer, director, joint venture, beneficiary, trustee, employee, or other principals, agents or representatives (whether disclosed or undisclosed) of the Owner or the Owner's Designated Representative(s) or the Owner's Project Manager shall be personally liable to the Architect hereunder for the Owner's payment obligations or otherwise, the Architect hereby agreeing to look solely to the assets of the Owner for the satisfaction of any liability of the Owner hereunder, nor shall this Agreement be construed under any circumstance as giving any rights or benefits hereunder to anyone other than the Owner or the Architect.

§ 1.3.7.11 Whenever provision is made herein for the approval or consent of the Owner, or that any matter be to the Owner's satisfaction, unless stated specifically to the contrary, such approval or consent shall be made by the Owner in its sole discretion and determination and shall be in writing to be effective and binding against the Owner.

§ 1.3.7.12 Review or approval by the Owner, the Owner's Designated Representative(s) or the Owner's Project Manager of plans, studies, designs, specifications, reports and incidental work furnished hereunder shall not in any

way relieve the Architect of responsibility for the technical adequacy and accuracy of its work. The Owner's approval or acceptance of, or any payment for, any of the Architect's services shall not be construed or deemed to be a waiver of any rights the Owner has under this Agreement or of any cause of action arising out of the performance of this Agreement.

§ 1.3.7.13 The Architect shall accrue to the Owner all discounts, rebates and refunds obtained with respect to any reimbursable expense incurred in connection with the Project

§ 1.3.7.14 If any term or provision of this Agreement or the application thereof to any person, corporation, agency, firm or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement shall remain unaffected, valid and be able to be enforced to the fullest extent under the law.

§ 1.3.7.15 The duties and obligation imposed upon the parties to this Agreement, and the rights and remedies hereunder, shall be in addition to, and not in limitation of, any duties imposed or available at law or equity.

§ 1.3.7.16 The Owner shall not, under any circumstances, be liable for any damages suffered by the Architect, its agents, subcontractors, consultants or anyone else for whom the Architect may be liable arising from, caused by, or connected in any way with any injury or damage suffered while on or around the specific project site or any portion thereof.

§ 1.3.7.17 Notwithstanding anything to the contrary stated elsewhere in this Agreement, in no event shall the Architect or any of its agents, subcontractors, consultants or anyone else for whom the Architect may be liable claim, prosecute an action for or receive any consequential or other special damages or lost profits on account of any claim submitted in connection with this Agreement, including without limitation, expenses arising from Owner's performance or nonperformance of the terms of this Agreement, or otherwise.

§ 1.3.7.18 Notwithstanding anything to the contrary stated elsewhere in this Agreement and to the maximum extent permitted by law, the Architect agrees to pay, indemnify and save harmless the Owner, the Owner's Designated Representative(s), and the Owner's Project Manager from all suits, actions, claims, demands, damages or losses, expenses and/or costs of every kind and description to which the Owner or the Owner's Designated Representative(s) or the Owner's Project Manager may be subjected resulting or arising from, in connection with, or growing out of any tortious or negligent act or commission or omission of the Architect, its agents, servants, employees, or any person or corporation working by, through or under the Architect or for whom the Architect is legally responsible.

§ 1.3.7.19 Notwithstanding anything to the contrary stated elsewhere in this Agreement, the Architect shall be responsible for the Architect's tortious or negligent acts, unreasonable delays, errors and omissions and the tortious or negligent acts, unreasonable delays, errors and omissions of the Architect's consultants, contractors, and subcontractors.

§ 1.3.7.20 The Owner and the Architect agree to act in good faith and in a reasonable manner in all dealings with each other in connection with the Work and the Project.

§ 1.3.7.21 The Architect accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to utilize its best skill, efforts and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers; and to perform in the best way and most expeditious and economical manner consistent with the interests of the Owner.

§ 1.3.7.22 The Architect shall provide prompt written notice to the Owner as soon as the Architect becomes aware of any fault or defect in the Project, in the Design Documents or in the Work.

§ 1.3.7.23 The Architect shall at all times abide by all laws, statutes, regulations and codes then in effect as of the execution date of this Agreement, and shall promptly notify the Owner in writing as to any anticipated or subsequent changes in said laws, statutes, regulations and codes that become known to the Architect and that affect the Work and the Project.

