



ROANOKE COUNTY

Purchasing Division

5204 Bernard Drive, Suite 300-F, P.O. Box 29800

Roanoke, Virginia 24018-0798

TEL: (540) 772-2061 FAX: (540) 772-2074

March 29, 2022

ADDENDUM NO. 1 TO ALL BIDDERS/OFFERORS:

Reference – RFP 2022-077

Description: Architectural & Engineering Services for New Parks, Recreation, & Tourism Office
& Shop Buildings

Issue Date: March 15, 2022

Proposal Due: April 7, 2022

The above Project is hereby changed as addressed below:

1. Pre-Proposal Sign-In Log. See Exhibit A to this addendum for a copy of the sign-in log from the non-mandatory pre-proposal conference held on March 24, 2022.
2. Office Plan & Elevation Concepts. See Exhibit B to this addendum.
3. Office Shop Floor Plan Concept. See Exhibit C to this addendum.
4. Sample Contract. The attached sample contract document is hereby incorporated as previously referenced Attachment A to RFP 2022-077.
5. Clarification Regarding Pricing. Proposals submitted should **not** include cost estimates. Cost estimates will be requested at a later time during the RFP evaluation and negotiation process.

Note: A signed acknowledgment of this addendum must be received at the location indicated on the original solicitation either prior to the proposal due date or attached to your proposal. Signature on this addendum does not substitute for your signature on the original proposal/bid document. The original proposal/bid document must be signed.

Thank you,

Kate Hoyt

Phone: (540) 283-8149

KHoyt@roanokecountyva.gov

Acknowledged:

Sign Name:

Print Name:

Name of Firm:

Date:

RFP #2022-077 A&E Services for New PR&T Office & Shop Buildings

Pre-Proposal Conference Sign-In Log

March 24, 2022

1:00 PM

(PLEASE PRINT)

Name/Title Barry Collier / Project Manager
Organization Thompson & Litten
Email & Phone bcollier@t-l.com 540.680.1897

Name/Title Granville Grant / PM
Organization SPECTRUM DESIGN
Email & Phone GGRANT@SPECTRUMPC.COM 540-342-6001

Name/Title ROBERT PILKINGTON / SENIOR VICE PRESIDENT
Organization BALZER AND ASSOCIATES, INC.
Email & Phone rpilkington@balzer.cc 540-772-9580

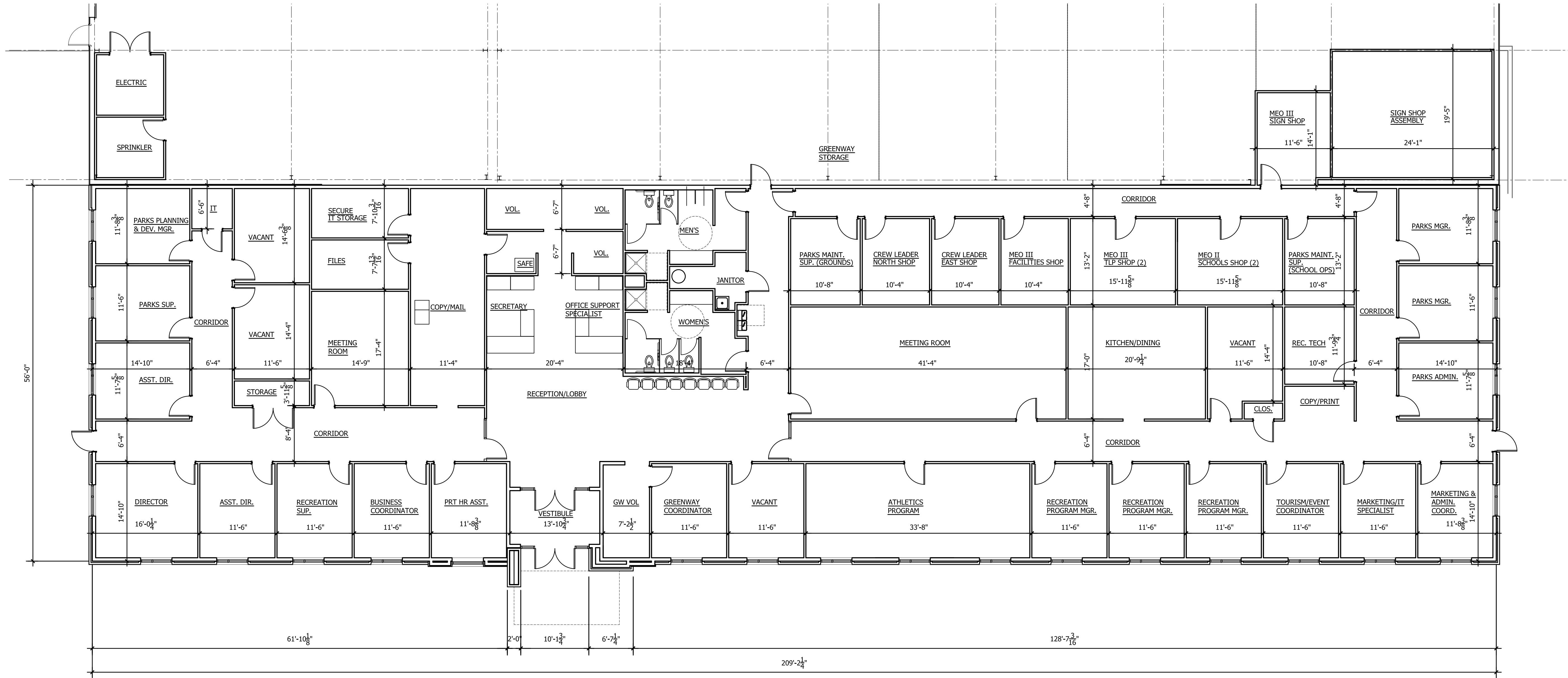
Name/Title Aming Oulmi / Architectural Designer
Organization Hughes Associates
Email & Phone amolmi@hughesae.com

Name/Title Tyler Phillips / Marketing + BD
Organization Hughes Associates Architects + Engineers
Email & Phone tphillips@hughesae.com

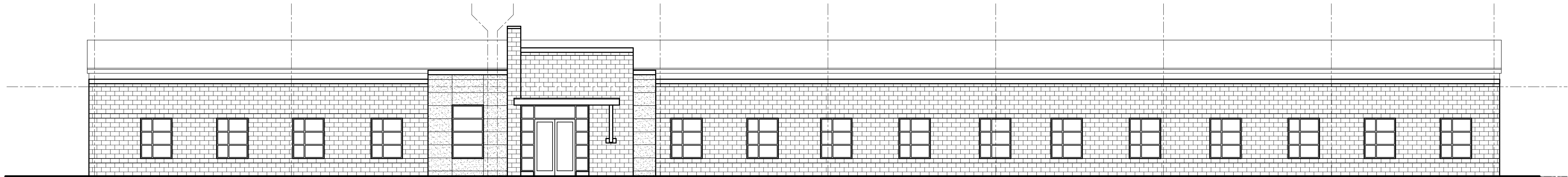
Name/Title RON RIQUELMEY
Organization ROANOKE COUNTY
Email & Phone _____

Name/Title _____
Organization _____
Email & Phone _____

Name/Title _____
Organization _____
Email & Phone _____



CONCEPT FLOOR PLAN - OFFICE
SCALE: 1/8" = 1'-0"



CONCEPT WEST ELEVATION
SCALE: 1/8" = 1'-0"

Revisions		
Number	Issue	Date

Sheet Information	
Date	2/11/2022
Job Number	NONE
Scale	AS NOTED
Drawn	G
Checked	G
Approved	



**ATTACHMENT A TO RFP 2022-077
COUNTY OF ROANOKE, VIRGINIA
SAMPLE CONTRACT FOR ARCHITECT SERVICES**

This Contract, made at Roanoke, Virginia, on _____, 20____, by and between the County of Roanoke, Virginia (hereinafter referred to as the "County" or "Owner"), and

(hereinafter referred to as "Architect").

