

AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL

Engineering

{ }(Full Service Contract)

{ OR }

{ }(Modified Services)

Board of Regents, State of Iowa

FP&M Project No. CP00{XXXX}

Agreement made by and between the Board of Regents, State of Iowa, acting for Iowa State University, hereinafter called the Owner, and { }, hereinafter called the Design Professional. A strikethrough of paragraph(s) represents deleted or modified language. See Article 15 for deletions, modifications and additions to the Agreement.

The Owner intends to undertake on the Campus of Iowa State University a Project entitled and briefly described as follows:

Project Title: **{ Official Project Title }**

{ Insert description of project here }

The budgeted Construction Cost for the Project included in this Agreement is \${ }.

The Owner and the Design Professional agree as set forth below:

- I. The Design Professional shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement and within the standards of care exercised by design professionals within the industry.
- II. The Design Professional hereby acknowledges receiving and analyzing the Owner's program/requirements for the Project and meeting with the Owner's Representative to confirm the Design Professional's understanding of the program/requirements. By executing this Agreement, the Design Professional accepts the provisions of the Owner's program/requirements as listed below:

{ Insert Document Identification here }

- III. BASIC SERVICES shall consist of all Services described in Article 2 unless modified in Article 15.
- A. Owner's Representative Designee is: { Type ISU Project Manager's Name }
 - B. Design Professional's Representative is: { Type Design Professional's Name }
 - C. Professional Consultants retained by the Design Professional for the services covered by this Agreement are:
{ Type Professional Consultant's Firm Name, Representative and Discipline }
{ OR } Not Used
- IV. The Owner shall compensate the Design Professional in accordance with the TERMS AND CONDITIONS OF THIS AGREEMENT.

{ }(Select one of the two methods for compensation and delete the other method.)

- { }A. For BASIC SERVICES, compensation shall be a STIPULATED SUM of { **Amount in Words** } and **No/100 Dollars** ({ **Amount in Numbers** }).
- OR**
- { }A. For BASIC SERVICES, compensation shall be on the basis of the hourly rates schedule attached hereto (Exhibit B) with a FIXED MAXIMUM not to exceed { **Amount in Words** } and **No/100 Dollars** ({ **Amount in Numbers** }). Said schedule shall govern for the duration of this Agreement. The Design Professional shall be compensated for Professional Consultants services that are included in the BASIC SERVICES at a multiple of 1.0 times the amount invoiced.
 - B. For Additional Services, compensation shall be stipulated at the time of occurrence.
 - C. For REIMBURSABLE EXPENSES, as defined in Article 4, compensation shall not exceed { **Amount in Words** } and **No/100 Dollars** ({ **Amount in Numbers** }). REIMBURSABLE EXPENSES shall be compensated at a multiple of 1.0 times the amount invoiced to the Design Professional for such expenses.
- V. The Design Professional and all Professional Consultants shall maintain insurance for the duration of the Project or statute of limitations in effect at the time of the execution of this Agreement, whichever is longer in such amounts and types as required below. The insurance required shall be obtained from a company(ies) licensed to do business in the state of Iowa and hold a current financial rating from A. M. Best of no less than A-, financial size VII. The required minimum liability limits may be met through either the primary policy(ies), or a combination of primary and excess or umbrella policies.

- A. Insurance coverage required:
- i. Workers compensation in compliance with statutory requirements, and Employers Liability with limits of no less than \$100,000 Each Accident for bodily injury/\$100,000 Each Employee for bodily injury by Disease/ and \$500,000 Policy Limit for bodily injury by Disease. The Design Professional shall waive subrogation rights against the State of Iowa; the Board of Regents, State of Iowa; and, Iowa State University for any claim paid or payable on this policy.
 - ii. Commercial General Liability (ISO 1998 or later/equivalent form) covering all work and operations under the Agreement with limits of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 - iii. Automobile Liability of no less than \$1,000,000 each accident and annual aggregate, covering owned, leased, hired, non-owned, and employee non-owned vehicles.
 - iv. Professional Liability of no less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage should be on a claims made basis.
 - v. Umbrella Liability of no less than \$1,000,000 per occurrence providing excess of the General Liability, Automobile Liability and Employers Liability.
- B. The above liability insurance policies, with the exception of Professional and Workers Compensation coverage, shall name three entities: State of Iowa; Board of Regents, State of Iowa; and, Iowa State University as additional insureds.
- C. The Design Professional shall waive subrogation rights against the State of Iowa; the Board of Regents, State of Iowa; and, Iowa State University for any claim paid or payable by any of the above-required insurance policies. Endorsement form WC 00 03 13 may be attached to the certificate of insurance in lieu of waiver language being stated on the certificate.
- D. Neither the Owner, nor any additional insured required to be so named under this Agreement shall participate in any policy deductible or retention for claims. Any such deductible or retention shall be the sole responsibility of the Design Professional.

E. Certificate Holder address shall be as follows:

Iowa State University
Facilities Planning & Management
200 General Services Building
Ames, IA 50011-4021