§ 1.3.7.24 All adjustments, amendments or modifications made to any document referred to in the Contract Documents and exhibits thereto shall be in writing and signed by a duly authorized representative of each party in order to become effective and binding.

§ 1.3.8 TERMINATION OR SUSPENSION

§ 1.3.8.1 If the Owner fails to make payments of significant undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums properly due prior to suspension and any reasonable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted if the services or the time schedules were materially changed as a result. The Architect shall not have the right to terminate or suspend its performance of services under this Agreement if the Owner disputes any payment in good faith

§ 1.3.8.2 If the Project is suspended by the Owner for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for reasonable and necessary expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted and in the case of the fees, consistent with cost of living increases per U.S. Labor Department Statistics.

§ 1.3.8.3 If the Project is suspended or the Architect's services are suspended for more than one hundred twenty (120) consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 1.3.8.4 Subject to the express provisions of Article 12.3.8.1, this Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. If the Owner cures its default during the seven(7) days written notice period, then this Agreement shall not terminate.

§ 1.3.8.5 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 1.3.8.6 In the event of termination due to the fault of the Owner, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 1.3.8.7.

§ 1.3.8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include incurred and verifiable expenses directly attributable to termination for which the Architect is not otherwise compensated.

§ 1.3.9 PAYMENTS TO THE ARCHITECT

§ 1.3.9.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums properly withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect is responsible. Owner shall pay Architect all amounts properly due and undisputed within the times required by the Agreement. If Owner determines that Architect is not entitled to all or part of an amount, it will notify Architect in writing at least seven (7) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons for the withholding, and the specific measures Architect must take to rectify Owner's concerns. Architect and Owner shall attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Architect may pursue its rights under the Agreement, including those under Article 1.3.4 hereof. In addition to other rights afforded the Owner by the Agreement, the Owner may properly withhold payments on account of (1) defective and non-conforming work not remedies, (2) claims filed by third

parties, (3) failure of the Architect to make payments properly due and owing to third parties, or (4) persistent failure to carry out the Work in accordance with the Agreement.

§ 1.3.9.2 Reimbursable Expenses are in addition to compensation for the Architect's services and include expenses reasonably incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- .1 transportation in connection with the Project, prior written Owner authorized out-of-town travel and subsistence, and electronic communications;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- .4 expense of overtime work requiring higher than regular DPE rates if authorized in advance in writing by the Owner, provided, however, that the costs of such overtime work shall be calculated on the basis of those rates set forth in an exhibit to this Agreement (see Exhibit " " attached hereto); no consultant or 3rd party firm overtime shall be considered a Reimbursable Expense unless agreed to in writing by the parties; and overtime shall be considered as a Reimbursable Expense only to the extent it is actually paid to and received by employees that are paid on an hourly basis. No overtime charges shall be allowed for salaried employees;
- .5 renderings, models and mock-ups requested in writing by the Owner;
- .6 additional expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that carried by the Architect and the Architect's consultants or required by this Agreement;
- .7 reimbursable expenses as designated in Section 1.5.5;

The following items shall not be considered Reimbursable Expenses:

- .8 Overhead and general expenses, except as expressly provided for in the Agreement;
- .9 Expenses caused by, resulting from or directly attributable to the Architect's willful misconduct, tortuous acts, negligence or omissions or from the willful misconduct, tortuous acts, negligence or omissions of those working by, for, through or under the Architect or anyone for whom the Architect may be liable.
- .10 Any expense not specifically and expressly described in Article 1.3.9.2.

§ 1.3.9.3 This Agreement is to be administered on an "open book" arrangement. The Architect shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles. Owner, or its designee at the Owner's accountants shall be afforded access from time to time, upon reasonable notice, to all documents relating to the Project in the possession, custody or control of Architect, including without limitation any and all records of Reimbursable Expenses, of expenses pertaining to a Change in Service, of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense records, books, correspondence, receipts, purchase orders, vouchers, memoranda, meeting minutes and other data relating to the Project, all of which the Architect shall preserve for a period of six (6) years after Final Payment or for such longer period as may be required by law.