W I T N E S S E T H:

NOW THEREFORE, for and in consideration of the benefits which will accrue to the parties hereto by virtue of this Contract and the Respective Covenants contained herein, IT IS MUTUALLY COVENANTED AND AGREED AS FOLLOWS:

SECTION 1. PROJECT.

The term Project as used in this Contract refers to the following:

- General Project Description
- Special Features
- Purpose of the Project

SECTION 2. ARCHITECT SERVICES.

Architect shall provide the following professional services together with the preparation of Project plans, design drawings and specifications for the orderly development of the Project:

A. SCOPE OF SERVICES.

The Architect shall commence, carry on, and complete the Project with all dispatch in a sound, economical, and efficient manner, in accordance with the provisions hereof and all applicable laws. In accomplishing the Project, the Architect shall take reasonable professional efforts to ensure that the work involved is properly coordinated with any related work being carried on by the County or by other County employees, consultants, representatives, or attorneys.

See Exhibit 1 to Contract 2022-077 for a detailed Scope of Services. Final scope of services to be negotiated with selected Offeror.

1. Attend general public meetings (conducted and scheduled by the Owner) as the Owner may request. ____ meetings are anticipated for this project.
2. Record a written record of all Project meetings with the Owner. Meeting minutes shall be submitted to the Owner not more than 10 days after the meeting.

3. This Project is a Design to Budget Project. The budget for this Project is \$_____, and this amount includes all of the Architect's fees, costs, and expenses. This cost will include all work required for a complete, usable and properly working Project. The Architect is specifically advised of budget constraints for this Project and the Owner expects and the Architect agrees to provide an acceptable design in accordance with the Project description and within the stated budget.
4. A detailed cost estimate commensurate with the level of design shall be supplied by the Architect with each Project phase submittal. Should any cost estimate indicate a problem in securing a bid within the estimate of construction cost submitted by the Architect, the Architect shall notify the Owner to redefine the Project scope, materials of construction, etc., as necessary to resolve the estimated cost of construction within the Design to Budget cost.
5. The County may, from time to time, require changes in the scope of the services of the Architect to be performed hereunder. Such changes, which are mutually agreed upon by and between the County and the Architect, shall be incorporated in written amendments to this Contract. Any changes requiring any increase in the Contract sum shall be subject to the verification of funding by the County's finance department and approval by the County.

B. PROJECT SCHEDULE.

1. The Owner and the Architect agree that time is of the essence and that delays in the design or construction may significantly impact the feasibility and/or cost of the Project.
2. The Project design development will correspond to the following definitions:
 - a. Schematic Design Phase shall include surveys, design drawings and outline specifications to refine the Project scope and confirm project feasibility and the Design to Budget cost.
 - b. Design Development Phase shall include subsurface investigations, detailed design drawings and specifications in sufficient detail to clearly define all items which may affect the project Design to Budget cost.
 - c. Construction Document Phase shall include final detailed design drawings, specifications and contract documents in a ready to bid form.
 - d. Bidding Phase shall include all consulting services necessary to advertise the Project, conduct a pre-bid conference, provide contract addenda as necessary, receive bids, evaluate and tabulate bids and provide a recommendation for award of the construction contract.
 - e. Construction Phase shall include all consulting services necessary to administer the construction of the Project.
3. The following is the Project schedule:
 - Schematic Design Phase

- Design Development Phase
- Construction Document Phase
- Bidding Phase
- Construction Phase
- Record Drawings

C. PROJECT DELIVERABLES.

The Architect agrees to deliver to the Owner in a timely and proper manner the following:

1. Completed set of original plan sheets deemed constructible by the County with original certification seals and signatures. Such plans shall be printed on bond paper (20 pound minimum) or as otherwise requested by the County.
2. Prepare and provide all Project documents with original certification and regulatory approval signatures.
3. Reproducible copy of all Project documents prepared by the Architect.
4. All Project drawings in AutoCAD (Release 2021 or newer) format together with any related symbol and/or font libraries.
5. Copies of all Project calculations including complete reproducible calculation notebook(s) with a CD, or other agreed upon digital format, containing final electronic files used to generate calculations, details, certifications, cost estimates, survey notes, charts, reports, studies, sketches, maps, and other documentation as may be reasonably required by the County for the Project.

D. PERSONNEL.

1. The Architect hereby designates assignments for this Project as follows:
 - Principal in Charge:
 - Project Manager:
 - Project Architect:
 - Civil Engineer:
 - Structural Engineer:
 - Mechanical Engineer:
 - Electrical Engineer:
2. Where circumstances require substitution for any of the above listed personnel assignments, the Architect shall so advise the Owner in writing. The substitute shall be of the same or greater level of expertise and experience as the personnel being replaced. The Owner reserves the right to accept or reject any initial or substituted Project personnel. The Architect's Project Manager shall not be reassigned or replaced during the term of the Contract without the express written approval of the Owner.

SECTION 3. BASIS OF COMPENSATION

The Owner shall compensate the Architect as follows:

- A. AN INITIAL PAYMENT OF _____ Dollars (\$) shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

B. BASIC COMPENSATION

1. FOR BASIC SERVICES as described in Exhibit 1, and any other services included herein as part of Basic Services, Basic Compensation shall be computed as follows:
2. Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

Schematic Design Phase:	percent (%)
Design Development Phase:	percent (%)
Construction Documents Phase:	percent (%)
Bidding or Negotiation Phase:	percent (%)
Construction Phase:	percent (%)
Total Basic Compensation:	one hundred percent (100%)

C. COMPENSATION FOR ADDITIONAL SERVICES

1. FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Exhibit 1, Paragraph 2.2, compensation shall be computed as follows:
2. FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Exhibit 1, other than Additional Project Representation, as described in Exhibit 1, but excluding services of consultants, compensation shall be computed as follows:
3. FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical and electrical engineering services or identified in Exhibit 1 as part of Additional Services, a multiple of () times the amounts billed to the Architect for such services. (Identify specific types of consultants in Exhibit 1, if required.)

D. REIMBURSABLE EXPENSES

1. FOR REIMBURSABLE EXPENSES, as described in Section 4, and any other items included in Exhibit 1 as Reimbursable Expenses, a multiple of () times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

E. ADDITIONAL PROVISIONS

1. IF THE BASIC SERVICES covered by this Agreement have not been completed within () months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Sections 3 and 4.
2. Payments are due and payable _____ () days from the date of the Architect's invoice. Amounts unpaid _____ () days after the invoice date 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.)
3. The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

SECTION 4. PAYMENT FOR ARCHITECT SERVICES.