TERMS AND CONDITIONS OF THE AGREEMENT

ARTICLE 1. WORKING RELATIONSHIPS

- 1.1 Owner's Representative. The Associate Vice President for Facilities or designee shall be the principal representative of the Owner. All communications between the Owner and Design Professional shall be made through the Owner's Representative. The Owner's Representative shall be at all meetings with the Design Professional and other institutional personnel during the Project.
- 1.2 Design Professional's Representative. The Design Professional shall designate one principal or an authorized representative to represent the firm in all communications and at all meetings with the Owner's Representative. All correspondence from the Owner to the Design Professional shall be directed to this person. The Design Professional's Representative shall not be changed without prior written consent of the Owner. The Design Professional's Representative shall be professionally licensed in the state of Iowa.
- 1.3 Professional Consultant's Representative. Each Professional Consultant retained by the Design Professional shall designate one principal or an authorized representative to represent the firm at all meetings with the Owner's Representative. The Professional Consultant's Representative shall not be changed without prior written consent of the Owner.
- 1.4 Definitions.
 - 1.4.1 Addendum: A written or graphic instrument issued by the Design Professional before execution of the construction contract(s) that modifies or interprets the Bidding Documents by additions, deletions, clarifications, or corrections.
 - 1.4.2 Bidding Documents: Construction Documents issued to bidders before signing of an owner-contractor agreement, which include, Bidding Requirements and Contract Documents.
 - 1.4.3 Bidding Requirements: Identifies the date for receipt of bids and explains the procedures to be followed in preparing and submitting.
 - 1.4.4 Change Order (CO): A written instrument signed by the Owner and Contractor stating their agreement upon the change in the Work, the amount of the adjustment in the Contract Sum, if any; and the extent of the adjustment in the Contract time, if any.
 - 1.4.5 Contract Documents: Are the legally enforceable requirements that become part of the contract when the agreement is signed which include all the Construction Documents.
 - 1.4.6 Construction Change Directive (CCD): A written order by the Owner, directing a change in the Work and stating a proposed basis for adjustment, if any, in the contract sum or contract time, or both.
 - 1.4.7 Construction Cost: Total cost to Owner of those portions of the entire Project designed or specified by the Design Professional. Construction Cost does not include the Design Professional's compensation and expenses and Owner's expenses associated with the Project or the cost of other services to be provided by others to the Owner.
 - 1.4.8 Construction Documents: Written and graphic documents prepared or assembled by the Design Professional for communicating the design of the project and administering the contract for its construction.
 - 1.4.9 Construction Set Documents: Bidding Documents that have incorporated all Addendum items by the Design Professional.

- 1.4.10 Design Documents: Drawings and other documents that fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, material and such other elements as may be appropriate.
- 1.4.11 Design Professional: An entity engaged to provide professional design services. The Design Professional may practice Architecture, Engineering, Interior Design, Landscape Architecture or other similar disciplines professionally qualified to provide the services described herein.
- 1.4.12 Professional Consultant: An entity contracted by the Design Professional to provide specified services for the project.
- 1.4.13 Project: The total construction of which the Work to be performed under this Agreement may be the whole or a part.
- 1.4.14 Project Manual: The volume usually assembled for the construction work, which includes the bidding requirements, sample forms, conditions of the contract and the specifications.
- 1.4.15 Total Project Costs: The sum of the Construction Cost, allowances for contingencies, the Design Professional's compensation and expenses and Owner's expenses associated with the Project and the cost of other services to be provided by others to the Owner.

ARTICLE 2. THE DESIGN PROFESSIONAL'S SERVICES

- 2.1 Basic Services. The Design Professional's Basic Services shall consist of the work identified herein, including civil engineering, structural engineering, mechanical engineering, electrical engineering, landscape architecture, architectural, registered communication distribution designer, estimating services, and any other services included in Article 15.
 - 2.1.1 The Design Professional shall make every reasonable effort to design the Project so that actual construction costs do not exceed the budgeted cost for construction contained in this Agreement. The Design Professional shall promptly notify the Owner's Representative in writing when the Design Professional believes that the budgeted construction cost might be exceeded.
 - 2.1.2 The Design Professional shall attend meetings with the Owner as may be necessary for the timely performance of all services.
 - 2.1.3 The Design Professional shall work with the Owner's Representative in the development of the time schedule for the Design Professional's services and shall agree to maintain the schedule as established. Modifications to the agreed upon time schedule shall be approved by the Owner.
 - 2.1.4 The Design Professional shall comply with all provisions of the university's design reference manual that can be viewed at "http://www.fpm.iastate.edu/planning/aes/design_stds". Any deviations must be called to the attention of, and reviewed with the Owner's Representative and receive written approval before implementation.
 - 2.1.5 The Design Professional shall include the Owner's project title and project number, if applicable, on all documents relating to the Project, including correspondence, letters of transmittal, requests for payment, and drawings.

- 2.1.6 The Design Professional will visit the site and review available documents to develop an understanding of the surrounding conditions, and topography, including buildings, vegetation, site features and underground utilities, and master plans in the area of the Project site. The Design Professional shall make a thorough review of the affected existing buildings and utilities and shall design for a proper correlation between existing and new work. The Design Professional shall work with the Owner's Representative to develop a design that fits contextually, and properly correlates with existing buildings, topography, site features and utility systems.
- 2.1.7 The Design Professional's Basic Services also includes:
- .1 Analyzing with documentation all site utilities and building systems with each utility company and/or Owner.
 - .2 Reviewing existing building and campus planning documents.
 - .3 Researching and resolving code interpretations.
 - .4 Securing reviews and approvals, on behalf of the Owner, of authorities having jurisdiction over the Project, when applicable and/or furnishing drawings, specifications and applications for such reviews as may be required.
 - .5 Making a presentation to the Board of Regents, State of Iowa; planning committee and any other appropriate committee when requested by the Owner.
 - .6 Keeping, preparing, and transmitting minutes of meetings between the Design Professional and Owner's Representative, or other institutional personnel, and any other groups.
 - .7 Preparing for and participating in a meeting on behalf of the Owner in connection with any public hearing.
- 2.1.8 The Design Professional shall not enter into a contract with any Professional Consultant for the rendering of any of the services provided under this Agreement without first obtaining the Owner's written approval of the proposed consultant.
- 2.1.9 The Design Professional agrees to include the terms and conditions of this Agreement in any Agreement with Professional Consultants.
- 2.1.10 The Owner reserves the right to require the Design Professional's Professional Consultants to attend meetings referred to in Article 2, Paragraph 2.1.2 and to provide such data and design information as the Owner may find reasonably necessary in connection with the Project.
- 2.1.11 The Design Professional's services do not include services related to removal or abatement of hazardous or toxic materials, unless otherwise required herein.
- 2.2 Study and Report Phase: The Design Professional shall conduct a Study and prepare a Report consisting of drawings and other documents illustrating the scale and relationship of Project components for approval by the Owner's Representative. The Report shall indicate site conditions, plan arrangements and the general scope and character of the Project.
- 2.2.1 The Design Professional shall evaluate various alternate solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions which in the Design Professional's judgment best meet Owner's requirements for the Project.
- 2.2.2 The Design Professional shall prepare the Report which will contain the statement of Owner's requirements for the Project and, as appropriate, will contain schematic layouts, sketches and

conceptual design criteria with appropriate exhibits to indicate the considerations involved and those alternate solutions available to Owner which the Design Professional recommends.