§ 1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions, but specifically excluding all bonus payments. Attached as Exhibit " " is the listing of accepted DPE rates.

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

§ 1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect. This Agreement comprises the documents listed below.

§ 1.4.1.1 Standard Form of Agreement Between Owner and Architect, AIA Document B141-1997, as modified by the parties.

§ 1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, or as follows, as modified by the parties.

(List other documents, if any, delineating Architect's scope of services.)

N/A

§ 1.4.1.3 Other documents as follows:

(List other documents, if any, forming part of the Agreement.)

N/A

§ 1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

INSURANCE

§ 1.4.2.1 Architect shall be responsible for procuring and maintaining from insurance companies lawfully authorized to do business in the State of New Hampshire and with a minimum rating of at least A- XII by A.M. Best's, the following insurance coverages for certain claims which may arise from or out of the performance of the Work and obligations under the Contract Documents:

- .1 Coverage for claims arising under workers' compensation, disability and other similar employee benefit laws applicable to the Work;
- .2 Coverage for claims by Architect's employees for bodily injury, sickness, disease, or death;
- .3 Coverage for claims by any person other than Architect's employees for bodily injury, sickness, disease, or death;
- .4 Coverage for usual personal injury liability claims for damages sustained by a person as a direct or indirect result of Architect's employment of the person, or sustained by any other person;
- .5 Coverage for claims for damages (other than to the Work) because of injury to or destruction of tangible property including loss of use;
- .6 Coverage for claims of damages because of personal injury or death, or property damage resulting from ownership, use and maintenance of any motor vehicle; and
- .7 Coverage for claims arising out of Architect's obligations under Section 1.3.7.18 hereof.
- .8 Umbrella Liability Insurance
- .9 Professional Liability Insurance.

Certificates of such insurance shall be filed with the Owner prior to the commencement of the Work and "Town of Pelham, New Hampshire, Pelham Fire Station, and Trident Building, LLC" shall be listed as an Additional Named Insureds on said Certificates and on all policies listed above on this Project. All binders and certificates of the foregoing coverages shall specifically designate by name Architect's company. All required coverages, except the Professional Liability Insurance shall be written on an occurrence basis. The Architect shall promptly furnish to the Owner copies of any endorsements that are subsequently issued amending or modifying said coverages. The Additional Named Insureds shall be covered by such coverages for a minimum of twelve (12) months after project completion.

The certificate of insurance shall include the following text in the special provision section provided, however, that said text does not cause the coverage to lapse or terminate: "Town of Pelham, New Hampshire, Pelham Fire Station, and Trident Building, LLC are listed for liability arising out of the operations of [Architect Name] and its consultants and subcontractors on this Project."

Architect's liability insurance required above shall be written for the coverage amounts set forth below and shall include completed operations insurance for the period of time set forth herein.

The professional liability insurance for claims arising from the negligent performance of design services by Architect, the coverage limits, duration and other specifics of such insurance shall be as set forth herein.

Prior to commencing any services hereunder, Architect shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for

the duration required by the Contract Documents, (ii) listing of Additional Named Insureds shall include "Owner and Property Name, and Trident Building, LLC", and (iii) no insurance coverage shall be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner and to the Trident Building, LLC ("Owner's Project Manager").

The insurance required herein shall be written for not less than any limits of liability required by law or the following limits whichever are greater and shall include contractual liability insurance applicable to the Architect's obligations as set forth in this Agreement and the attached AIA Document B141 - 1997 Part 2, as modified by the parties:

Employers Liability:	\$	each Accident
	\$	Disease each employee
	\$	Aggregate

Comprehensive General Liability:

Bodily and Personal Injury:	\$	per occurrence
Property Damage:	\$	per occurrence
General Aggregate:	\$	
Products-COMP/OP Aggregate:	\$	

Motor Vehicle Insurance:

Combined Single Limit:	\$	each Accident
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Umbrella Liability Insurance:	\$	per occurrence
	\$	Aggregate

Professional Liability Insurance: Architects' and Engineers' coverage in an amount not less than \$ per occurrence on a claims made basis containing a retro date no later than the commencement of design services in connection with Project. Notwithstanding anything herein to the contrary, the Architect shall maintain coverage for a period of five (5) years after project completion.

