

NEW MEXICO JUNIOR COLLEGE

BOARD MEETING

Thursday, September 17, 2015

Zia Room – Library

1:30 p.m.

AGENDA

- | | |
|---|----------------|
| A. Welcome | Pat Chappelle |
| B. Adoption of Agenda | Pat Chappelle |
| C. Approval of Minutes of August 20, 2015 | Pat Chappelle |
| D. President's Report | Steve McCleery |
| E. New Business | |
| 1. Monthly Expenditures Report | Dan Hardin |
| 2. Monthly Revenue Report | Dan Hardin |
| 3. Oil and Gas Revenue Report | Dan Hardin |
| 4. Schedule of Investments | Dan Hardin |
| 5. Consideration of Architectural Services for the
NMJC Allied Health Building | Steve McCleery |
| 6. Consideration of Presidential Search Profile | Julie Golder |
| F. Public Comments | Pat Chappelle |
| G. Announcement of Next Meeting | Pat Chappelle |
| H. Closure of Open Meeting | Pat Chappelle |
| I. Adjournment | Pat Chappelle |

**NEW MEXICO JUNIOR COLLEGE
BOARD MEETING
AUGUST 20, 2015
MINUTES**

The New Mexico Junior College Board met on Thursday, August 20, 2015, beginning at 1:30 p.m. in the Zia Room of Pannell Library. The following members were present: Ms. Patricia Chappelle, Madam Chair; Mr. Ron Black, Secretary; Mr. Travis Glenn; Mrs. Mary Lou Vinson; Mr. Zeak Williams; and Mr. Hector Baeza. Mr. Manny Gomez was absent from the meeting.

Ms. Chappelle called the meeting to order and welcomed visitors and guests present: Ms. Kelly Farrell, Hobbs News-Sun and Representative David Gallegos.

Upon a motion by Mrs. Vinson, seconded by Mr. Glenn, the agenda was unanimously adopted.

Upon a motion by Mr. Baeza, seconded by Mr. Williams, the Board unanimously approved the minutes of July 16, 2015.

Under President's Report, Mr. Jeremy Capo, Director of Athletics and Mr. Josh Simpson, Head Men's Baseball Coach, presented Columns of Education to Junior Hernandez, owner of Legendary Oilfield Services in Lovington, New Mexico for his support of the NMJC student athletes and for his donating resources toward the new baseball scoreboard. Dr. McCleery further recognized Mr. & Mrs. Hernandez for the difference they make in the community of Lovington and in the lives of young people.

Dr. McCleery presented Columns of Education to Coach Keith Blackwill and Assistant Coach Jeff Becker for the Third Place Finish at the 2015 NJCAA National Indoor & Outdoor Women's Track Team.

Mr. Jeremy Capo presented AD Honor Roll Lists reflecting the academic performance of athletic students. He reported 123 students in the fall of 2014 and spring of 2015 achieved a 3.0 GPA or greater with 9 students achieving a 4.0. Overall GPA for fall of 2014 reflected a 2.81 and spring of 2015 reflected a 2.91.

Dr. McCleery presented a framed picture of the new NMJC License plate and a copy of HB 107 to Representative David Gallegos. Representative Gallegos sponsored HB 107 which passed through the House and Senate and paved the way for an NMJC license plate. In addition, Dr. McCleery presented Representative Gallegos with a plaque presented to Lea County legislators reflecting the 2015 general appropriations on behalf of New Mexico Junior College. Dr. McCleery made special mention of the \$705,000 for the planning, design, and construction of a new NMJC Allied Health facility.

Mrs. Susan Fine provided updates of the NMJC 100.9 FM radio station donated by Five Star Media. Mrs. Fine stated the plans for the radio station are to broadcast basketball games, baseball games, community work, and announcements to students of happenings on campus. Mrs. Fine stated the name of the radio station is expected to be KNMJC Radio. Dr. McCleery recognized Mrs. Fine for her efforts in meeting the broadcasting deadline of August 15, 2015. He further stated she is currently serving as the general manager for the radio station.

Dr. Larry Sanderson announced the Board of the Oddfellows donated \$100,000 from the sale of their lodge to the New Mexico Junior College Foundation. Dr. Sanderson stated \$90,000 was placed in scholarship endowments and \$10,000 will be used for scholarships over the next few years. In addition, Dr. Sanderson stated \$33,000 in gifts for scholarships have been given in memory of Joyce Tolsma, a New Mexico Junior College Foundation Board Member who recently passed away. He further recognized Billy Thrash for making the majority of the gifts in memory of Joyce Tolsma.

Under New Business, Mr. