

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**

**ARCHITECTURAL/ENGINEERING SERVICES
STANTON ELEMENTARY SCHOOL PHASE 1 MODERNIZATION AND ADDITION
Solicitation #:DCAM-14-AE-0077**

**Addendum No. 3
Issued: November 1, 2013**

This Addendum Number 03 is issued by e-mail on November 1, 2013. Except as modified hereby, the Request for Proposals (“RFP”) remains unmodified.

Item #1

Form of Contract: Attached to this Addendum is the Form of Contract. THE TERMS OF THE FORM OF CONTRACT SHALL PREVAIL OVER THE RFP. TO THE EXTENT THERE IS AN INCONSISTENCY BETWEEN THE FORM OF CONTRACT ISSUED HERewith AND THE RFP, THE FORM OF CONTRACT SHALL GOVERN.

Item #2

Requests for Information: Below is a list of questions and the Department’s responses.

1. The Annex, according to the RFP, needs to be reconfigured. Toilets need to be added; HVAC and electrical need to be modified to accommodate changes and additions. Is there an additional budget number you are anticipating for this work? **Response: As part of its Phase 1 Work, the selected A/E will determine whether reconfiguration of the Annex is required. If the Annex does require reconfiguration, the construction budget may be augmented at that time.**
2. Are these permit drawings for the Addition expected to be delivered at the same time as the Phase I permit set? If not, when are the Addition’s permit drawings anticipated to be scheduled for submission? **Response: Please see the attached form of contract for further clarification. The completion dates for any required permit drawings will be established and agreed upon by the Department, the A/E and the builder as specified in the form of contract.**

Item #3

The bid date remains unchanged. Proposals are due by **November 7, 2013 at 2:00 pm EST.** Proposals that are hand-delivered should be delivered to the attention of: Danyel Riley, Contract Specialist, at **Frank D. Reeves Center, 2000 14th Street, NW, 8th floor, Washington, DC 20009.**

- End of Addendum No. 3 -

**AGREEMENT FOR
ARCHITECTURAL/ENGINEERING SERVICES**

BY AND BETWEEN

**DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**

AND

[SELECTED OFFEROR]

STANTON ELEMENTARY SCHOOL PHASE 1 MODERNIZATION AND ADDITION

**AGREEMENT BETWEEN OWNER AND ARCHITECT FOR
ARCHITECTURAL/ENGINEERING SERVICES
DCAM-14-AE-0077**

THIS AGREEMENT (“Agreement”) is made by and between the **DISTRICT OF COLUMBIA GOVERNMENT**, acting by and through its **DEPARTMENT OF GENERAL SERVICES** (the “Owner” or the “Department”) and **[OFFEROR]**, being duly organized under the laws of the [Location], and with a place of business at [ADDRESS] (the “Architect”).

WITNESSETH:

WHEREAS, the Department issued a solicitation for architectural/engineering services for the construction of an Addition as well as Phase 1 modernization of Stanton Elementary School, including the annex (the “Project School”) located at 2701 Naylor Road, SE, Washington, DC 20020 (the “Project”); and

WHEREAS, the Architect submitted a proposal dated [DATE] in response to the Department’s solicitation; and

WHEREAS, the Department wishes to retain the Architect to provide all necessary design and related services for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the Architect wishes to provide all of the design and related services necessary for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the Department has retained the services of a Program Manager (the “Program Manager”) to advise it concerning the Project; and

WHEREAS, the Department requires that the phase 1 modernization, including the requisite construction (but excluding the requisite construction for the Addition), be Substantially Complete no later than August 15, 2014, and construction of the Addition be Substantially Complete no later than August 14, 2015; and

WHEREAS, the Department intends to engage a builder (the “Design-Builder”) to work with the Architect in advancing the design, to provide a guaranteed maximum price (“GMP”) for the requisite construction, to assume the Architect’s contract and manage the completion of the design after a GMP has been established, and to construct the Project.

NOW, THEREFORE, the Department and Architect, for the consideration set forth herein, mutually agree as follows.

**ARTICLE 1
GENERAL PROVISIONS**

Section 1.1 Relationship of Parties. The Architect accepts the relationship of trust and confidence established with the Department by this Agreement, and covenants with the Department to furnish the Architect's reasonable skill and judgment and to cooperate with the Program Manager in furthering the interests of the Department. The Architect shall use its best efforts to perform the Project in an expeditious and economical manner consistent with the interests of the Department. The Department shall endeavor to promote harmony and cooperation among the Department, Architect, Design-Builder, Program Manager, and other persons or entities employed by the Department for the Project.

Section 1.2 Project Description. The modernization of the Project School will be conducted in three (3) phases over a period of years. The Project includes the development of a design for the overall modernization of the Project School and the development of design development documents for the work to be implemented as part of the first phase of the modernization (such work, the "Phase 1 Work"). It is contemplated that the Phase 1 Work will include renovation of the classrooms, hallways, restrooms, and the lobby and entrances of the school as well as connecting the annex to the main building. The Phase 1 Work will also include replacement of windows, exterior doors and exterior lighting along with replacement of the mechanical system, plumbing system, wiring system, HVAC system, and life safety systems (i.e. fire alarm and PA systems). The Architect will be required to develop a concept and schematic design that describes the intended final condition of the entire school after all three phases of modernization, and to develop, in consultation with the Department and its Program Manager, a plan which divides the work necessary to implement that design into three phases (such work, the "Phasing Plan"). The Architect will then be required to further develop those portions of the schematic design that describe the Phase 1 Work into a set of design development documents. In addition to the Phase 1 Work, the Project involves the construction of an Addition to Stanton (such work, the "Addition Work"). The Department desires that the Architect develop a concept and schematic design for the Addition. The Architect will then be required to further develop the schematic design for the Addition into a set of design development documents. The design developed by the Architect for the Project shall meet the Owner's programmatic requirements which are set forth in **Exhibit A** and attain a minimum of LEED for Schools-Silver certification.