All insurance, excepting the Professional Liability insurance, shall be written on an occurrence basis, unless the Owner approves in writing coverage on a claims made basis. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the work until the date of final payment and termination of any coverage required to be maintained after final payment. Certificates of Insurance acceptable to the Owner and confirming the insurance coverage required by the Agreement shall be attached to this Agreement as an Exhibit. The form of the certificate shall be the ACORD form.

ARTICLE 1.5 COMPENSATION

§ 1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:

§ 1.5.2 If the services of the Architect are changed as described in Section 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Section 1.5.2, in an equitable manner.

(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

N/A

§ 1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of One and one-tenth % (1.1%) times the reasonable amounts billed to the Architect for such services.

§ 1.5.4 For Reimbursable Expenses as described in Section 1.3.9.2, and any other items included in Section 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of () times the reasonable expenses incurred by the Architect, and the Architect's employees and consultants.

§ 1.5.5 Other Reimbursable Expenses, if any, are as follows:

N/A

§ 1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices and said rates and multiples for services shall be subject to approval of the Owner, said approval shall not be unreasonably withheld. Annually for project personnel.

§ 1.5.7 NOT USED.

§ 1.5.8 Payments are due and payable thirty (30) days from the date of the Owner's receipt of the Architect's properly prepared and presented invoice. Properly due amounts which are not disputed in good faith by the Owner and which are unpaid forty five (45) days after the date of the Owner's receipt of a properly prepared and presented invoice shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of interest agreed upon.)

Three (3%) percent per annum

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 1.5.9 If the services covered by this Agreement have not been completed within () months of the date hereof, through no fault of the Architect, the Architect's compensation on account of Services affected by such extension or delay shall be equitably adjusted, if and to the extent that the Architect can demonstrate with reasonable specificity that its costs and expenses have been increased as a result of such extension or delay.

ARTICLE 1.6 MISCELLANEOUS

§ 1.6.1 The Owner and the Architect agree to act in good faith and in a reasonable manner in all dealings with each other in connection with the Project.

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

Thomas Gaydos, Town Administrator

(Printed name and title)

(Signature)

(Printed name and title)

DRAFT

AIA Document B141™ - 1997 Part
2*Standard Form of Architect's Services:
Design and Contract Administration*

TABLE OF ARTICLES

- 2.1 PROJECT ADMINISTRATION SERVICES
- 2.2 SUPPORTING SERVICES
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- 2.6 CONTRACT ADMINISTRATION SERVICES
- 2.7 FACILITY OPERATION SERVICES
- 2.8 SCHEDULE OF SERVICES
- 2.9 MODIFICATIONS

ARTICLE 2.1 PROJECT ADMINISTRATION SERVICES

§ 2.1.1 The Architect shall manage the Architect's services and administer the Project. The Architect shall consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 2.1.2 When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the Owner, design services furnished by the Architect, completion of documentation provided by the Architect in accordance with the Design Schedule stated in Section 1.1.2.6, commencement of construction and Substantial Completion of the Work.

§ 2.1.3 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

§ 2.1.4 Upon request of the Owner, the Architect shall make presentations to explain the design of the Project to representatives of the Owner.

§ 2.1.5 The Architect shall submit design documents to the Owner at intervals appropriate to the design process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on approvals received from the Owner in the further development of the design.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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§ 2.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

§ 2.1.7.1 When the Project requirements have been sufficiently identified, the Owner may cause to be prepared and the Architect shall review a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Owner may cause to be prepared and the Architect shall review the updated preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 2.1.7.2 Evaluations of the Owner's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by others, represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 2.1.7.3 In preparing estimates of the Cost of the Work, there shall be permitted to be included reasonable contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the Owner and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.

§ 2.1.7.4 If bidding or negotiation has not commenced within one hundred twenty (120) days after the Architect submits the Construction Documents to the Owner, the budget for the Cost of the Work shall be reasonably adjusted to reflect changes in the general level of prices in the construction industry, if and to the extent that the Architect can demonstrate with reasonable specificity that its costs and expenses have been actually increased as a result of said delay.

§ 2.1.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 1.3.8.5; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

§ 2.1.7.6 If the Owner chooses to proceed under Section 2.1.7.5.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work, and shall perform procurement phase services made necessary by re-bidding or redesign. The modification of such documents shall be the limit of the Architect's responsibility under this Section 2.1.7. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 2.2 SUPPORTING SERVICES

§ 2.2.1 Unless specifically designated in Section 2.8.3, the services in this Article 2.2 shall be provided by the Owner or the Owner's consultants and contractors.

§ 2.2.1.1 The project team shall develop a program setting forth the Owner's objectives, schedule, constraints and criteria, including the Architect's and its consultant's recommendations on space requirements and relationships, special equipment, systems and site requirements.

§ 2.2.1.2 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 2.2.1.3 The Owner shall furnish services of geotechnical engineers which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

§ 2.3.1 The Architect shall provide a preliminary evaluation of the information furnished by the Owner under this Agreement, including the Owner's program and schedule requirements and budget if available for the Cost of the Work, each in terms of the other. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.

§ 2.3.2 The Architect shall provide a preliminary evaluation of the Owner's site for the Project based on the information provided by the Owner of site conditions, and the Owner's program, schedule and budget for the Cost of the Work.

§ 2.3.3 The Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

ARTICLE 2.4 DESIGN SERVICES

§ 2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering, acoustics consulting, code consulting, and landscape design [FILL IN INFORMATION HERE] services.

§ 2.4.2 SCHEMATIC DESIGN DOCUMENTS

§ 2.4.2.1 The Architect shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the Owner's written pre-approval, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.4.3 DESIGN DEVELOPMENT DOCUMENTS

§ 2.4.3.1 The Architect shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

§ 2.4.4 CONSTRUCTION DOCUMENTS

§ 2.4.4.1 The Architect shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

§ 2.4.4.2 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the Owner and the Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 2.4.4.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the project. The Architect shall identify laws, rules and regulations which apply to the Project, to interpret the same in reasonable manner, to seek the advice of governmental officials and/or the Owner's legal counsel when questions of interpretation and/or applicability arise, and to so notify the Owner in writing consistent with Basic Services. Preparations for and attendance at meetings with governmental authorities having jurisdiction over the design and construction approval of the Project as specifically set forth below are part of Basic Services and are as follows: (a) State and Local Building Code Officials, Local Department Officials or workers (e.g. Fire Department, Department of Public Works, Engineering Department, etc.) (all Meetings and/or presentations as necessary by Architect are within Basic Services), (b) Local Planning, Zoning, Council Meetings, or Town Meetings (limit 6 meetings).

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

§ 2.5.1 The Architect, as requested by the Owner, shall assist the Owner in obtaining either competitive bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction.

§ 2.5.2 The Architect, as requested by the Owner, shall assist the Owner in establishing a list of prospective bidders or contractors.

§ 2.5.3 The Architect, as requested by the Owner, shall assist the Owner in bid validation or proposal evaluation and determination of the successful bid or proposal, if any. If requested by the Owner, the Architect shall notify all prospective bidders or contractors of the bid or proposal results.

§ 2.5.4 COMPETITIVE BIDDING

§ 2.5.4.1 Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.4.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.4.3 If requested by the Owner, the Architect shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

§ 2.5.4.4 The Architect shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.4.5 The Architect shall participate in or, at the Owner's direction, shall organize and conduct a pre-bid conference for prospective bidders.

§ 2.5.4.6 The Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

§ 2.5.4.7 The Architect shall participate in or, at the Owner's direction, shall organize and conduct the opening of the bids. The Architect shall subsequently document and distribute the bidding results, as directed by the Owner.

§ 2.5.5 NEGOTIATED PROPOSALS

§ 2.5.5.1 Proposal Documents shall consist of proposal requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.5.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Proposal Documents for distribution to prospective contractors. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.5.3 If requested by the Owner, the Architect shall organize and participate in selection interviews with prospective contractors.

§ 2.5.5.4 The Architect shall consider requests for substitutions, if permitted by the Proposal Documents or as requested by the Owner, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 2.5.5.5 If requested by the Owner, the Architect shall assist the Owner during negotiations with prospective contractors. The Architect shall subsequently prepare a summary report of the negotiation results, as directed by the Owner.

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

§ 2.6.1 GENERAL ADMINISTRATION

§ 2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, as modified between the Owner and the Contractor. Upon written request, the Architect shall have the opportunity to review the General Conditions.

§ 2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services in accordance with Section 2.8.2 when Contract Administration Services extend 60 days after the date of Final Completion of the Work.

§ 2.6.1.3 The Architect shall be a representative of and shall advise and consult with the Owner during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the Owner on non-monetary issues only to the extent provided in this Agreement unless otherwise modified by written amendment of the Owner and Architect. Notwithstanding the foregoing, the Architect, when serving in such a representative capacity shall serve the best interests of the Owner and shall use its best efforts to keep the Owner informed of all actions the Architect takes on behalf of the Owner.

§ 2.6.1.4 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect.

§ 2.6.1.5 The Architect shall review in a timely manner all properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared by the Architect and agreed upon by the Architect and Owner and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

§ 2.6.1.6 If reasonably required for the proper execution of the Work, the Architect shall on the Owner's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.

§ 2.6.1.7 The Architect shall interpret and decide matters concerning performance of the Contractor under, and requirements of, the Contract Documents on written request of the Owner. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.1.8 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by the Contractor, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

§ 2.6.1.9 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor and to the extent as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents and with the Owner's direction.

§ 2.6.2 EVALUATIONS OF THE WORK

§ 2.6.2.1 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect in Article 2.8, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.2.2 The Architect shall report to the Owner known or in the exercise of due professional care and its obligations under this Agreement, should have known, deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's willful misconduct, tortuous actions, and negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

§ 2.6.2.4 The Owner may communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents or the Owner may communicate directly at its sole option. Communications by and with the Architect's consultants shall be through the Architect.

§ 2.6.2.5 The Architect shall have authority to reject Work that does not conform to the Contract Documents and shall employ due professional care to exercise such authority in the best interest of the Owner. Whenever the Architect considers it necessary or advisable, and with prior discussion with the Owner, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

§ 2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief and in the exercise of its due professional care and obligations set forth in this Agreement, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.3.2 Except as otherwise set forth in the Agreement, the issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to

substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 2.6.3.3 The Architect shall maintain a record of the Contractor's Applications for Payment during the Project and for a period of six (6) years after Final Completion.

§ 2.6.4 SUBMITTALS

§ 2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of ascertaining conformance with information given, requirements set forth, and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, and within a schedule for shop drawing review to be agreed upon in advance by the Owner, Architect and Contractor. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.4.2 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents during the Project and for a period of six (6) years after Final Completion.

§ 2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. The Architect shall be responsible for the coordination of any design undertaken by the design professionals retained by the Contractor with the overall design of the Project. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, while retaining full professional responsibility for the performance and design criteria specified in the Contract Documents. In all instances, the Architect shall obtain the Owner's written pre-approval for the delegation of design services or certifications to the Contractor or professionals retained by the Contractor.

§ 2.6.5 CHANGES IN THE WORK

§ 2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. With prior or concurrent notice to the Owner, the Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 2.8.2.

§ 2.6.5.2 The Architect shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time, provided however that, at the direction and discretion of the Owner and without additional expense or compensation, the Architect shall timely review any such request that is not properly prepared or timely requested by the Contractor. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work as set forth above or recommend to the Owner that the requested change be denied.

§ 2.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization,

and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect, with the exception of any Change in Services caused by, resulting from or directly attributable to the Architect's performance or lack thereof. With the Owner's written approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

§ 2.6.5.4 The Architect shall maintain records relative to changes in the Work during the Project and for a period of six (6) years after Final Completion.

§ 2.6.6 PROJECT COMPLETION

§ 2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and shall review for conformity with the Contract Documents and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 2.6.6.2 The Architect's inspection shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

§ 2.6.6.4 The Architect shall receive from the Contractor and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.