- 2.2.3 This Report will be accompanied by the Design Professional's probable Construction Cost for each solution recommended for the Project, including the following, which will be separately itemized:
- .1 Probable Construction Cost
 - .2 Allowances for contingencies
 - .3 Estimated total costs of Design Professional and related services provided by Design Professional
 - .4 Allowances for other items and services included within the definition of Project
- 2.2.4 The Design Professional shall submit the designated quantity of the preliminary Report as identified in Article 15.
- 2.2.5 The Design Professional shall revise the Report in response to Owner's comments, as appropriate, and submit the designated quantity of the final Report to the Owner's Representative as identified in Article 15.
- 2.2.6 The Design Professional shall not proceed to the Preliminary Design Phase until the Design Professional has received written approval from the Owner's Representative of a selected solution.
- 2.3 Preliminary Design Phase: The Design Professional shall prepare Preliminary Design Documents from the Owner approved recommended solution and any specific modifications or changes in the scope, extent or design requirements to the Project by the Owner. The documents shall consist of drawings and other documents, including outline Specifications, to fix and describe the size and character of the entire project as to kinds of materials, type of structure, mechanical and electrical systems -- including electrical and mechanical performance data, and such work as may be required, including a description of the items of equipment that will be required to be furnished under any contract, for construction of the Project.
- 2.3.1 The Design Professional shall advise the Owner if additional reports, data or other information or services of the types described in Article 3, Paragraphs 3.1, 3.4, 3.5 and 3.6 are necessary and assist the Owner in obtaining such reports, data or other information or services.
- 2.3.2 The Design Professional shall submit to the Owner a statement of probable Construction Costs, based upon the Preliminary Design Documents and upon construction cost projections current at the time of such statement, including the following, which will be separately itemized:
- .1 Probable Construction Cost
 - .2 Allowances for contingencies
 - .3 Estimated total costs of Design Professional and related services provided by Design Professional
 - .4 Allowances for other items and services included
- 2.3.3 The Design Professional shall submit the designated quantity of the Preliminary Design Documents as identified in Article 15.

- 2.3.4 After review and approval by the Owner, the Design Professional shall prepare and submit a Life Cycle Cost Analysis, as required by the Iowa Code, Chapter 470, to the proper government agencies for approval, with the appropriate quantities of the study and copies of all government correspondence being submitted to the Owner as identified in Article 15.
- 2.3.5 The Design Professional shall not proceed to the Construction Documents Phase until the Design Professional has received written approval of the Preliminary Design Phase from the Owner's Representative.
- 2.4 Construction Document Phase: The Design Professional shall prepare from the approved Preliminary Design Documents, drawings and specifications setting forth in detail the requirements for the construction of the entire Project, for review by the Owner.
- 2.4.1 The Design Professional shall make all modifications to the documents necessitated by the Design Professional's or Professional Consultants' errors, omissions or inadequacies identified in reviews by the Owner's Representative.
- 2.4.2 The Design Professional shall provide technical criteria, written descriptions and design data for Owner's use in filling applications for permits with or obtaining approvals of such governmental authorities having jurisdiction to review or approve the final design of the Project, and assist Owner in consultations with appropriate authorities.
- 2.4.3 The Design Professional shall submit to the Owner's Representative a statement of probable Construction Cost based upon the Construction Documents and upon cost projections current at the time of such statement, including the following, which will be separately itemized:
- .1 Probable Construction Cost
 - .2 Allowances for contingencies
 - .3 Estimated total costs of Design Professional and related services provided by Design Professional
 - .4 Allowances for other items and services included
- 2.4.4 The Design Professional shall consult with the Owner's Representative to identify bidding strategies including alternates required to protect the integrity of the budgeted Construction Cost.
- 2.4.5 The Design Professional shall submit the designated quantity of the Construction Documents and statement of probable Construction Cost for review by the Owner's Representative as identified in Article 15.
- 2.4.6 The Design Professional shall utilize the Board of Regents, State of Iowa, documents that comprise Division 00, which contain the Bidding Requirements, Contract Forms and Conditions of the Contract as furnished by the Owner.
- 2.4.7 The Construction Documents shall comply with all applicable state and federal laws and regulations pertinent to the Project. The Design Professional shall obtain and forward to the Owner, letters of approval from all applicable agencies prior to receipt of bids.
- 2.4.8 The Design Professional of record and appropriate Professional Consultants shall place their individual information blocks with certifications, seals, signatures and dates on the original title page of the Bidding Documents. The information block shall include the numbers of the pages or sheets, which are covered by certification.
- 2.5 Bidding Phase: Documents shall be released to bidders only after approval from the Owner and after publication by the Owner of the "Advertisement for Bids."

- 2.5.1 The Design Professional shall participate in a pre-bid conference.
 - 2.5.2 The Design Professional shall prepare for issue by Owner any required addenda.
 - 2.5.3 The Design Professional of Record shall affix professional's certification to the Addendum as required in Article 2, Subparagraph 2.4.8.
 - 2.5.4 The Owner shall manage the issue and return of Bidding Documents.
 - 2.5.5 The Design Professional shall be present at the bid opening and assist the Owner in the evaluation of the bids by writing a letter of recommendation to the Owner's Representative.
- 2.6 Construction Phase: This phase begins with the award of the Construction Contract(s) by the Owner. It ends with the final acceptance of the Project by the Owner and upon furnishing by the Design Professional to the Owner the documents required in Article 8.
- 2.6.1 Within ten (10) working days after the Notice of Award, the Design Professional shall provide Construction Set Documents to the Owner as defined in Article 15.
 - 2.6.2 The Design Professional shall provide Construction Phase services as follows:
 - .1 The Design Professional will advise and consult with the Owner. The Design Professional will have authority to act on behalf of the Owner only to the extent provided herein. The duties, responsibilities and limitations of authority of the Design Professional during construction will not be modified or extended without the written consent of the Owner and the Design Professional.
 - .2 The Design Professional will visit the site at intervals appropriate to the stage of construction to become familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. On the basis of these on-site observations, the Design Professional will keep the Owner informed of the progress of the work, and will endeavor to guard the Owner against defects and deficiencies in the work of the Contractor.
 - .3 The Design Professional will not be responsible for and will not have control over charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, nor will the Design Professional be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents. The Design Professional will not be responsible for or have control or charge over the acts or omissions of the contractor, subcontractors, or any of their agents or employees, or any other persons performing any of the work.
 - .4 Based on the Design Professional's observations and an evaluation of the Contractor's applications for payment, the Design Professional will recommend to the Owner the amounts owing to the Contractor and will certify payment supporting such amounts.
 - .5 The Design Professional will interpret the Contract Documents and judge the performance thereunder by both the Owner and the Contractor as follows:
 - .1 The Design Professional will render interpretations necessary for the proper execution or progress of the work with reasonable promptness and in accordance with any time limit agreed upon. Either party to the contract may make written request to the Design Professional for such interpretations.
 - .2 Claims, disputes and other matters in question between the Contractor and the Owner relating to the execution or progress of the work or the interpretations of the Contract Documents shall be referred initially to the Design Professional for recommendation, which the Design Professional will render in writing within a reasonable time.

- .3 All interpretations and recommendations of the Design Professional shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. In the Design Professional's interpretations and judgments, the Design Professional will endeavor to secure faithful performance by both the Owner and the Contractor, will not show partiality to either, and will not be liable for the result of any interpretation or judgment rendered in good faith.
 - .4 Any claim, dispute or other matter in question between the Contractor and the Owner referred to the Design Professional, except those which have been waived by the making or acceptance of final payment as provided in the Uniform General Conditions of the Contract, shall be subject to arbitration in accordance with the provisions of the Uniform General Conditions of the Contract.
 - .6 The Design Professional will review Contractor's submittals, such as shop drawings, product data and samples. The Design Professional's action will be taken with reasonable promptness so as to cause no delay in the Work or in the activities of the Contractor or separate contractors, while allowing sufficient time in the Design Professional's judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining accuracy and completeness of the other details such as dimensions and quantities, or for substantiating instruction for installation or performance of equipment or systems, all of which remains the responsibility of the Contractor as required in the Contract Documents. The Design Professional's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Design Professional, of any construction means, methods, techniques, sequences or procedures.
 - .7 The Design Professional will conduct on-site observations to determine the dates of substantial completion and final completion, will receive and forward to the Owner written guarantees and warranties and related documents required by the Contract and assembled by the Contractor. The Design Professional shall advise the Owner that that the Work is complete and in compliance with all the requirements of the Contract Documents.
- 2.6.3 The Design Professional, along with appropriate Professional Consultants, shall attend regularly scheduled and any special meetings with Owner's Representative and Contractors' representatives as required by the circumstances of the Project. The Design Professional shall keep meeting minutes, prepare a report of each meeting and distribute copies to the Owner's Representative, Design Professional Representative and Contractor for distribution.
- 2.6.4 The Design Professional shall prepare or assist the Owner in the preparation of material required for Contract Change Orders by:
- .1 Preparing documentation required to obtain Change Order proposals from contractors.
 - .2 Reviewing Change Order proposals and making recommendation to the Owner's Representative in writing within five (5) working days of receipt of proposal.
 - .3 Substantiating in writing the reason for all Change Order proposals except those resulting from Owner-initiated changes.
 - .4 If required by the Owner, preparing, issuing and signing formal Change Order for approval by the Owner.
- 2.6.5 In the course of conducting on-site observations to determine the dates of substantial completion and final completion, the Design Professional, along with appropriate Professional Consultants, shall develop and submit to the Owner, a list of contract items to be completed or corrected (punch list). The Design Professional shall assist the Owner in establishing

appropriate warranty and guarantee commencement dates for various items of mechanical, electrical and conveying equipment.

- 2.6.6 The Design Professional and/or all appropriate Professional Consultants retained by the Design Professional shall accompany the Owner's Representative on a post-occupancy and warranty review prior to the expiration of the warranty period for any separate contract, but sufficiently after occupancy to allow the Owner adequate opportunity to observe for defective conditions. This review shall take place at a mutually agreed-upon time and date.
 - 2.6.7 The Design Professional shall furnish to the Owner a complete written report of observations made while fulfilling the requirements of Subparagraph 2.6.2, above and 2.7, below.
 - 2.6.8 The Design Professional shall not be responsible for the acts or omissions of the Owner's Representative during the Construction Phase.
- 2.7 Operational Phase: This phase may commence during the Construction Phase and will terminate one year after the date of Substantial Completion.
- 2.7.1 The Design Professional shall provide assistance in connection with the refining and adjusting of any equipment or system.
 - 2.7.2 The Design professional shall assist the Owner in training Owner's staff to operate and maintain the project.
 - 2.7.3 The Design Professional shall accompany the Owner to visit the Project and observe any apparent defects in the completed work, assist Owner in consultations and discussions with Contractor concerning correction of such defects, and make recommendations as to replacement or correction of defective work.
- 2.8 Non-Compensated Services
- 2.8.1 If the statement of probable Construction Cost required in paragraphs 2.2, 2.3 and 2.4 exceeds the budgeted Construction Cost, the Owner may choose to revise the Project scope and/or quality as required to reduce probable Construction Cost. If the Owner chooses to proceed in this manner, the Design Professional shall be responsible for all costs associated with modifying the design.
 - 2.8.2 If the lowest bonafide bid exceeds the budgeted Construction Cost, the Owner may choose to revise the Project scope and/or quality as required to reduce projected construction costs. If the Owner chooses to proceed in this manner, the Design Professional shall be responsible for all costs associated with modifying, printing and issuing the Contract Documents as necessary to obtain new bids.
 - 2.8.3 Services required to correct errors, omissions, or deficiencies by the Design Professional or Professional Consultants that become apparent during construction or after completion of the Project.
 - 2.8.4 The accounting records of the Design Professional and its Professional Consultants shall distinguish those services referred to in Subparagraph 2.8.2 from all other services provided under this Agreement.
- 2.9 Additional Services
- 2.9.1 The following services are not included in Article 2, Paragraphs 2.1 through 2.8, Basic Services. Such additional services will be paid for by the Owner in addition to compensation for the Design Professional's Basic Services, provided that such additional services have been authorized in writing by the Owner prior to their performance. The limitation on the total compensation provided in Paragraph IV shall be changed to reflect these additional services upon execution of an amendment to this Agreement. Such services include:

- .1 Making revisions in drawings, specifications or other documents resulting from Owner-initiated changes in program or in the standards of the institution made subsequent to Owner approval of previously completed work.
- .2 Preparing supporting data and other services in connection with Change Orders, if the change is the result of Owner-initiated changes in program or in the standards of the institution.
- .3 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing professional services of the type set forth in Article 2, Paragraph 2.1, as may be required in connection with the replacement of such Work.
- .4 Providing professional services made necessary by the default of the Contractor or by major defects in the Work of the Contractor in the performance of the Contract(s).
- .5 Preparing to serve or serving as an expert witness on behalf of the Owner in connection with any arbitration proceeding or legal proceeding.

2.9.2 The Design Professional shall have the right under this Article to claim additional compensation for any services not specifically covered herein, provided that such additional services are identified as such and are authorized in writing by the Owner's Representative prior to their performance.

ARTICLE 3. THE OWNER'S RESPONSIBILITIES

- 3.1 The Owner shall provide written program/requirements for the Project including the budgeted Total Project Costs and Construction Costs. A change in either cost cannot be expected or assumed.
- 3.2 The Owner's Representative shall meet and confer with the Design Professional and the Design Professional's Professional Consultants as necessary to ensure complete understanding and communication relative to the needs and requirements of the Project. The Owner's Representative shall notify the Design Professional in writing of any change in the written program/requirements.
- 3.3 The Owner will provide the Design Professional with a certified site survey containing the data requested by the Design Professional and approved by the Owner.
- 3.4 The Owner shall furnish the services of a geotechnical engineer or other Professional Consultant when such services are deemed necessary by the Design Professional and approved by the Owner, including reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional recommendations.
- 3.5 The Owner shall furnish special construction inspection/testing services as deemed necessary by the Owner or Design Professional with appropriate professional reports or recommendations.
- 3.6 The services, information, surveys, and reports required by Article 3, Paragraphs 3.3 through 3.5, inclusive, shall be furnished at the Owner's expense and the Design Professional shall be entitled to rely upon the accuracy and completeness thereof.
- 3.7 The Owner shall furnish required information as expeditiously as necessary for the orderly progress of the Work.

ARTICLE 4. REIMBURSABLE EXPENSES

- 4.1 Reimbursable Expenses are in addition to the compensation for Basic Services and include actual expenditures made by the Design Professional or its Professional Consultants, in the interest of the Project for the expenses listed in Article 15 and the following subparagraphs:

- 4.1.1 Reimbursable travel expenses shall be limited to those incurred in travel on behalf of the project when authorized by the Owner's Representative.
- 4.1.2 If authorized by the Owner, expenses for reproduction and distribution of documents shall be considered to be reimbursable expenses.
- 4.1.3 The Design Professional shall have the right under this Article to claim reimbursable expenses for any items not specifically covered herein, provided that such reimbursable expenses are identified as such and are authorized in writing by the Owner's Representative prior to being incurred.

ARTICLE 5. PAYMENTS TO DESIGN PROFESSIONAL

- 5.1 For Basic Services and Additional Services, as defined in Article 2, and for Reimbursable Expenses, as defined in Article 4, payments shall be made monthly based upon approved invoices.
- 5.2 Preparation of Invoices. Invoices for Basic and Additional Services and Reimbursable Expenses shall be prepared in accordance with the Owner's standard invoice and shall be accompanied with documentation for services and reimbursable expenses.
- 5.3 Maximum payable by phase. During the course of the Project, payments to the Design Professional shall not exceed the listed percentage of the compensation as defined in Article 15.
- 5.4 Termination of the Project. In the event the Owner decides for any reason to terminate the Project, the Design Professional shall be paid for services satisfactorily performed and unpaid Reimbursable Expenses incurred prior to receipt of written notice from the Owner.
- 5.5 Deferral of the Project. If action on the Project is deferred for more than one year, the Design Professional's compensation shall be subject to renegotiation for the uncompleted portion of the Project.
- 5.6 Termination of the Agreement. In the event the Agreement is terminated for any reason, the Design Professional shall be paid for services satisfactorily performed and unpaid Reimbursable Expenses incurred prior to receipt of written notice of termination.
- 5.7 Design Professional's Accounting Records. Records of the Design Professional's costs pertinent to Design Professional's compensation under this Agreement shall be:
 - 5.7.1 Kept in accordance with generally accepted accounting practices.
 - 5.7.2 Kept for the duration of the Statute of Limitations that governs when this Agreement was executed.
 - 5.7.3 Made available to the Owner on request or shall be made available for examination by the Owner's authorized representative at mutually convenient times at no expense to the Owner.

ARTICLE 6. EQUAL EMPLOYMENT OPPORTUNITY

- 6.1 The Design Professional shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, physical or mental disability or status as a U.S. veteran. The Design Professional shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, national origin, sex, age, physical or mental disability or status as a U.S. veteran except where it relates to a bona fide occupational qualification. Such action shall include, but not be limited in the following; employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation, and, selection for training, including apprenticeship. The Design Professional agrees to post in conspicuous places,

available to employees and applicants for employment, notices to be provided by the Owner setting forth provisions of this nondiscrimination clause.

- 6.2 The Design Professional shall, in all solicitations or advertisements for employees placed by or on behalf of the Design Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sex, age, physical or mental disability or status as a U.S. veteran except where it relates to a bona fide occupational qualification.
- 6.3 The Design Professional shall send to each labor union or representative of workers with which the Design Professional has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or worker's representative of the Design Professional's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 6.4 The Design Professional shall comply with all relevant provisions of state and federal laws and regulations. The Design Professional shall furnish all information and reports requested by the Owner or required by or pursuant to the rules and regulations herein and shall permit access to payroll and employment records by the Owner or the Owner's Representatives for the purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.
- 6.5 In the event of the Design Professional's noncompliance with the nondiscrimination clauses of the Agreement or with any of the aforesaid rules, regulations or requests, this Agreement may be canceled, terminated or suspended in whole or in part and the Design Professional may be declared ineligible for further Agreements with the Owner. In addition, the Owner may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Code of Iowa, as heretofore and hereafter amended, or by the rules and regulations of the Owner or as otherwise provided by law.
- 6.6 The Design Professional shall include the provisions of this Article 6 hereof in every agreement with Professional Consultants unless specifically exempted by approval of the Owner, in accordance with the rules and regulations of said Owner, so that such provisions shall be binding on each Professional Consultant. The Design Professional shall take such action with respect to any Professional Consultant as the Owner or the Owner's authorized representative may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Design Professional becomes involved in, or is threatened with, litigation by a Professional Consultant as a result of such direction by the Board of Regents, State of Iowa or its institutions, the Design Professional may request the state of Iowa to enter into such litigation to protect the interests of the state of Iowa.

ARTICLE 7. TERMINATION OF AGREEMENT

- 7.1 This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 7.2 This Agreement may be terminated by the Owner upon not less than seven (7) day written notice to the Design Professional for the Owner's convenience and without cause.
- 7.3 In the event of termination due to the fault of parties other than the Design Professional, the Design Professional shall be compensated for services performed to termination date, including reimbursable expenses.
- 7.4 This Agreement shall terminate upon final acceptance of the work of the Project, except as set forth in Article 2, Subparagraph 2.6.7 and Article 8, Paragraph 8.1 of this Agreement. In the event no construction is authorized, this Agreement shall terminate three (3) years from the date of completion of working Drawings and Specifications for the Project and final settlement shall be made in accordance with Article 5.

ARTICLE 8. RECORD DOCUMENTS

- 8.1 Within 30 days after Acceptance of the Construction Contract, the Design Professional shall furnish the Owner with documents as specified in Article 15.

ARTICLE 9. OWNERSHIP OF ALL PROJECT DOCUMENTS

- 9.1 All design documents, including electronic data, required by this Agreement, as instruments of service are the property of the Owner whether the work for which they are made be executed or not.
- 9.2 Any reuse without specific written verification or adaptation by the Design Professional will be at Owner's sole risk and without liability or legal exposure to the Design Professional.
- 9.3. The Design Professional shall not acquire a copyright for project documents but shall be permitted to retain copies including reproducible copies or electronic data of the drawings, specifications and other project documents.

ARTICLE 10. INSURANCE AND INDEMNIFICATION

- 10.1 The Design Professional and all Professional Consultants employed by the Design Professional shall each effect and maintain insurance to protect the Design Professional from claims under worker's compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of their employees or of any person other than their employees, and from claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom; and from claims arising out of the performance or professional services caused by any negligent acts, errors, or omissions for which the Design Professional is legally liable. Insurance shall be as identified in Paragraph V.
- 10.2 The Design Professional shall furnish certificates to the Owner showing insurance coverage. Certificates shall identify the name of the Project and shall provide Owner with a minimum 30 days notice of cancellation. Upon written request of the Owner, the Design Professional agrees to provide certified copies of any or all insurance policies required in Paragraph V, within 30 days of such request.
- 10.3 The Design Professional agrees to indemnify and hold harmless the Owner against all damages, liabilities or costs, including reasonable attorneys' fees and all costs associated with internal and external expenses for labor and materials in preparing for the defense, to the extent caused by the Design Professional's negligent performance of professional services under this Agreement and that of its Professional Consultants or anyone for whom the Design Professional is legally liable.
- 10.4 The requirements for insurance are not intended to limit, qualify or restrict the liabilities and obligations otherwise assumed by the Design Professional in this Agreement, including provisions concerning indemnification.
- 10.5 The Owner will require any Contractor or Subcontractor performing work in connection with the Contract Drawings and Project Manual produced under this Agreement to hold harmless, indemnify and defend the Owner and the Design Professional, its Professional Consultants and each of their officers, agents and employees from any and all liability claims, losses or damages, including attorney's fees, arising out of the Contractor's or Subcontractor's negligent acts, errors or omissions in the performance of the work described in the Contract Documents, but not including liability that may be due to the negligent acts, errors and omissions of the Owner, the Design Professional, their Professional Consultants or their officers, agents and employees.

ARTICLE 11. DISPUTES

- 11.1 Any dispute between the Design Professional and the Owner regarding, but not limited to project budget, project scope, project layout, or types and quality of materials, shall be submitted in writing within 21 days after occurrence of the event giving rise to the claim to be resolved by the Owner's Representative. If not resolved by the Owner's Representative within 10 days, then the Design

Professional may submit in writing the issues(s) in dispute to the Vice President for Business and Finance as the University President's designee. The determination of the Vice President for Business and Finance is the final institutional decision.

ARTICLE 12. SUCCESSORS AND ASSIGNS

12.1 The Owner and the Design Professional are each bound, including their respective partners, successors, assigns and legal representatives with respect to all covenants of this Agreement. Neither the Owner nor the Design Professional shall assign, sublet or transfer its interest in this Agreement without the written consent of the other.

ARTICLE 13. EXTENT OF AGREEMENT

13.1 This Agreement represents the entire and integrated agreement between the Owner and the Design Professional and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Design Professional.

ARTICLE 14. GOVERNING LAW

14.1 This Agreement shall be governed by the laws of the state of Iowa.

ARTICLE 15. OTHER CONDITIONS OR SERVICES

15.1 MODIFICATION TO THE TERMS AND CONDITIONS OF THE AGREEMENT:

15.1.1 The following Paragraphs are deleted from this Agreement:

2.6.6 and 2.6.7
3.3 and 3.4

15.1.2 The following Paragraphs have been modified in this Agreement:

15.1.3 The following Paragraphs have been added to this Agreement:

2.1.12 The Design Professional shall furnish a plan of the site giving, as applicable,

- .1 Grades and lines of streets, alleys pavements and adjoining pavement.
- .2 Right-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site.
- .3 Locations, dimensions and complete data pertaining to existing buildings, other improvements and trees.
- .4 Full information concerning available services and utility lines both public and private above and below grade, including inverts and depths.

2.1.13 The Design Professional shall provide necessary investigations to complete and accurately prepare all plans, specifications and drawings required within the scope of the Project.

15.2 MONTHLY PROGRESS REPORT:

15.2.1 The Design Professional shall provide a monthly progress report summarizing the activities of the previous month. This report shall be published to the Owner's project web site and shall coincide with the Design Professional's invoice for professional services (15.3).

15.2.2 The Design Professional shall provide monthly progress sets of the Construction Documents during the Construction Documents Phase for Owner review. These documents shall be published to the Owner's project web site in Adobe Portable Document (.pdf) format. These documents, in conjunction with the progress report required in 15.2.1 will be used to evaluate the Design Professional's invoice.

15.3 PAYMENT TO THE DESIGN PROFESSIONAL

15.3.1 Payment to the Design Professional for Basic and Additional Services, as defined in Article 2, and for Reimbursable Expenses, as defined in Article 4, shall be made monthly upon submittal of the Design Professional's statement on the Owner's standard invoice format located on web site: { HYPERLINK "http://www.fpm.iastate.edu/planning/professionalconsultants\" }. Depending on the method of compensation stated in this Agreement, select either the Stipulated Sum or Hourly Rates with Fixed Maximum invoice form. **Only payment requests submitted using the Owner's invoice format will be processed for payment.**

15.3.2 The Design Professional shall publish its statement to the Owner's project web site in Adobe Portable Document format (.pdf) under Design tab, DP Payments element as Invoice 01, 02, etc., for review and processing. Any required backup material to the statement, shall be included with the statement and published as one pdf file.

15.3.3 During the course of the Project, payments to the Design Professional shall not exceed the following percentages of the total compensation due under the Agreement. When total compensation is Stipulated Sum, payment shall be commensurate with the actual work completed, but not exceeding the phase limit.

	PERCENTAGE
PREDESIGN SERVICES	0
STUDY AND REPORT	15
PRELIMINARY DESIGN	40
CONSTRUCTION DOCUMENT	75
BIDDING	80
CONSTRUCTION	98
RECORD DOCUMENTS	100

15.4 DOCUMENT SUBMITTAL SCHEDULE:

15.4.1 The Design Professional shall provide the Owner with the quantities identified in the following schedule and publish electronic files of all to the Owner's project web site.

	Predesign	Report Review	Prelim Design Review	Construction Documents Review
PREDESIGN	2	N/A	N/A	N/A
REPORT	N/A	2	N/A	N/A
PRELIMINARY DESIGN	N/A	N/A	2	N/A
LIFE CYCLE COST ANALYSIS	N/A	N/A	2	N/A
DRAWINGS	N/A	N/A	15	N/A
SPECIFICATIONS	N/A	N/A	15	N/A
PROBABLE CONSTRUCTION COST	N/A	N/A	2	2

15.5 DOCUMENT FORMAT:

15.5.1 The electronic text program used for the Project Manual shall be Microsoft Word (.doc), latest version.

15.5.2 The electronic drafting program used for the Contract Drawings shall be Architectural Desktop or AutoCAD (.dwg), latest version (preferred), or a program 100% compatible with AutoCad, latest version.

15.5.3 The Design Professional shall convert electronic documents to Adobe Portable Document Format (.pdf) and publish to Owner's project web site as required herein.

15.6. CONSTRUCTION DOCUMENTS:

15.6.1 The Design Professional shall publish the drawings and specifications to the Owner's project web site in Adobe Portable Document Format (.pdf) for printing and viewing for final review. The cover sheet of the drawings and specifications shall be labeled as "Final Construction Documents".

15.6.2 The Design Professional shall be responsible for coordinating the printing of the Construction Documents directly with ISU's Printing Services, 515-294-4538. The Owner will distribute the review documents. The Design Professional shall advise the Owner's Project Manager of the number of sets needed by the Design Professional and its Professional Consultants.

15.7 BIDDING DOCUMENTS:

15.7.1 The Design Professional shall publish the drawings, specifications, the Project Manual cover sheet and table of contents, and all Addenda to the Owner's project web site in Adobe Portable Document Format (.pdf) for printing and viewing. The Owner will publish the Bidding Requirements and Contracting Requirements. ISU's Printing Services will distribute the Bidding Documents and all Addenda, and maintain the Plan Holders List.

15.7.2 The Design Professional shall be responsible for coordinating the printing and distribution of the Bidding Documents and all Addenda directly with ISU's Printing Services, 515-294-4538.

15.7.3 The Design Professional shall deliver one set of Bidding Documents (drawings and Project Manual) to the Owner with certifications required in paragraph 2.4.8 prior to the bid date of the project.

15.7.4 The Design Professional shall deliver one copy of all Addenda to the Owner with certification required in paragraph 2.5.3 prior to the bid date of the project.

15.8 CONSTRUCTION SET DOCUMENTS:

15.8.1 The Design Professional shall provide Construction Set Documents as defined in paragraph 1.4.9 within ten (10) working days following the award of contract(s).

15.8.2 The Design Professional shall publish the Construction Set Documents to the Owner's project web site as follows:

- .1 Drawings, specifications, and the Project Manual cover sheet and table of contents in Adobe Portable Document Format (.pdf) for printing.
- .2 Drawings in Architectural Desktop or AutoCAD (.dwg) format for use by the Contractor and Owner.

15.9 CONTRACT DOCUMENT REVISIONS:

15.9.1 The Design Professional shall revise the Construction Set Documents as changes are made during the Construction Phase as follows:

- .1 The Construction Set Documents shall be continuously updated on the Owner's project web site to reflect changes that are made as a result of accepted Change Requests and supplemental documents issued to clarify the design intent.
- .2 Revised drawings shall retain the original sheet designation, indicate the history of revisions to the sheet in the title block, and indicate the most recent change to the sheet with a cloud around the changed area and a revision number. Revised specifications shall retain the original division/section numbering and show the most recent revised text as shaded with deleted text shown as strike-through. New drawing sheets or specification sections shall be numbered appropriate to their position in the set.

15.10 RECORD DOCUMENTS:

15.10.1 The Design Professional shall provide the Owner with a set of record documents (drawings and specifications) including revisions made during construction. These documents shall incorporate all accepted Change Orders, changes made via the submittal process, supplemental documents, and changes noted on the Contractor's Project Record Documents.

- .1 Said documents shall be labeled as "Record Documents".
- .2 One copy of said documents shall be delivered to the Owner and published to the Owner's project web site within thirty (30) days following the Owner's delivery of the Contractor's Project Record Documents to the Design Professional.
- .3 Electronic drawing files published to Owner's project web site shall be in Architectural Desktop or AutoCAD format. Publish electronic reference files, font files, color table files (.ctb), and plotter control files (.pc3). Publish any special instructions required for plotting drawing files in an electronic text file.
- .4 Remove all references (clouds or shading) to interim revisions except the notations in the drawing title block.

15.11 INTERNET BASED PROJECT COMMUNICATION AND MANAGEMENT SYSTEM:

15.11.1 An Internet based project communication and management system will be utilized on this project to share information among team members and conduct and track project communications. The Design Professional is required to participate with the project team and use the system for viewing correspondence and information posted by other project team members, publishing correspondence and information for viewing by other project team members, and logging and/or responding to items such as RFI's and Submittals. There are no fees required for access to the system. Iowa State University will provide project team members with password protected access privileges to the project web site.

Minimum System and Software Requirements:

- Operating Systems: Windows 2000, or Windows XP
- Minimum 128MB RAM
- Processor: PC Compatible, 700 MHz Pentium III or better
- Minimum 60 MB free hard disk space for application
- Minimum 120 MB of temporary free hard disk space used during installation
- Video Card and display capable of True Color (24-bit)
- Internet connection (high speed connection recommended)
- Internet Explorer, 5.5, 5.5 SP1, 5.5 SP2, 6.0, or 6.0 SP1
- Software to create and read Adobe Acrobat files

- Scanner
- MS Word, MS Excel, MS Outlook (recommended)

15.12 PREDESIGN SERVICES: (OPTIONAL - EDIT FOR SPECIFIC SERVICES OR DELETE) { Delete paragraph if not used and renumber }

15.12.1 The Design Professional shall provide services necessary to assist the Owner in establishing a program by providing services to establish the detailed requirements for the Project which will consist of written design objectives, limitations, and criteria; list space requirements with quantities and net areas; identify equipment and special systems needed for each space; and establish space relationships for the facility.

15.13 PROPOSAL LETTER:

15.13.1 The Design Professional's proposal letter of {Date of Letter mo/day/yr }, is appended and incorporated into this Agreement by reference as Exhibit A.

This Agreement becomes effective the day and year signed by the Owner below.

Design Professional:

{ Type in Firm Name }

by: _____

Dated: _____

FEIN No: _____

E-Mail: _____

{ Project Budget \$1M or Greater }

Recommended by:

Iowa State University

by: _____

Christopher K. Ahoy
Associate Vice President for Facilities

Dated: _____

by: _____

Warren R. Madden
Vice President for Business & Finance

Dated: _____

Owner:

Board of Regents, State of Iowa

by: _____

Gary Steinke
Executive Director

Dated: _____

{ Project Budget less than \$999,999 }

Recommended by:

Iowa State University

by: _____
Christopher K. Ahoy
Associate Vice President for Facilities

Dated: _____

Owner:

by: _____
Warren R. Madden
Vice President for Business & Finance

Dated: _____

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