Section 1.3 Program Manager. At its discretion, the Department may hire a Program Manager (or "PM") to provide certain program management functions. The Program Manager shall, at all times, be acting solely for the benefit of the Department, not the Architect. **The Program Manager shall not be authorized to modify any of the rights or obligations of the Department or the Architect pursuant to this Agreement, or to issue Change Orders or Change Directives. The Architect hereby acknowledges and agrees that only a duly authorized contracting officer shall have the authority to issue Change Orders or Change Directives on the Department's behalf. As of the date that this Agreement is signed, the Department's duly authorizing contracting officers are Brian J. Hanlon and JW Lanum.**

Section 1.4 General Description of Architect's Duties. It is the intent of the parties that the Architect will provide all architectural and engineering services necessary for the design

and construction of the Project. In furtherance of this understanding, the Architect shall be required to provide all such services in a timely manner so as to permit DCPS to occupy the Project at least two weeks prior to the beginning of each academic year. Without limiting the generality of the foregoing, it is understood and agreed that the Architect will be responsible for all aspects of the design. The Architect's services include, but are not limited to, (i) engineering services in the civil, structural, mechanical and electrical engineering disciplines as well as any appropriate specialty subconsultants; (ii) the design of FF&E; (iii) providing a site survey; (iv) engaging the services of an industrial hygienist or similar specialist to survey existing structures on the Project Site so as to identify hazardous materials that require abatement; (v) sustainable design initiatives include LEED certification; and (vi) engaging the services of a geotechnical engineer.

Section 1.5 Phases. In general, the Architect's work shall be divided into two phases as is more fully described in Articles 2 and 3, including those necessary to develop and submit any deliverables set forth therein. Generally, these duties include (i) development of a concept design and a schematic design which is consistent with the Department's Program, attached as Exhibit A, and which describes the intended final condition of the Project school after all three (3) phases of modernization are complete, including the Addition Work; (ii) development of a phasing plan which divides the modernization of the Project School into three (3) phases as described in Section 1.2; (iii) development of a set of design development documents for the Phase 1 Work and a set of design development documents for the Addition Work; (iv) development of a permit set of construction documents for the Phase 1 Work and a permit set of construction documents for the Addition Work; and (v) related construction administration services. The services to be provided under Article 2 constitute the design phase services to be performed by the Architect (the "Design Phase Services"). The services to be provided under Article 3 constitute the construction phase services to be provided by the Architect (the "Construction Phase Services").

Section 1.6 Delivery Method. The Owner intends to use a Modified Design/Build delivery method for this Project. The Architect understands and agrees that the Owner intends to engage a Design-Builder after the execution of this Agreement while the Architect is preparing the schematic design for the Project and that such Design-Builder shall participate in the design process by reviewing design drawings, conducting constructability reviews and assisting with cost estimating to ensure that the design developed by the Architect is consistent with the Department's budget and schedule for this Project. Working together, but under separate contracts, the Architect and the Design-Builder will develop a set of design development documents for both the Phase 1 Work and the Addition Work.

Section 1.6.1 The Department expects that the design development documents for the Phase 1 Work will be completed by February 18, 2014 and that the Design-Builder will put them out to bid with trade subcontractors from February 24, 2014 – March 14, 2014. Value engineering (if required) and GMP negotiations for the Phase 1 Work will occur during March 14, 2014 – March 31, 2014. Assuming that an acceptable GMP for the Phase 1 Work is developed, the Owner intends to enter into a guaranteed maximum price with the Design-Builder

for the Phase 1 Work. Concurrent with the execution of an agreement regarding the Phase 1 GMP, the Owner will assign this Agreement in its entirety to the Design-Builder and from and after the GMP Date for the Phase 1 Work, the Architect's contract shall be with the Design-Builder, and the Design-Builder shall be responsible to complete both the design and the construction of the Project. Such assignment shall occur automatically at the time the Phase 1 GMP is agreed to by the Builder and the Department and without the need for any further document; provided, however, that the Department shall issue a notice to both the Builder and the Architect confirming such assignment. In the event that the Design-Builder fails to complete the Project, this Agreement will revert to the Owner.

Section 1.6.2 The Department expects that the design development documents for the Addition Work will be completed in the spring of 2014 and that the Design-Builder will put them out to bid with trade subcontractors in the summer of 2014. Value engineering (if required) and GMP negotiations for the Addition Work will occur thereafter. Assuming that an acceptable GMP for the Addition Work is developed, the Owner intends to enter into a guaranteed maximum price for the Addition Work with the Design-Builder. Construction of the Addition would not begin until the fall of 2014.

Section 1.7 Schedule. The Architect shall provide the Design Phase Services and Construction Phase Services in accordance with the schedule set forth below. The Architect acknowledges that the Project will proceed on a fast-track schedule. In recognition of the fast-track nature of the Project, the Architect understands it may be required to prepare multiple bid packages, including, but not limited to (i) a hazardous materials abatement package; (ii) a foundation/excavation package; (iii) a structural package; (iv) a design assist MEP and technology package; (v) a building enclosure package that includes roofing, windows, skylights etc.; (vi) an interior construction package; and (vii) an FF&E package, and acknowledges that its pricing includes sufficient funding to meet the milestone schedule outlined in Section 1.5 and to accommodate the division of the work into multiple packages and the coordination issues associated with such a delivery method.

Section 1.7.1 Design Phase Schedule. During the Design Phase, the Architect shall provide those services and deliverables set forth in Article 2 in accordance with the schedule set forth below:

- .1 Submission of Concept Design (entire Project): December 13, 2013;
- .2 Submission of Schematic Design and Phasing Plan (entire Project): January 10, 2014;
- .3 Submission of Design Development Documents (Phase 1 Work): February 18, 2014;
- .4 Submission of Permit Set (Phase 1 Work): Deliverable date for the Permit Set shall be established by the Architect, the Department and the Design-Builder no later than January 21, 2014; and
- .5 Submission of Design Development Documents and Permit Set (Addition Work): Spring/Summer 2014, with the exact deliverable dates to be

established by the Architect, the Department and the Design-Builder no later than February 28, 2014

Section 1.7.2 Construction Phase Schedule. During the Construction Phase, the Architect shall provide those services set forth in Section 3.

Section 1.7.3 Time is of the Essence. Time is of the essence in the performance of the Architect's obligations under this Agreement.

Section 1.8 Owner's Representative. The Owner's representative for this Project shall be:

Brian J. Hanlon
Director
Department of General Services
2000 14th Street, NW, 8th Floor
Washington, DC 20009

Although day-to-day communications with the Architect shall be routed through the Program Manager, only the individual specified in this Section 1.8 shall have the authority to alter the terms of this Agreement. Without limiting the generality of the foregoing, it is understood and agreed that the Program Manager shall not have the authority to increase the fee or the not-to-exceed amount established herein.

Section 1.9 Architect's Representative. The Architect representative for this Project shall be:

[ARCHITECT'S REPRESENTATIVE]

The Architect hereby represents and agrees that the representative specified in this Section 1.9 has the full legal authority to bind the Architect and to agree to changes to the terms of this Agreement.

ARTICLE 2 **DESIGN PHASE SERVICES**

Section 2.1 The Architect shall provide all services, professional and otherwise, necessary to develop a design for the Project. Without limiting the generality of the foregoing, the services set forth in this Agreement and all other services reasonably necessary to achieve the goals set forth herein. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall review laws, codes, and regulations applicable to the Architect's services. The

Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

Section 2.2. Key Personnel.

Section 2.2.1 Attached as **Exhibit C** is a list of the key personnel and the role played by each that will be assigned by the Architect and its principal consultants to this Project. The Architect understands that the Owner selected the Architect based in large part on the key personnel proposed to staff this Project, and as such, the Architect agrees that the Architect will not be permitted to reassign any of the key personnel unless the Owner approves the proposed reassignment and the proposed replacement. In the event that any of the key personnel become unavailable to work on this Project for reasons beyond the control of the Architect or its principal consultants (i.e. due to retirement, resignation, etc.), the Architect shall propose a substitute for any such individual and obtain the Owner's consent to such substitute.

Section 2.2.2 Certain members of the Architect's Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Architect. Those members of the Architect's Key Personnel subject to the liquidated damages provisions of this Agreement shall be identified in **Exhibit C** as subject to the liquidated damages provisions. In the event there is no delineation in **Exhibit C** of those members of the Architect's Key Personnel subject to the liquidated damages provisions of this Agreement, then all of the Key Personnel shall be subject to the liquidated damages provisions of this Agreement. In each instance where the Architect removes or reassigns one of the key personnel listed in **Exhibit C** as being subject to liquidated damages (but excluding instances where such personnel become unavailable due to death, disability or separation from the employment of the Architect or any affiliate of the Architect) without the prior written consent of the Owner's Designated Representative, the Architect shall pay to the Owner the sum of Twenty Five Thousand dollars (\$25,000) as liquidated damages and not a penalty, to reimburse the Owner for its administrative costs arising from the Architect's failure to provide the Key Personnel. The foregoing liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the Owner's internal administrative costs. In addition, the Owner shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Architect in the event that a member of the Key Personnel has been removed or replaced by the Architect without the consent of the Owner. In the event the Owner exercises the right to remove, replace or to reduce the scope of services of the Architect, the Owner shall have the right to enforce the terms of this Agreement and to keep-in-place those members of the Architect's team not removed or replaced and the remaining members shall complete the services required under this Agreement in conjunction with the new members of the Architect's team approved by the Owner.

Section 2.3 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

Section 2.4 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner. The Architect shall review the Owner's Program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

Section 2.5 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants to the extent that a reasonable design professional, acting in accordance with the applicable standard of care, would have determined that the services and/or information being relied upon contain the type, quality and quantity of information appropriate for the proposed use. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

Section 2.6 Upon request of the Owner, the Architect shall make periodic presentations to explain the design of the Project to representatives of the Owner and to others in support of the Owner's efforts for the Project. The Architect understands and agrees that this obligation will require the Architect to participate in briefings of the affected Parent Teacher Association, neighbors, community organization, community leaders and District government officials as identified by Owner. Without limiting the generality of the foregoing, the Architect understands and agrees that it shall be required to meet at least once a month with the School Improvement Team for the duration of the Project and that such meetings are likely to be more frequent during key aspects of the design process.

Section 2.7 **Concept Design.** The Architect shall develop a concept design for the Project that is consistent with the Owner's Program and which shall present the condition of the Project in its fully modernized condition after all three (3) phases of work. At a minimum, the concept design shall include a conceptual site plan and floor plan for the school, including the Addition.

Section 2.7.1 The Architect shall be required to meet with the Department's Program Manager within one (1) week of its appointment in order to discuss the manner in which this project will proceed and the requirements applicable to the Project. The Architect will also be required to meet with school personnel and other stakeholders to better understand the needs and requirements of the Project.

Section 2.7.2 The Architect shall perform a detailed visual inspection of the existing school and to document the currently existing conditions. In addition, the Architect shall cause an industrial hygienist or similar specialist to survey the Project School so as to identify hazardous materials that require abatement.

Section 2.8 **Schematic Design.** During this phase, the Architect shall be required to develop a schematic design that meets the program requirements set forth in **Exhibit A.**

Section 2.8.1 Based on the concept design prepared by the Architect as well as written and oral feedback from Department and its Program Manager, the Architect shall develop a schematic design that meets the requirements of the Owner's Program. Such Schematic Design shall contain such detail as is typically required for schematic design under the standard AIA contract. In general, the Architect shall be required to further develop conceptual plans and incorporate design changes. . At a minimum, the schematic design shall include the following:

- .1 Site plan;
- .2 Preliminary building plans showing adjacencies and room locations;
- .3 Sections and elevations; and
- .4 Description of the proposed HVAC systems.

Section 2.8.2 In addition to the services described in Section 2.8.1, above, the Architect shall prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department. The Architect shall be required to revise these documents to address concerns raised by the Department and/or other project stakeholders.

- a. Digital floor plans and site plan
- b. Preliminary building elevations and sections
- c. Plan-to-Program Comparison
- d. Design Narrative
- e. Updated Project Budget and Schedule
- f. Renderings
- g. Finishes package

Section 2.9 Phasing Plan.

Section 2.9.1 The Architect shall work with the Department and its Program Manager to develop a Phasing Plan for the work contemplated in the approved schematic design. In general, the phases shall correspond with the phases outlined in Section 1.2 above, in particular those aspects identified as Phase 1 Work. In developing the phasing plan, the Architect must consider the Department's budget constraints as well as schedule issues. The phasing plan shall also give consideration to: (i) avoiding and/or minimizing to the extent possible and practical the need for rework and or inefficiencies that would occur in the subsequent phases of work; (ii) avoiding and/or minimizing to the extent possible and practical a "patchwork" of systems when all three phases have been completed; and (iii) the need to address certain critical public areas such as bathrooms and the main entrances in Phase 1. The Phasing Plan shall be submitted with the schematic design.

Section 2.9.2 The Architect shall develop a preliminary cost estimate of the construction cost of the work required by the schematic design. The preliminary cost estimate shall be submitted along with the schematic design submission. The preliminary cost estimate shall be

structured in such a manner so as to facilitate the decision-making required during the Phasing Plan process and shall include line items relating to key building systems and rooms that are will be implicated during that scoping process.

Section 2.10 Design Development Phase. During this phase, the Architect will be required to progress the schematic design into two sets of design development documents that describe (i) the Phase 1 Work; and (ii) the Addition Work. At the beginning of this phase or as soon thereafter as the Builder is appointed, the Architect shall work closely with the Design-Builder to develop an agreed upon listing of the number of bid packages that will be required as well as the level of detail that shall be included in each such bid package that will be included in the design development documents. The design development documents will serve as the basis of the Design-Builder's GMP at the end of the Design Development Phase. The Department anticipates that the design development documents will require a greater level of detail than is typically required in design development documents, and in particular, the Department will expect a greater level of detail with regard to the MEP systems and finishes. It is anticipated that this process will involve a series of meetings and working sessions with regard to each of the bid packages.

Section 2.10.1 The Architect understands that the Owner intends to appoint the Design-Builder during the Schematic Design Phase and that the Architect and the Design-Builder shall work in close cooperation with each other. During the design development phase, the Architect shall work with the Builder to ensure that the design evolves in a manner that is consistent with the Design to Budget, schedule (i.e. to address the potential impact of long-lead purchasing items included in the design) and constructability. The parties envision that this will require a level of effort beyond that required in a traditional design-bid-build project delivery method and that, among other things: (i) the finish levels will be defined to a greater level of detail; and (ii) the mechanical, electrical and plumbing and other building systems will be defined to a greater level of detail. The Architect shall be required to work with the Design-Builder selected for this Project, and at a minimum shall meet with the builder twice a month to discuss the status of the design and key issues.

Section 2.10.2 The Architect shall perform the following services required during this phase:

- a. Select and draft outline specifications for materials, systems, equipment.
- b. Develop detailed and dimensioned plans, wall sections, building section, and schedules.
- c. Complete code compliance analysis and drawing.
- d. Confirm space-by-space equipment layouts with representatives from the Chancellor's Office and DGS.
- e. Conduct follow up meetings with agencies as required.
- f. Coordinate furniture, fixtures, and equipment requirements ("FF&E") color selections, piece counts and layouts.
- g. Present the design to CFA, Office of Planning, and other regulatory agencies as required

Section 2.10.3 The Architect shall prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department. The Architect shall be required to revise these documents to address concerns raised by the Department and/or other project stakeholders.

- a. 35% (minimum progress) documents for all technical disciplines, drawings and specs
- b. 50% design development progress printing.
- c. A reconciliation report that addresses issues raised by the Design-Builder as a result of the 50% progress printing.
- d. CFA submission materials; meetings and presentations to CFA as required

Section 2.10.4 The Architect shall facilitate the Design-Builder's bidding of the design development documents with trade subcontractors. These services will include, but are not necessarily limited to:

- a. Assist Builder with distribution of documents, as needed.
- b. Prepare and issue bidding addenda.
- c. Respond to bidding questions and issue clarification, as needed.
- d. Consider and evaluate requests for substitutions
- e. Assist with bid openings and tabulations as needed.

ARTICLE 3

CONSTRUCTION DOCUMENTS AND CONSTRUCTION PHASE SERVICES

Section 3.1 Assignment and Further Design Services. It is contemplated that the Design-Builder will provide a GMP for each of the Phase 1 Work and the Addition Work based on the design development documents and that after the GMP for the Phase 1 Work is finalized, the Architect's contract will be assigned to the Design-Builder and the Architect will work directly for the Design-Builder from such time. From and after such assignment, the Architect shall be required to provide such services as may be required in order to advance the Project, including, but not limited to, the preparation of a Permit Set, construction documents and the provision of construction administration services. During the Design Development Phase, the Builder and the Architect shall negotiate a definitive scope for such services and a mutually acceptable fee for such services. Such service and fee shall be subject to the Owner's approval as part of the GMP approval process. The Architect understands and agrees that the Design-Builder shall be solely responsible for compensating the Architect for such services and that the Department shall not be liable for the cost of such services.

Section 3.2 Permit Set.

Section 3.2.1 If requested by the Design-Builder, the Architect shall prepare a Permit Set for (i) the Phase 1 Work; and (ii) the Addition Work. The Permit Set shall illustrate and

describe the further development of the approved design development documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Architect shall modify or amend the Permit Set and reissue portions of or all to: (a) define, clarify, or complete the concepts and information contained in the Permit Set; (b) correct design errors or omissions, ambiguities, and inconsistencies in the Permit Set (whether found prior to or during the course of construction); (c) correct any failure of the Architect to follow written instructions of the Department during any phase of design services or the construction of the Project provided they are compatible with industry standards; and (d) incorporate into the Permit Set the design requirements of governmental authorities having jurisdiction over the Project.

Section 3.2.2 In addition to preparing the Permit Set, the Architect shall, at no additional cost to the Owner or the Design-Builder,

- .1 meet with the Design-Builder as and when requested to review the design, its constructability, and consistency with the GMP;
- .2 work with the Design-Builder in order to implement such value engineering ideas as may be necessary to meet the budget reflected in the GMP, including revising or preparing any design documents necessary to implement such value engineering;
- .3 address issues raised by the Code Official during the permit review process.

Section 3.3 Further Design Services. Upon review and approval of the Permit Set, the Design-Builder will be required to advance and implement the design developed by the Architect. The Architect shall provide such additional design services as are requested by the Design-Builder, including, but not limited, the preparation of more developed construction documents and provision of construction administration services. The fees for any services contemplated by this Section 3.3 shall be in addition to the fixed fee set forth in Section 4.2 of this Agreement. The Architect's sole compensation for all other services required by Article 3 of this Agreement are included in the fixed fee set forth in Section 4.2 of this Agreement.

ARTICLE 4 **COMPENSATION**

Section 4.1 Compensation For Design Phase Services. The Architect shall be paid a fixed fee of [AMOUNT (\$NUMBER)] for all services necessary to accomplish the objectives of the Design Phase, as described in Article 2 above, including (i) [AMOUNT (\$NUMBER)] for the Concept Design (entire Project); (ii) [AMOUNT (\$NUMBER)] for the Schematic Design and Phasing Plan (entire Project); (iii) [AMOUNT (\$NUMBER)] for Design Development Documents (Phase 1 Work); and (iv) [AMOUNT (\$NUMBER)] for Design Development Documents (Addition Work) . Monthly payments shall be made to the Architect on the percentage complete basis.

Section 4.2 Compensation For Construction Document and Construction Phase Services. The Architect has quoted a fixed fee of [PHASE 1 PERMIT SET FEE (\$NUMBER)] for the Phase 1 Permit Set, and a fixed fee of [ADDITION PERMIT SET FEE (\$NUMBER)] for the Addition Permit Set as described in Section 3.2 of this Agreement. It is understood that the Design-Builder may desire a different scope of services from the Architect for Construction Documents and Construction Phase Services. For any Construction Documents and Construction Phase Services, as described in Article 3, that the Design-Builder may request that the Architect provide, the Architect and the Design-Builder shall agree on a fee for such services. For any Construction Administration or other services that are provided on an hourly basis, the Architect shall be reimbursed at the hourly rates set forth in **Exhibit B**. Such rates shall be fixed and not subject to further adjustment for the expected period of this Agreement. Compensation for such construction administration services performed on an hourly basis shall be computed by multiplying the number of hours directly spent on the Project by the applicable hourly billing rate listed on **Exhibit B**. To the extent the Architect's principals or employees are required to work more than 40 hours a week, the Architect shall be entitled to adjust such rates to reflect the additional cost of overtime only to the extent that the Architect (i) is required by law or agreement to pay its principals or employees a higher hourly rate that would otherwise be the case; and (ii) the Architect does, in fact, pay such principals or employees a higher hourly rate.

Section 4.3 Compensation For Reimbursable Expenses. Reimbursable Expenses are in addition to compensation for Design Phase Services and Construction Document and Construction Phase Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project. Such expenses shall be reimbursed without markup of any kind and records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times. An allowance of [AMOUNT] is established for reimbursable expenses. Reimbursable expenses shall include the following:

- .1 Transportation and authorized out-of-town travel and subsistence, provided, however, that local transportation costs (i.e. taxis, parking, etc.) shall not be reimbursable;
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Reproductions, plots, standard form documents;
- .4 Postage, handling and delivery;
- .5 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner; provided, however, that such expenses shall only be reimbursable to the extent that they were caused by the failure of the Owner to act within timeframes agreed to by the parties in advance and in writing;
- .6 Additional renderings, models, and mock-ups, requested by the Owner;
- .7 Any other similar expenditures directly related to the Project and reasonably incurred after first receiving written approval of the Owner.

Section 4.4 Retention. An amount equal to five percent (5%) of all fees (but not expenses) shall be withheld as retention from all progress payments that are due to the Architect. The Architect shall forfeit such retention if the Guaranteed Maximum Price for the Phase 1 Work and Addition Work, including any change orders which are necessary to fund work that is generally consistent with the approved program and the phasing plan, exceeds the budget for the Project established by the Department at the completion of the schematic phase by more than five percent (5%) and the Project is substantially complete no later than August 15, 2013 (for the Phase 1 Work) and no later than August 14, 2015 (for the Addition Work), the Architect shall be entitled to receive the five percent (5%) retainage as well as an additional five percent (5%) of the fees paid to the Architect. In the event the Project fails to meet either of these goals for any reason and regardless of whether such failure is within the control of the Architect, the Architect shall forfeit such retention.

Section 4.5 Payments. Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty five (45) days after the invoice date shall bear interest in accordance with the Prompt Payment Act.

Section 4.6 Payment Disputes. Disputes or questions regarding a portion of an invoice shall not be cause for withholding payment for the remaining portion of the invoice.

ARTICLE 5 **INSURANCE**

Section 5.1 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost.

Section 5.1.1 Commercial general public liability insurance against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000) for liability for bodily injury, death and property damage arising from any one occurrence and One Million Dollars (\$1,000,000) from the aggregate of all occurrences within each policy year. The policy should include completed operations coverage and shall be maintain for three (3) years after substantial completion of the Project is achieved.

Section 5.1.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than Two Million Dollars (\$2,000,000) combined single limit and aggregate for bodily injury and property damage.

Section 5.1.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

Section 5.1.4 Workers' compensation and Employers Liability coverage providing statutory benefits for all persons employed by the Architect, or its contractors and subcontractors at or in connection with the Project.

Section 5.1.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than Five Million Dollars (\$5,000,000) per claim and in the aggregate. The Architect shall maintain the coverage required by this Section 5.1.5 for a period of three (3) after Substantial Completion of the Project is achieved.

Section 5.1.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.3. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, umbrella or excess policies.

ARTICLE 6

OWNERSHIP OF DOCUMENTS

Section 6.1 Ownership of Documents. Regardless of whether the Project is completed, any Design Documents prepared by the Architect and the architectural and engineering consultants engaged by the Architect, any copies thereof furnished to the Design-Builder, and all other documents created in association with the Project shall become the sole property of the Owner upon full payment of Architect's fees then due under this Agreement, and shall not to be used by the Architect, its subconsultants on other projects, or for additions to this Project outside the scope of the work, without the specific written consent of the Owner. However, the Owner expressly acknowledges and agrees that the documents to be provided by the Architect under this Agreement will contain design details, features and concepts including some from the Architect's library, which collectively form part of the design for the project, but which separately are and shall remain the sole and exclusive property of the Architect. These details are repetitive in nature, not Project specific, function rather than form-oriented, and were not developed for or identifiable with the Project. Nothing herein shall be construed as a limitation on the Architect's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

The Owner shall be under no obligation to account to the Architect for any profits obtained by the Owner as a result of the Project, or the use of such drawings, specifications and other documents in connection with the Project. In the event that the Agreement is terminated prior to completion of the Project or the Architect is unable to complete this Project for any reason, the Owner shall have the right to use without the Architect's consent, and the Architect shall deliver to the Owner and/or its designee within two (2) calendar days after such termination or inability, all such drawings, specifications and other documents as well as design concepts and details in connection with the Project or necessary for the Owner's completion of this Project (including subsequent phases thereof), so long as the Owner has paid the Architect all fees then owed to the

Architect under this Agreement. The Owner's rights hereunder shall extend to its successors and assigns and the Architect's obligation to deliver such drawings, specifications, and documents. Any other use shall be at the Owner's sole risk and without liability to the Architect or the Architect's consultants. Unless Owner fails hereunder to pay Architect therefor, Owner shall be deemed the owner of such drawings, specifications, and other documents and shall have and retain all rights therein. In the event Owner is adjudged to have failed hereunder to pay Architect for such drawings, specifications or other documents, ownership thereof, and all rights therein, shall revert to the Architect. This provision shall survive termination of this Agreement.

ARTICLE 7

CLAIMS AND DISPUTES

Section 7.1 Claims and Disputes.

Section 7.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of this Article 7 within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section.

Section 7.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

Section 7.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

Section 7.2 Claims & Dispute Resolution. The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them through the ordinary course of business. If resolution is not reached in such manner, the Architect shall make a claim in accordance with this Section.

Section 7.2.1 Notice of Architect's Claim. If the Architect wishes to assert a claim over a contract dispute, the Architect shall provide written notice of the claim to the Department pursuant to procedures set forth in section 4732 of the Department's procurement rules and section 1004 of the District's Procurement Practices Reform Act of 2010 (PPRA).

Section 7.1.2 Contents of Notice of Claim. The notice of claim shall state the nature of the claim, the events or circumstances giving rise to the claim, the type of relief requested, and the amount of time or additional compensation, or other damages sought. If the amount of time, compensation, or other damages sought is not reasonably ascertainable at the time such notice is provided, the Architect shall so state, explain why, and provide whatever estimates it can reasonably provide. The notice shall state clearly that the Architect intends to assert a claim against the Department.

Section 7.1.3 Appeal Procedures. All claims arising under or in connection with the Agreement or its breach, or relating to the Project, whether framed in contract, tort or otherwise, and which are not resolved via the claims process may be resolved by filing an appeal with the District of Columbia Board of Contract Appeals in accordance with Title X of the *Procurement Practices Reform Act of 2010* (PPRA). However, if a third party brings any claim against the Department, including, without limitation, claims of infringement of patents, copyrights or other intellectual property rights, the Department may bring an action for defense or indemnification against the Architect in the court in which such claim is being litigated.

ARTICLE 8

TERMINATION OR SUSPENSION

Section 8.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, and such failure continues for more than sixty (60) days, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspending services, the Architect shall give seven days' written notice to the Owner during which the Owner shall have the opportunity to cure. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

Section 8.2 If the Owner suspends the Project for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

Section 8.3 If the Owner suspends the Project for more than one (1) year for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

Section 8.4 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

Section 8.5 In the event of termination not due to the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 8.6.

Section 8.6 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated.

Section 8.7 In the event Architect fails to perform any of its obligations hereunder, including the services, in the manner required hereby, subject to seven (7) calendar days notice and a right for Architect to cure, Owner shall be entitled to terminate this Agreement and upon such termination, Owner shall be entitled to recover from Architect or setoff against any sums due Architect, Owner's reasonable damages and costs of delay in replacing Architect with a different architect. Owner shall be entitled to withhold payment from Architect until such damages may be calculated. If it is ultimately determined by the parties or a court that Owner withheld payments unreasonably, Owner shall pay the amount owed to Architect with interest at the annual rate of Wall Street Journal prime plus one percent.

Section 8.8 In the event of termination or suspension, the Architect shall discontinue Work immediately upon written notice from the Owner. The Architect shall furnish to the Owner reproducible copies of all drawings, sketches, etc. and all specifications, reports, studies, analyses, and other electronic documents in approved format prepared by the Architect and his consultants, to the date of termination, whether or not termination is due to the fault of Architect, but only after Architect has received payment for all services performed in accordance with this Agreement.

ARTICLE 9

MISCELLANEOUS PROVISIONS

Section 9.1 This Agreement shall be governed by the laws of the District of Columbia.

Section 9.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-1997, General Conditions of the Contract for Construction to the extent such terms do not conflict with this modified AIA B103 Agreement between Owner and Architect.

Section 9.3 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns of such other party with respect to all covenants of this Agreement. The Architect shall not assign this Agreement without the written consent of the Owner

Section 9.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or

consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

Section 9.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

Section 9.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Section 9.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

Section 9.8 In accordance with Section 9.12 below, if the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

Section 9.9 The Architect agrees to indemnify and hold the Owner, the Owner's Representative and the Owner's officers, agents and employees harmless from and against all claims, liabilities, demands, losses, damages, judgments, costs, or expenses, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services pursuant to this Agreement.

Section 9.10 The Architect agrees to indemnify and hold the Owner and the Owner's Representative harmless from and against any and all claims, liabilities, demands, losses, damages, costs, or expenses arising from the Architect's failure to perform its obligations pursuant to agreements with third parties, including, but not limited to, subconsultants, made in order to provide the services required of the Architect under this Agreement.

Section 9.11 The Architect shall pay for and defend all such suits or claims arising out of the Work for infringement of any patent rights or copyrights and hold the Owner and Owner's Representative harmless from loss on account thereof.

Section 9.12 Confidentiality. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

Section 9.13 Extent of Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

ARTICLE 10 **GOVERNMENTAL PROVISIONS**

Section 10.1 Buy American Act Provision. The Architect shall not design or specify a proprietary product that does not comply with the provisions of the Buy American Act (41 U.S.C. § 10a). The Trade Agreements Act and the North American Free Trade Agreement (NAFTA) provide that designated country (as defined in FAR 25.401) and NAFTA country construction materials are exempted from application of the Buy American Act and are therefore acceptable hereunder.

Section 10.2 False Claims Act. The Architect shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in D.C. Code § 2-381.02.

Section 10.3 Retention of Records: Inspections and Audits.

Section 10.3.1 The Architect shall maintain books, records, documents and other evidence directly pertinent to performance under the Agreement in accordance with generally accepted professional practice and appropriate accounting procedures and practices consistently applied in effect on the date of execution of the Agreement.

Section 10.3.2 The Architect shall also maintain the financial information and data used in the preparation and support of the costing and cost summary submitted to the Owner and the required cost submissions in effect on the date of execution of the Owner.

Section 10.3.3 Owner, the District of Columbia government, the Comptroller General of the United States, the U.S. Department of Labor and any of their authorized representatives shall have access to the books, records, documents and other evidence held, owned or maintained by the Architect for the purpose of inspection, audit and copying during normal business hours and upon advance written notice to the Architect. The Architect shall provide proper facilities for such access and inspection.

Section 10.3.4 The Architect agrees to include the wording of this Section 10.3 in all its subcontracts in excess of five thousand dollars (\$5,000.00) that directly relate to Project performance.

Section 10.3.5 Audits conducted pursuant to this Section will be in accordance with generally accepted auditing standards with the results prepared in accordance with generally accepted accounting principles and established procedures and guidelines of the applicable reviewing or audit agency.