§ 2.6.6.5 If the Owner requires the submittal of Record Documents upon completion of the Work by the Contractor, the Architect shall compile for, and deliver to the Owner two (2) sets of Record Documents conforming to the marked-up prints, drawings and other data known to the Architect in the exercise of its professional due care and obligations as stated in this Agreement and otherwise furnished to the Architect by the Contractor. The Record Documents shall show the reported location of the Work and the significant changes made during the construction process.

§ 2.6.6.6 The Architect and its engineers and consultants shall periodically review the Drawings and other record Contract Documents to be maintained (and marked currently to record all changes) by the Contractor. At the conclusion of the Work, the Architect and its engineers and consultants shall make a final review of the record as-built Drawings, and if any omissions, incorrect information or inconsistencies are found, the Drawings shall be returned to the Contractor for correction and resubmission. When the Architect finds the record as-built Drawings to be acceptable, the Architect shall date those Drawings for identification and transmit them to the Owner.

§ 2.6.6.7 The Owner and the Architect agree to act in good faith and in a reasonable manner in all dealings with each other in connection with the Project.

ARTICLE 2.7 FACILITY OPERATION SERVICES

§ 2.7.1 The Architect shall meet with the Owner or the Owner's Designated Representative promptly after Substantial Completion to review the need for facility operation services.

§ 2.7.2 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the Owner and the Owner's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the Owner.

ARTICLE 2.8 SCHEDULE OF SERVICES

§ 2.8.1 Design and Contract Administration Services beyond the following limits shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

- .1 up to () reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.
- .2 up to () visits to the site per week by the Architect over the duration of the Project during construction.
- .3 up to () inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
- .4 up to () inspections for any portion of the Work to determine final completion.

§ 2.8.2 The following Design and Contract Administration Services shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

- .1 review of a Contractor's submittal substantially out of sequence from the submittal schedule agreed to by the Architect; excepting items that are a part of separate bid packages;
- .2 excessive number of responses to the Contractor's requests for information where such information is clearly available to the Contractor from a reasonable study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service, provided that said Change Orders or Directives were not caused by the Architect or required by the Architect's failure to meet its obligations under this Agreement;
- .4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;
- .5 evaluation of an extensive number of claims submitted by the Owner's consultants, the Contractor or others in connection with the Work, provided that claims were not caused by the Architect or arose from the Architect's failure to meet its obligations under this Agreement;
- .6 post award of the work to a Contractor by the Owner, evaluation of and extensive number of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;
- .7 preparation of design and documentation for alternate bid or proposal requests proposed by the Owner after delivery by the Architect of the Construction Documents; or
- .8 Contract Administration Services provided 60 days after the date of Final Completion of the Work.

§ 2.8.3 The Architect shall furnish or provide the following services only if specifically designated:

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.1 Programming		
.2 Land Survey Services		
.3 Geotechnical Services		
.4 Space Schematics/Flow Diagrams		
.5 Existing Facilities Surveys		
.6 Economic Feasibility Studies		
.7 Site Analysis and Selection		
.8 Environmental Studies and Reports		
.9 Owner-Supplied Data Coordination		
.10 Schedule Development and Monitoring		
.11 Civil Design		
.12 Landscape Design		
.13 Interior Design		
.14 Special Bidding or Negotiation		
.15 Value Analysis		

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.16 Detailed Cost Estimating		
.17 On-Site Project Representation		
.18 Construction Management		
.19 Start-up Assistance		
.20 Record Drawings		
.21 Post-Contract Evaluation		
.22 Tenant-Related Services		
.23 Construction Administration		
.24 Bid Negotiations		
.25		

Description of Services.

(Insert descriptions of the services designated.)

ARTICLE 2.9 MODIFICATIONS

§ 2.9.1 Modifications to this Standard Form of Architect's Services: Design and Contract Administration, if any, are as follows:

By its execution, this Standard Form of Architect's Services: Design and Contract Administration and modifications hereto are incorporated into the Standard Form of Agreement Between the Owner and Architect, AIA Document B141-1997, that was entered into by the parties as of the date:

OWNER

(Signature)

Thomas Gaydos, Town Administrator

(Printed name and title)

ARCHITECT

(Signature)

(Printed name and title)