The Owner and Architect agree that the Owner will only pay the Architect a portion of the total lump sum fee set forth above for each project phase completed and accepted by the Owner. The Architect shall submit a request for payment not more than once each month. The payment requested shall be in proportion to the services completed by Project phase and approved by the Owner. The Owner shall have the final decision with respect to the proportion of the Project completed. A written progress report detailing work completed, identified problems, and remaining work shall accompany each request for payment.

A. DIRECT PERSONNEL EXPENSE

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, pensions and similar contributions and benefits.

B. REIMBURSABLE EXPENSES

1. Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project, as identified in the following Clauses.
2. Expenses in connection with Owner authorized out-of-town travel, however such reimbursement shall be without markup and shall not exceed the rates established by the IRS and General Services Administration; and fees paid for securing approval of authorities having jurisdiction over the Project.
3. Expense of reproductions and handling of Drawings, Specifications and other documents, except as provided in Exhibit 1, Paragraph 1.4.5.
4. If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.
5. Expense of renderings, models and mockups requested by the owner.

6. The Architect shall carry Professional Liability insurance in \$1,000,000 per claim/\$1,000,000 per aggregate limitations, which liability policy will name the Owner and the Project as additional insured.

C. PAYMENTS ON ACCOUNT OF BASIC SERVICES

1. An initial payment as set forth in Section 3 is the minimum payment under this Agreement.
2. Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Section 3. B. 2.
3. If and to the extent that the time initially established in Section 3. E. of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth below.
 - i. The Architect shall specify the following in Contract Documents:
"If and to the extent that, through no fault of the Owner, Architect, or the Architect's consultants, the Basic Services covered by this Agreement have not been completed with the time established in Section 3.E, compensation to the Architect for any Basic Services required for such extended Administration of the Construction Contract shall be reimbursed to the Owner by the Contractor."

D. PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

The Architect shall present each month a statement of Additional Services rendered and reimbursable expenses incurred, together with supporting documentation, for the preceding month.

E. PAYMENTS WITHHELD

No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable under this Agreement.

Any obligation of the County to pay, set aside, or otherwise appropriate funds for the performance of this Agreement shall be construed to be subject to appropriation, and shall not be construed to be in derogation of Article VII § 10 of the Virginia Constitution.

F. ARCHITECT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

SECTION 5. SPECIAL CONDITIONS.

- A. It is agreed by the Parties hereto that one (1) reproducible copy each of the drawings, tracings, construction plans, specifications, maps, and other documents (including electronic data) prepared or obtained under the terms of the Contract shall be delivered to and become the property of the Owner and basic survey notes and sketches, charts, computations, and other items set forth in Section 2(C) shall be made available, upon request, to the Owner without restriction or limitation on their use at no additional cost to the Owner.
- B. It is agreed by the Parties hereto that the Architect shall proceed to furnish professional services on any phase of the Project under the terms provided in this Contract only after a Notice to Proceed with the next phase has been given to the Architect in writing by the Owner.
- C. Each party binds itself, its principals, successors, executors, administrators, and assigns to perform all covenants and provisions of this Contract. Except as above noted, neither the Owner nor the Architect shall assign or transfer its interest in this Contract without the written consent of the other Party hereto, which consent shall not be unreasonably withheld.
- D. The term of this Contract will be completed upon final approval and acceptance of the completed Project by Owner and any participating agencies. However, nothing contained herein shall be construed to establish a period of limitation with respect to any obligation which the Architect might have under the Contract or the law of Virginia, including liability for errors and omissions.
- E. The Architect agrees to conduct all the services in compliance with all applicable requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964, Part 21 of the Regulations of the Secretary of Transportation and Executive Order No. 11246, "Equal Employment Opportunity" as supplemented in Department of Labor Regulations (41 CFR, Part 60); and agrees to comply with all applicable standards, orders, or regulations issued pursuant of the Clean Air Act of 1970; and will maintain an Affirmative Action Program, if required by applicable law.
- F. Owner advises Architect that failure of Architect to carry out the requirements set forth in 45 Federal Register 21186, Section 23.43 (a) (1980) dealing with minority business enterprise, where appropriate, shall constitute a breach of contract and may result in termination of this Contract or such remedy as Owner deems appropriate.
- G. Architect agrees that the work and services (which shall include, but not be limited to, all plans, drawings, and specifications) Architect provides for the Owner pursuant to this Contract will comply with all applicable federal, state, and local laws, codes, and regulations that are in effect as of the date of the Contract. Furthermore, Architect shall, in a timely manner, inform in writing the Owner, during the term of the Contract and until completion of the Architect's services, about changes or modifications of all such laws, codes, or regulations that may affect or require modification or changes to any part of the Project so that Owner will be able to determine if changes or modifications should be made to the Project before completion. Architect further agrees that Architect does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- H. The Architect agrees that the Owner, and any approving Federal or State Agency or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Architect which are pertinent to this Project for the purpose of making an audit, examinations, excerpts, or transcriptions.
- I. The Architect shall, at its sole expense, obtain and maintain during the life of this Contract the insurance policies and bonds required by this Section. Any required insurance policies and bonds shall be effective prior to the beginning of any work or other performance by the Architect under this Contract. All such insurance shall be primary and noncontributory to any insurance or self-insurance the County may have. The following policies and coverages are required:
1. Commercial General Liability. Commercial General Liability insurance shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of the Architect's performance under this Contract. The minimum limits of liability for this coverage shall be \$1,000,000 combined single limit for any one occurrence.
 2. Contractual Liability. Broad form Contractual Liability insurance shall include the indemnification obligation set forth in this Contract.
 3. Workers' Compensation. Workers' Compensation insurance covering Architect's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Contract. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury by accident each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee). With respect to Workers' Compensation coverage, the Architect's insurance company shall waive rights of subrogation against the County, its officers, employees, agents, volunteers and representatives.
 4. Automobile Liability. The minimum limit of liability for Automobile Liability Insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Contract.
 5. Professional Liability. Minimum limits of insurance coverage for Professional Liability shall be \$1,000,000 per claim/\$1,000,000 per aggregate limitations.
 6. Umbrella Coverage. The insurance coverages and amounts set forth in subsections (1), (2), (3), and (4) of this Section may be met by an umbrella liability policy following the form of the underlying primary coverage. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by subsections (1), (2), (3), and (4), and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by the Architect to the County.
 7. Evidence of Insurance. All insurance, with the exception of Professional Liability Insurance, shall be written on an occurrence basis. Professional Liability Insurance may be written on a claims-made basis. In addition, the following requirements shall be met:

- a) Architect shall furnish the County a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles. Neither the Architect/Contractor nor any subcontractor shall commence work under this Agreement until the Architect/Contractor has obtained and provided proof of the required insurance coverages to the County, and such proof has been approved by the County. The Architect/Contractor confirms to the County that all subcontractors have provided Architect/Contractor with proof of such insurance or will do so prior to commencing any work under this Agreement.
- b) The Architect shall notify the County in writing within five (5) calendar days if any of the insurance coverages or policies are cancelled or materially altered and Architect shall immediately replace such policies and provide documentation of such to the County.
- c) The required insurance policies and coverages, excluding those for Workers Compensation and Professional Liability, shall name the County of Roanoke, its officers, agents, volunteers and employees as additional insureds by endorsement, and the certificate of insurance shall show if the policies provide such coverage. Where waiver of subrogation is required with respect to any policy of insurance required under this Section, such waiver shall be specified on the certificate of insurance. Additional insured and waiver endorsements shall be received by Roanoke County from the insurer within 30 days of the beginning of this contract. The County may approve other documentation of such insurance coverages.
- d) Insurance coverage shall be in a form and with an insurance company approved by the County which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Contract shall be authorized to do business in the Commonwealth of Virginia.
- e) The continued maintenance of the insurance policies and coverages required by the Agreement is a continuing obligation, and the lapse and/or termination of any such policies or coverages without approved replacement policies and/or coverages being obtained shall be grounds for termination of the Architect/Contractor for default.
- f) Nothing contained in the insurance requirements is to be construed as limiting the liability of the Architect/Contractor, and/or its subcontractors, or their insurance carriers. The County does not in any way represent that the coverages or the limits of insurance specified are sufficient or adequate to protect the Architect/Contractor's interest or liabilities, but are merely minimums. The obligation of the Architect/Contractor, and its subcontractors, to purchase insurance shall not in any way limit the obligations of the Architect/Contractor in the event that the County or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance.

J. The Architect agrees to and shall indemnify and hold harmless Owner and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, cost, and expenses, including reasonable attorney's

fees, resulting from or arising out of Architect's or agent's, subcontractor's and/or sub consultant's negligent activities or omissions on or near any of the Owner's property or easements involved in this Project or arising out of or resulting from Architect's negligence in providing any of the services under this Contract, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type.

The Architect's indemnification obligation hereunder with respect to any and all claims against the Owner or any of its officers, agents or employees, by any employee or statutory employee of the Architect, or any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts the Architect or Subcontractor may be liable, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Architect or any Subcontractor under Worker's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts unless otherwise provided by law.

- K. While on Owner's property and in its performance of this Contract, Architect or its agents, subcontractor's and/or sub consultant's shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Contract and Architect shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous materials, substances, or waste. Regardless of Owner's acquiescence, Architect agrees to and shall indemnify and hold Owner, its officers, agents, volunteers, and employees harmless from all costs, damages, liabilities, fines, or penalties, including attorney's fees, resulting from violation of this paragraph and agrees to reimburse Owner for all costs and expenses incurred by Owner in eliminating or remedying such violations. Architect also agrees to reimburse Owner and hold Owner, its officers, agents, volunteers, and employees harmless from any and all costs, damages, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of Architect's or its agents, subcontractors and/or sub consultants use or release of any hazardous material, substance, or waste onto the ground or otherwise, or into the water or air from or upon or near Owner's property or easements.
- L. The provisions, requirements, and prohibitions as contained in Sections 2.2 - 4367 through 2.2 - 4377 of the Virginia Code (Ethics in Public Contracting), pertaining to bidders, offerors, contractors, and subcontractors are applicable to this Project.
- M. The Architect shall maintain throughout the period of this project a standard form of errors and omissions insurance coverage with an insurance company satisfactory to the Owner. Before this Agreement shall have any effect, the Architect shall have submitted to the Owner proof of such insurance in amounts satisfactory to the Owner. The Architect shall also maintain insurance coverage for comprehensive general liability, automobile liability and worker's compensation insurance in forms and amounts satisfactory to the Owner, naming the Owner as an additional insured by endorsement. The Architect shall assure that any and all consultants engaged or employed by the Architect carry and maintain similar insurance with reasonably prudent limits and coverages in light of the services to be rendered by such consultants. All such insurance policies shall incorporate a provision requiring written notice by the insurance company to the Owner at least thirty (30) days prior to any cancellation, non-renewal or material modification of the policies. The maintenance in full current force and effect of such form of insurance, in such amount as

the Owner shall have accepted before entering into this Agreement, shall be a condition precedent to the Architect's exercise or enforcement of any rights under this Agreement.

- N. All notices, demands, consents or reports provided in this Agreement shall be in writing and shall be given to the Owner or the Architect at the address set forth below or at such other address as each may specify hereafter in writing:

OWNER:

ARCHITECT:

Any such notice, demand, consent or report, shall be deemed to have been rendered or given on the date when it shall have been deposited in a United States Post Office, or official depository thereof, or when it shall have been delivered by hand. No document or message transmitted by electronic facsimile (by FAX) or by E-mail shall be considered as given until a written copy shall have been deposited in the mail or delivered as previously stated.

SECTION 6. SPECIAL PROVISIONS.

- A. If any of the services furnished under this Contract by the Architect are furnished by obtaining such services outside the Architect's organization, the Architect shall provide an executed contract between the person(s) or firm and the Architect and shall outline the services to be performed and the charges for the same. Such contracts shall be subject to approval by the Owner. Two copies of the executed contract shall be submitted to the Owner for approval prior to the services being performed. Approval shall not be unreasonably withheld. The Architect shall be solely responsible for all costs and expenses in connection with any such contracts.
- B. The Owner shall make available to the Architect all reasonable technical data that is in the Owner's possession, including maps, surveys, property descriptions, borings, and other information requested by the Architect and relating to its work. The Owner and the Architect agree that the Owner may decide in its sole discretion the reasonableness of any information requested by the Architect. The Owner shall designate, in writing to the Architect, the name of the Owner's Project manager for the Project.
- C. The Architect shall review for locations of archeological sites within the County of Roanoke and shall notify the Owner of any potential conflicts between the proposed Project and such sites.
- D. The Owner shall pay for the following: (1) publishing costs for advertisements of notices, public hearings, requests for bids, and other similar items; (2) for all permits and licenses that may be required by local, state, or federal authorities; and (3) for the necessary land, easements, and rights-of-way required for the Project.
- E. The Owner by seven days written notice may terminate this Contract, with or without cause, in whole or in part at any time. Upon receipt of such notice, the Architect shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Architect in performing this Contract whether completed or in process.

1. If the termination is due to the failure of the Architect to fulfill any of its Contract obligations, the Owner may take over the work and prosecute the same to completion by Contract or otherwise. In such case, the Architect shall be liable to the Owner for any damages allowed by law, and upon demand of Owner shall promptly pay the same to Owner.
 2. Should the Contract be terminated not due in any way to the fault of the Architect, the Architect shall only be entitled to compensation for services actually performed prior to notice of termination and approved by the Owner and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination.
 3. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Contract and Owner may pursue any and all such rights and remedies against Architect as it deems appropriate.
- F. If the documents called for by the Contract are completed in accordance with criteria and/or decisions made by the Owner and such documents are substantially changed or revised, for any reason other than the fault of the Architect in preparing same, then the Architect shall be entitled to compensation as mutually agreed upon between the Owner and Architect for rendering the services necessary to complete the changes. The amount of this fee shall be negotiated between the parties. The fee for the changes shall be due and payable when the revisions are approved by the Owner. If agreement cannot be reached between the parties for rendering such services, then the Owner can terminate the Contract without any liability of any type for any damages or compensation to the Architect, and the Owner will owe nothing further to the Architect. However, if such changes or revisions are due in any way to the fault of the Architect, the Owner can require the Architect to perform the services required under this Contract and make such changes and revisions without any additional charges by the Architect and pursue such other remedies available to the Owner under this Contract or by law, or any combination of such remedies as the Owner deems appropriate.
- G. By virtue of entering into this Contract the Architect submits itself to a court of competent jurisdiction in the County of Roanoke, Virginia, and further agrees that this Contract is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.
- H. Architect agrees that no payment, final or otherwise, nor partial or entire use, occupancy, or acceptance of the Project by the Owner shall be an acceptance of any professional services not in accordance with the Contract, nor shall the same relieve the Architect of any responsibility for any errors or omissions in connection with the Project or operate to release the Architect from any obligation under the Contract.
- I. The Architect shall be fully responsible to the Owner for all acts and omissions of all succeeding tiers of subcontractors, agents, and sub consultants performing or furnishing any of the work just as the Architect is responsible for its own acts and omissions.
- J. During the performance of this Contract, the Architect agrees as follows:

1. The Architect will not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by State law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Architect. The Architect agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 2. The Architect, in all solicitations or advertisements for employees placed by or on behalf of the Architect, will state that such Architect is an equal employment opportunity employer.
 3. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 4. The Architect will include the provisions of the foregoing Subsections (1, 2, and 3) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- K. Architect agrees that the County's waiver or failure to enforce or require performance of any term or condition of this Contract or the County's waiver of any particular breach of this Contract by the Architect extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by the Architect and does not bar the County from requiring the Architect to comply with all the terms and conditions of the Contract and does not bar the County from asserting any and all rights and/or remedies it has or might have against the Architect under this Contract or by law.
- L. If any provision of this Contract, or the application of any provision hereof to a particular entity or circumstance, shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Contract shall not be affected and all other terms and conditions of the Contract shall be valid and enforceable to the fullest extent permitted by law.
- M. (1) During the performance of this Contract, the Architect agrees to (i) provide a drug-free workplace for the Architect's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Architect's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Architect that the Architect maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- (2) For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.
- N. Pursuant to Virginia Code Section 2.2 - 4343.1, be advised that the County of Roanoke does not discriminate against faith-based organizations.

- O. The Architect agrees that Architect will comply with the requirements of Section 2.2-4354 of the Va. Code regarding Architect's payment to other entities and that Architect will take one of the two actions permitted therein within seven (7) days after receipt of amounts paid to Architect by the County. The Architect agrees that Architect shall indemnify and hold the County harmless for any lawful claims resulting from failure of the Architect to make prompt payments to all persons supplying him equipment, labor, tools, or material in prosecution and completion of the Work provided for in the Contract. In the event of such claims, the County may, after providing written notice to the Architect, withhold from any progress and/or final payment the unpaid sum of money deemed sufficient to pay all lawful claims and associated costs in connection with the Contract.

- P. **Data on Convictions for Certain Crimes and Child Abuse and Neglect Certification of Contractor:** The Architect certifies that none of the persons who will provide services requiring direct contact with students on school property during school hours or during school-sponsored activities has been convicted of any of the following felony or misdemeanor offenses: felony sex or violence offenses, other felony offenses or misdemeanor sex offenses within the past ten years.

The Architect further understands and acknowledges (1) that if he makes a materially false statement regarding any of the above offenses, he will be guilty of a Class 1 misdemeanor and may forfeit profits derived from the contract. Further, the Architect understands and acknowledges that before any person is permitted to provide such services subsequent to this certification, he must complete a new certification regarding such person in a form satisfactory to Roanoke County and the Roanoke County School Board. **Data and Convictions information will be requested before the County of Roanoke/Schools enters into a contract / when required.**

- Q. Contractual claims, whether for money or for other relief, including any disputes as to change orders or extra work, shall be submitted, in writing, no later than sixty (60) calendar days after final payment or payment designated as a final payment; however, written notice of the Contractor's intention to file such claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such notice is a condition precedent to the assertion of any such claim by the Contractor. A written decision upon any such claims will be made by the Board of Supervisors or its designee (hereafter "BOS"). The Contractor may not institute legal action prior to receipt of the County's decision on the claim unless the BOS fails to render such decision within ninety (90) calendar days from submittal of its claim. The decision of the BOS shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim or from expiration of the 90 day time limit, whichever occurs first, initiates legal action as provided in Section 2.2-4364 of the Code of Virginia. Failure of the County to render a decision within said ninety (90) calendar days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the County's failure to render a decision within said ninety (90) calendar days shall be Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to Section 2.2-4365 of the Code of Virginia has been established for contractual claims under this Contract.

- R. Architect shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a Architect organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Architect shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under

Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. The County may void the Contract if the Architect fails to remain in compliance with the provisions of this section.

- S. This Contract is or may be subject to funding and/or appropriations from federal, state, and/or local governments and/or agencies and/or from the Board of Supervisors of the County of Roanoke. If any such funding is not provided, withdrawn, or otherwise not made available for the Contract, the Architect agrees that the County may terminate the Contract on seven (7) days written notice to the Architect, without any penalty or damages being incurred by the County. Architect further agrees to and shall comply with any applicable requirements of any grants and/or agreements providing for such funding, including, but not limited to, any VDOT requirements.
- T. Architect agrees that all reports and any other documents (including electronic data) prepared for, obtained in connection with, and/or required to be produced in connection with this Contract shall be delivered by the Architect to the County and all such items shall become the sole property of the County. The Architect agrees that the County shall own all rights of any type in and to all such items, including but not limited to copyrights and trademarks, and the County may reproduce, copy, and use all such items as the County deems appropriate, without any restriction or limitation on their use and without any cost or charges to the County from the Architect. Architect hereby transfers and assigns all such rights and items to the County. Architect further agrees Architect will take any action and execute any documents necessary to accomplish the provisions of this Section. The Architect also warrants that Architect has good title to all materials, equipment, documents, and supplies which it uses in the Work or for which it accepts payment in whole or in part.
- U. Claims, disputes or other substantial disagreements between the Owner and the Architect arising out of or relating to this Agreement or any alleged breach thereof shall be submitted to mediation or other non-binding form of alternative dispute resolution as a condition precedent to any legal or administrative complaint or proceeding related to such claim, dispute or disagreement.
- V. Terms of this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, except as modified by the owner in writing.
- W. The Owner intends to utilize Value Engineering as established by County policy in the development, design and construction of this project. The Architect agrees to cooperate and assist the Owner in the use of Value Engineering with this project.
- X. 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 in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. Notwithstanding the foregoing, if the Architect or the Architect's consultants become aware of the existence of hazardous materials at the project site, they shall promptly report such information to the Owner and work with Owner regarding remediation of such hazards.
- Y. The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional professional materials. 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 on the construction sign and in the promotional materials for the Project.

- Z. This Contract, including any attachments, exhibits, and referenced documents, constitutes the complete understanding between the parties. This Contract may be amended only by written instrument properly executed by the parties.

SECTION 7. TERMINATION, SUSPENSION OR ABANDONMENT

- A. This Agreement may be terminated by either party upon not less than seven (7) calendar 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.
- B. If the Project Bidding Phase or Construction Administration Phase is suspended by Owner for more than five years from the date of this contract, Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, Architect's compensation shall be equitably adjusted.
- C. This Agreement may be terminated by Owner upon not less than seven (7) calendar days' written notice to Architect in the event that the Project is permanently abandoned. If the Project is abandoned by Owner for more than five consecutive years, Architect may terminate this Agreement by giving written notice to Owner.
- D. If Owner fails to make payment when due Architect for services and expenses properly performed, Architect may, upon not less than thirty (30) days' written notice to Owner, suspend performance for services under this Agreement. Unless payment in full, for such services and expenses that have been properly performed, is received by Architect within thirty (30) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Architect shall have no liability to Owner for delay or damage because of suspension of services due to Owner's nonpayment.
- E. In the event of termination, not the fault of Architect, Architect shall be compensated for services satisfactorily performed prior to termination, together with reimbursable expenses then due. No amount shall be allowed for anticipated profit for unperformed services.
- F. This Agreement may be terminated by Owner upon seven (7) calendar days' written notice, without regard to any fault or failure to perform by any party, and solely for the Owner's convenience. In the event of such termination, Architect shall be paid compensation in the same manner as set out in Section 7.E. of this Contract and Owner shall have no further liability for compensation expenses or fees to Architect hereunder except as set out under Section 7.G. The Owner waives and releases the Architect from any liability that may arise due to the use of the drawings and specification for the completion of the Project which is directly or indirectly related to any such changes to the design of the Project by the Owner or another Architect.
- G. In the event of any termination under this Contract, the Architect consents to Owner's selection of another architect of Owner's choice to assist the Owner in any way in completing the project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project. Any services provided by Architect which are requested by Owner after termination shall be fairly compensated by Owner.

SIGNATURE PAGE TO FOLLOW.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, the parties hereto have signed this Contract by their authorized representatives.

(Full Legal Name of Architect)

By_____

Printed Name and Title

COUNTY OF ROANOKE, VIRGINIA

By_____

Printed Name and Title

Approved as to execution:

County Attorney/Assistant County Attorney

**EXHIBIT 1
TO CONTRACT
BETWEEN COUNTY OF ROANOKE
AND _____
FOR ARCHITECTURAL AND ENGINEERING SERVICES**

REF: RFP 2022-077

SCOPE OF WORK

The services, work, and/or items that the Contractor shall provide in a timely and proper manner in accordance with the Contract include, but are not necessarily limited to, the following:

The final scope of services will be negotiated with the Selected Offeror.

1. SCOPE OF ARCHITECT'S BASIC SERVICES

1.1 DEFINITIONS

1.1.1 The Architect's Basic Services (hereinafter referred to as "Basic Services") consist of those described in Paragraphs 1.2 through 1.6 and any other services identified in Exhibit 1 as part of Basic Services, and include appropriate and applicable civil, structural, mechanical and electrical engineering services and any other design services which are normally or customarily furnished and reasonably necessary for the Project.

1.1.2 The Architect shall be responsible for the coordination of all drawing and design information, and all modifications thereto, for the Project regardless of whether such drawings are performed by the Architect or by the Architect's consultants. Architect shall be responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein as fully as if each drawing were prepared by the Architect. The Owner shall provide as-built documentation of existing conditions which shall be the basis of the Architect's documentation. As-builts will be field verified in the areas affected by the construction project.

1.1.3 The Architect shall provide such services as are reasonably required in connection with the work of any Value Engineering Consultant or separate consultants which are reasonably required and engaged by the Owner, and such services shall be provided as part of Architect's Basic Services, but in that event the Basic Services shall be equitably adjusted.

If the Owner retains the services of a Value Engineer (VE) to review the Construction Documents prepared for this project by the Architect, it shall be at the Owner's sole expense and shall be performed in a timely manner so as not to delay the orderly progress of the Architect's services. All recommendations of the VE

shall be given to the Architect for his review, and adequate time will be provided for the Architect to respond to these recommendations. If the Architect objects to any recommendations made by the VE, he or she shall so state in writing to the Owner, along with his or her reasons for objecting.

1.1.4 The Owner shall have the right to reject any portion of Architect's work on the Project including but not limited to, Schematic Phase, Design Development Phase, Construction Documents Phase, Bidding Phase, Construction Phase, design work or documents, for any reasonable cause, including, but not limited to aesthetics, or the construction cost is likely to render such work on the Project unfeasible. In the event that any phase of the Architect's work is not approved by Owner, Architect shall proceed, when requested by the Owner, with the revisions to the design documents prepared for that phase. Such revisions shall be made without adjustment to the compensation provided for hereunder, unless revisions are made to drawings previously approved by the Owner, in which case such revisions will be invoiced as Additional Services. Should revisions to the approved schematic drawings substantially increase the scope of design services to be furnished hereunder, the Architect shall so notify the Owner in writing and receive written approval from the Owner, before proceeding with revisions. No payment, of any nature whatsoever, will be made to the Architect, for additional work or services, without such written approval by the Owner. The Architect's failure to secure prior written consent from the Owner for such additional work or services shall be deemed conclusive evidence of waiver by the Architect of any claim for additional compensation for such additional work or services performed.

1.1.5 The Architect shall assist the Owner in gaining confirmation from the General Contractor that all subcontractors have been paid in accordance with their respective subcontracts.

1.1.6 The Architect's services shall be performed as expeditiously as is consistent with the Owner's reasonable needs, professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted in writing by mutual agreement of the parties as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the project. Time limits established by this schedule and any amendments agreed thereto and approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

1.1.7 The Architect will endeavor to perform in a manner consistent with the normal standard of care of the profession in performing all services under this agreement.

1.2 SCHEMATIC DESIGN PHASE

1.2.1 The Architect shall review and analyze the program furnished by the Owner to ascertain the requirement of the project and shall arrive at a mutual understanding of

such requirements with the Owner, shall commit such understanding to writing and shall furnish a copy to the Owner for approval before proceeding with preliminary designs. For purposes of this Agreement, "Program" shall be defined as the Owner's project requirements, including functional use, comfort, occupancy, standards for sustainability, safety and security requirements and maintenance. The Owner's Program shall be the basis of the Project's design.

1.2.2 The Architect shall work with the Owner to identify priorities, values, goals, and objectives and gathering information to develop performance and design criteria for the project, provide a preliminary evaluation of the Owner's Program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 4.2.1.

1.2.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

1.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

1.2.5 The Architect shall submit to the Owner a preliminary estimate of construction cost based on current area, volume, or other unit costs. The preliminary estimate of construction costs referred to in this Exhibit shall include an estimate of the period of time required from the commencement of construction to the completion of construction of the Project.

1.2.6 The Architect shall review the survey provided by the Owner describing the physical characteristics, legal limitations and utility locations for the site of the project as well as a written legal description of the site to assure its suitability for the Owner's program.

1.2.7 The Architect shall obtain the services of such engineers, including structural, mechanical, civil, electrical and geotechnical, qualified by training and experience in their respective fields as deemed necessary by the Architect. The Architect shall require such professional engineers to place their seal, name and signature on any drawings and specifications prepared by them.

1.3 DESIGN DEVELOPMENT PHASE

1.3.1 Based on the approved Schematic Design Documents and any adjustment authorized by the Owner in the program, schedule or construction budget, the Architect shall promptly prepare for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of

the project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

1.3.2 At the completion of the Design Development Phase, the Architect shall promptly advise the Owner, in writing, of any substantial or significant adjustments to the preliminary estimate of construction costs and the reasons therefore.

1.3.3 The Architect shall supply the Owner with rendered floor plans and elevations in Portable Document Format.

1.4 CONSTRUCTION DOCUMENTS PHASE

1.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

1.4.2 The Architects shall have primary responsibility in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, a final estimate of the Construction Cost as defined in Paragraph 4.1.2 of this Agreement, and the form of Agreement between the Owner and Contractor, which shall be in a form approved by the Owner.

1.4.2.1 Before submission of Construction Documents, or other design documents or construction contract documents to any contractors for bidding purposes, the Architect shall state in writing to the Owner that the construction documents are, to the best of his actual knowledge and belief, complete and unambiguous and that the Architect has informed the Owner of any tests, studies, analyses or reports which are reasonably necessary or advisable to be performed by or for the Owner prior to letting the construction contract for bids.

1.4.2.2 The Architect shall use its professional judgment, experience, information and expertise to protect the Owner from bids that appear to be improper.

1.4.3 The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

1.4.4 The Architect shall be responsible, with the assistance of the Owner, for filing documents required for the approval of governmental authorities having jurisdiction over the project. The Architect shall be responsible for making such changes in the Construction Documents as may be suggested by said governmental authorities at his expense when instructed to do so by the Owner.

1.4.5 The Architect shall provide the following services:

- .1 Attend as needed, detailed conferences with the Owner's representatives, including County meetings related to this Project, and meetings with other agencies involved in development of the project;
- .2 Prepare engineering data, where necessary, for regulatory permit applications required by local, state or federal authorities;
- .3 Furnish the Owner up to five (5) copies of drawings, specifications, and other contract drawings or documents for final review by the Owner and any approving authority;
- .4 Render clarification of the construction plans and special provision, when and if such clarification is deemed necessary;
- .5 Prepare detailed project cost estimates and proposed sequence of construction by the Owner;
- .6 Furnish the Owner up to five (5) copies of approved drawings, specifications and other contract documents for use by the Owner's staff during construction;
- .7 Prepare advertisements for the project for use by the Owner. Issue documents for construction; and conduct and participate in pre-bid conferences for basic construction, furniture, fixtures and equipment;
- .8 Assist the Owner in securing bids, tabulations and analysis of bid results; furnish recommendations on the award of the construction contract;
- .9 Assist in the preparation of formal contract documents for the award of contracts as needed;
- .10 Cooperate with the work of the construction manager/supervisor;
- .11 Require that the Contractor(s) provide operation manuals and adequate training for the Owner in the operation of mechanical, electrical, heating and air conditioning systems installed by the Contractor(s).

1.4.6 The drawings and specifications are to be prepared in conformance with all applicable federal, state and county laws, codes, ordinances, rules and regulations and the prevailing practices of any agencies having jurisdiction thereof. Approval by the Owner shall be deemed to be approval of the concept though not the means, techniques or particular materials recommended by the Architect.

1.5 BIDDING OR NEGOTIATION PHASE

1.5.1 The Architect, following the Owner's approval of the Construction Documents and of the final estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

1.5.2 If the lowest bona-fide bid by a responsible general contractor exceeds by more than five (5%) per cent the total construction cost of the project as set forth in the most recently updated estimate of construction cost submitted by the Architect, then the

Architect shall, at its sole cost and expense, revise the drawings and specifications as may be required by the Owner in consultation with the Architect to reduce or modify the quality or quantity, or both, of the Project so that the total construction cost of the Project will not exceed the total construction cost set forth in the final approved estimate of construction cost.

1.6 CONSTRUCTION PHASE--ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.6.1 Subject to the time limitations set forth in this Contract, the Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the awarding of any Contract for Construction and terminates at the later of the issuance to the Owner of the final Certificate for Payment to all contractors, issuance of a certificate of occupancy, or submission of record drawings, unless extended under the terms of Section 3 of the Contract.

1.6.2 The Architect shall provide administration of the Contract for Construction as set forth below unless otherwise provided in this Agreement or the Owner's supplementary general conditions.

1.6.3 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect and notice to the Contractor.

1.6.4 The Architect shall be a representative of and shall advise and consult with the Owner during construction until final payment to the Contractor is due. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by the Owner and the Architect in writing.

1.6.5 The Architect, or his authorized representative, shall visit the site 3 times per month while work is in progress, and as often as necessary and appropriate to the stage of construction, to inspect the site and work; to familiarize himself with the progress and quality of the work completed; and to determine for the Owner's benefit and protection if the work is proceeding in accordance with the intent of the contract documents and construction schedule. The Architect shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. On the basis of Architect's on-site observations and inspections as an architect, the Architect shall keep the Owner informed of the progress and quality of the work and they shall use reasonable care to guard the Owner against defects and deficiencies in the work and against the Contractor's failure to carry-out the work in accordance with the intent of the construction documents and the construction schedule. The Architect shall provide services made necessary by major defects or deficiencies in the work of the Contractor which through reasonable care should have been discovered by the Architect and promptly reported to the Owner and Contractor, but which Architect failed so to do.

1.6.6 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are the Contractor's responsibility under the Contract for Construction; except to ensure that the Work is in accordance with the Contract Documents all as set forth in Paragraph 1.6.5. The Architect shall not have control over or charge of acts or omissions of the Contractor, subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

1.6.6.1 The Architect shall provide services made necessary by major defects or deficiencies in the work of the Contractor(s) or their agents or employees which through reasonable care the Architect should have discovered and promptly reported to the Owner but failed so to do. In addition, the Architect represents that he will follow the highest standards of the profession in performing all services under this Agreement. Any defective designs or Specifications furnished by the Architect shall be promptly corrected by the Architect at no cost to the Owner. The Owners' approval, acceptance, use of or payment for all or any part of the Architect's services hereunder or the Project itself shall in no way diminish or limit the Architect's obligations and liabilities or the Owner's rights.

1.6.7 Both the Owner and the Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.6.8 Except as may otherwise be deemed necessary or appropriate by the Owner, the Owner and Contractor shall communicate through the Architect. Owner may communicate with, or issue instructions to the Contractor directly, provided that the Owner shall contemporaneously tell the Architect of such communications or instructions. Communications by and with Architect's consultants shall be through the Architect unless otherwise authorized by the Architect. The Owner and the Architect shall be kept fully informed of all such communications.

1.6.9 Based on the Architect's observations, inspections of the work, and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

1.6.10 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's inspections and observations at the site as provided in Subparagraph 1.6.5 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, the quality of Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect

has (1) reviewed construction means, methods, techniques, sequences or procedures, or (2) ascertained how or for what purpose the Contractor has used money previously paid on account of the contract sum.

1.6.11 The Architect shall have authority to reject Work which does not conform to the contract documents. Whenever the Architect or the Owner considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect or the Owner shall have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, and shall have the obligation to do so whether or not such Work is fabricated, installed or completed. Where such additional inspection and testing is to be at additional cost to the Owner, such additional inspection and testing is to be required by the Architect only upon advance notice to and approval by the Owner. 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 performing portions of the Work.

1.6.12 The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and all applicable laws, statutes, ordinances, codes, rules and regulations. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantifies or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of 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. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

1.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in subparagraph 1.6.20.1, for the Owner's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in the contract sum or an extension of the contract time which are consistent with the intent of the Contract Documents. Notwithstanding anything in this Agreement to the contrary, the Architect shall be responsible to the Owner

for the proper design of the heating, ventilation, air conditioners and related systems and their not contributing to unhealthy atmospheric conditions within the project; provided however, that nothing herein shall require the Architect to exceed current industry standards.

1.6.14 The Architect shall make such observations necessary to determine the date or dates of substantial completion and the date of final completion, shall receive 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 upon compliance with the requirements of the Contract Documents.

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

1.6.16 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, shall not show partiality to either Owner or Contractor, and shall not be liable for results of interpretations or decisions so rendered in good faith and without negligence.

1.6.17 The Architect shall make decisions on matters relating to aesthetics if consistent with the intent expressed in the contract documents. The Owner shall review and approve the Architect's recommendations as to any aesthetic matters that constitute changes in the contract documents.

1.6.18 The Architect shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

1.6.19 The Architect's decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, except for those relating to aesthetic effect as provided in subparagraph 1.6.17, shall be subject to mediation or other nonbinding forms of alternative dispute resolutions as agreed to by the parties to such disagreements.

1.6.20 The Architect shall provide the following services:

- .1 Prepare drawings, specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives;

- .2 Provide services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to drawings, specifications and other documentation resulting therefrom;
- .3 Provide services in evaluating claims submitted by the Contractor or others in connection with the Work;
- .4 Provide services in connection with mediation or alternative dispute resolution proceedings or legal proceedings except where the Architect is party thereto;
- .5 Provide analyses of the Owner's needs and program the requirements of the project;
- .6 Provide services to investigate existing conditions or facilities or to make measured drawings thereof;
- .7 Provide coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner;
- .8 Prepare a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the contractor to the Architect;
- .9 Conduct the pre-construction conferences for basic construction, furniture, fixtures and equipment contracts. Consult and advise the Owner during construction;
- .10 Render a semi-final inspection report including a punch list of uncompleted items on the project work to the Owner, and a final report or reports that shall certify to the Owner, that the work involved has been completed in substantial accordance with the plans, specifications and contract documents as the same may have been modified, or supplemented by change order, supplementary contract, or otherwise and that such work is acceptable or shall indicate in what respect the work is deficient and what steps need to be taken to render the work acceptable;
- .11 Provide detailed estimates of construction cost;
- .12 Provide interior design and other similar services required for or in connection with the selection of furniture, furnishing and related equipment;
- .13 Provide services of consultants as listed in Attachment ___ for other than architectural, structural, mechanical and electrical engineering portions of the project provided as a part of Basic Services.

2. ADDITIONAL SERVICES

2.1 GENERAL

2.1.1 The services described in this Section 2 are not included in Basic Services unless so identified elsewhere in this Agreement as being included in Basic Services, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 2.2 and 2.4 shall only be provided if authorized or confirmed in writing by the Owner. The Architect's failure to secure prior written consent from the Owner shall be deemed conclusive evidence of waiver by the Architect of any claim for addition services for such services performed.

If services described under Contingent Additional Services in Paragraph 2.3 are required due to circumstances beyond the Architect's control, the Architect shall notify in writing and advise the Owner of the need for a Contingent Additional Service prior to commencing such services. If the Owner deems that such services described under Paragraph 2.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services. Notwithstanding any provision to the contrary, no compensation shall be paid to the Architect for additional services that became necessary as a result of the fault or negligence of the Architect or their agents or employees.

2.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

2.2.1 If more extensive representation at the site than is described in Subparagraph 1.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

2.2.2 Project Representative shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefore as agreed by the Owner and Architect in writing. The duties, responsibilities and limitations of authority of Project Representative shall be agreed to when and if the same are appointed.

2.2.3. Through the observation by such Project Representatives, the Architect shall provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

2.3 CONTINGENT ADDITIONAL SERVICES

2.3.0 Contingent Additional Services are defined as:

2.3.1 Making revisions in Drawings, Specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

2.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 4.2.5.

2.3.3 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

2.3.4 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

2.4 OPTIONAL ADDITIONAL SERVICES

2.4.0 Optional Additional services are defined as:

2.4.1 Providing financial feasibility or other special studies.

2.4.2 Providing planning surveys, site evaluations or comparative studies of prospective sites.

2.4.3 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

2.4.4 Providing services relative to future facilities, systems and equipment.

2.4.5 Providing services to verify the accuracy of drawing or other information furnished by the Owner.

2.4.6 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

2.4.7 Providing detailed quantity surveys or inventories of material, equipment and labor.

2.4.8 Providing analyses of owning and operating costs.

2.4.9 Providing services for planning tenant or rental spaces.

2.4.10 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

2.4.11 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

2.4.12 Providing services after issuance to the Owner by the Architect of the final Certificate for Payment except as provided by Contract Section 3.E.

2.4.13 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

2.4.14 Providing services for the design, procurement, and installation of technology devices and equipment.

3. OWNER'S RESPONSIBILITIES

3.1 The Owner shall provide full information regarding requirements for the Project, including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

3.2 The Owner shall, with the assistance of the Architect, establish and update an overall budget for the Project, including the construction cost, the Owner's other costs and reasonable contingencies related to all of these costs.

3.3 If requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this agreement.

3.4 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized 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.

3.5 The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

3.6 The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

3.7 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the contractor has used the money paid by or on behalf of the Owner.

3.8 Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the project or nonconformance with the Contract Documents, but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have not duty of observation, inspection or investigation.

3.9 To the extent that forms of certificates or certifications have not been agreed upon prior to the execution of this Agreement or attached hereto by way of exhibit, the proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least seven (7) calendar days prior to the requested or required execution date. Owner may require any certificates or certifications customarily, commonly or reasonably required on projects of this type.

4. CONSTRUCTION COST

4.1 DEFINITION

4.1.1 The Construction cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

4.1.2 The Construction Cost 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, plus a reasonable allowance for the Contractor's 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 during construction.

4.1.3 Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Section 3.

4.2 RESPONSIBILITY FOR CONSTRUCTION COST

4.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best 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 Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

4.2.2 A fixed limit of Construction Cost is established as a condition of this Agreement by the establishment of a Project budget attached to this Agreement as Exhibit _____. The Architect shall be permitted to include 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 Document, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

4.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

4.2.4 If a fixed limit of Construction Cost (adjusted as provided in Subparagraph 4.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in such fixed limit;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 if the Project is abandoned, terminate in accordance with Contract Section 7. C; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost in accordance with Paragraph 1.5.2.

4.2.5 If the Owner chooses to proceed under Clause 4.2.4.4, the Architect, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit. The modification of contract Documents shall be the limit of the Architect's responsibility arising out of the establishment of a fixed limit. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the construction Phase is commenced.

5. USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

5.1 Original drawings and specifications are the property of the Owner. The Owner shall be furnished with such reproductions of drawings and specifications as Owner may reasonably require which shall be a reimbursable expense to the Architect for all copies in excess of those provided in accordance with Paragraph 1.4.5. Upon completion of the Work, the Architect will revise drawings to reflect changes made during construction on reproducible prints. All such reproductions shall be the property of Owner who may use them without the Architect's permission for any purpose the Owner desires. If the Owner utilizes these documents and not the services of this Architect for other than this project, all references to this Architect shall be removed from the Construction Contract Documents. The Architect shall be permitted to retain copies of the construction Documents for this Architect's own professional use without limitation.

5.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

END.