Section 10.3.6 The Architect agrees to the disclosure of all information and reports, resulting from access to records, to any authorized representative of the Owner. Where the audit concerns the Architect, the auditing agency will afford the Architect an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

Section 10.3.7 The Architect shall preserve all records described herein from the effective date of the Agreement completion and for a period of seven (7) years after a final settlement. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until seven (7) years after the date of resolution of such dispute, appeal, litigation, claim or exception.

Section 10.4 Gratuities and Owners Not to Benefit Provisions.

Section 10.4.1 If it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the Architect, or any agent or representative of the Architect, to any official, employee or agent of the Owner or the District with a view toward securing the Agreement or any other contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Contract, the Owner may, by written notice to the Architect, terminate the right of the Architect to proceed under the Agreement and may pursue such other rights and remedies provided by law and under the Contract.

Section 10.4.2 In the event the Agreement is terminated as provided in Section 10.4.1, the Owner shall be entitled:

- .1** to pursue the same remedies against the Architect as it could pursue in the event of a breach of the Agreement by the Architect; and
- .2** as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than ten times the costs incurred by the Architect in providing any such gratuities to any such Owner or employee.

Section 10.4.3 No member of, nor delegate to Congress, Mayor or City Council Member, nor Owner nor employee of the District, nor Owner nor employee of the Owner shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom, and all agreements entered into by the Contracting Owner of the Owner in which he or any Owner or employee of the Owner shall be personally interested as well as all agreements made by the Owner in which the Mayor or City Council Member or Owner or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Owner or by any Owner thereof; but this provision shall not be construed or extend to the agreement if the share of or benefit to the member of, or delegate to Congress, Mayor or City Council Member, or Owner or employee of the District is de minimis.

Section 10.5 Ethical Standards For Owner's Employees And Former Employees.

The Owner expects the Architect to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the Architect, nor any person associated with the Architect, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the Owner not in conformity with applicable law, rules or regulations. The Architect shall not engage the services of any person or persons in the employment of the Owner or the District for any Work required, contemplated or performed under the Contract. The Architect may not assign to any former Owner or District employee or agent who has joined the Architect's firm any matter on which the former employee, while in the employ of the Owner, had material or substantial involvement in the matter. The Architect may request a waiver to permit the assignment of such matters to former Owner personnel on a case-by-case basis. The Architect shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Architect or vendor.

Section 10.6 Anti-Deficiency Act. The Owner's obligations and responsibilities under the terms of the Agreement are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. Neither the Agreement shall constitute an indebtedness of the Owner, nor shall it constitute an obligation for which the Owner is obligated to levy or pledge any form of taxation, or for which the Owner has levied or pledged any form of taxation. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE CONTRACT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

ARTICLE 11
ECONOMIC PROVISIONS

Section 11.1 LSDBE Utilization.

Section 11.1.1 The Architect shall ensure that Local, Small and Disadvantaged Business Enterprises will participate in at least 50% of the Contract. Thirty-five percent (35%) must be awarded to entities that are certified as either Small or Disadvantaged Business Enterprises by the District of Columbia Department of Small and Local Business Development, and twenty percent (20%) to entities that are certified as Disadvantaged Business Enterprises. The LSDBE certification shall be, in each case, as of the effective date of the subcontract. Supply agreements with material suppliers shall be counted toward meeting this goal.

Section 11.1.2 The Architect has developed an LSDBE Utilization Plan that is attached hereto as **Exhibit D**. The Architect shall comply with the terms of the LSDBE Utilization Plan in making purchases and administering its Subconsultants and Supply Agreements.

Section 11.1.3 Neither the Architect nor a Subconsultant may remove a Subconsultant or tier-Subconsultant if such Subconsultant or tier-Subconsultant is certified as an LSDBE company unless the Owner approves of such removal. The Owner may condition its approval upon the Architect developing a plan that is, in the Owner's sole and absolute judgment, adequate to maintain the level of LSDBE participation on the Project.

Section 11.2 Equal Employment Opportunity and Hiring of District Residents.

Section 11.2.1 The Architect shall comply with applicable laws, regulations regarding equal employment opportunity and affirmative action programs.

Section 11.2.2 The Architect shall ensure that at least fifty-one percent (51%) of the Architect's Team and every subconsultant's and subcontractor's employees hired after the effective date of the Contract, or after such subconsultant or subcontractor enters into a contract with the Architect, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade.

Section 11.2.3 Fifty percent (50%) of all apprentices for the Project must be District residents.

Section 11.3 First Source Agreement.

Section 11.3.1 Upon execution of the Contract, the Architect and all its member firms, if any, and each of its Subcontractors shall submit to the Owner a list of current employees and apprentices that will be assigned to the Contract, the date they were hired and whether or not they live in the District of Columbia.

Section 11.3.2 The Architect and its constituent entities shall comply with subchapter X of Chapter II of Title 2, and all successor acts thereto, and the rules and regulations promulgated thereunder. The Contractor and all member firms and Subcontractors shall execute a First

Source Agreement with the District of Columbia Department of Employment Services (“DOES”) prior to beginning Work at the Project site.

Section 11.3.3 The Architect shall maintain detailed records relating to the general hiring of District of Columbia and community residents.

Section 11.3.4 The Architect shall be responsible for: (i) including the provisions of this Section 11.3 in all subcontracts; (ii) collecting the information required in this Section 11.3 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in the reports required to be submitted by the Architect pursuant to Section 11.3.1.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

DEPARTMENT OF GENERAL SERVICES, an agency within the executive branch of the Government of the District of Columbia

By: _____
Name: Brian J. Hanlon
Title: Director
Date: _____

[SELECTED OFFEROR]

By: _____
Name: _____
Its: _____
Date: _____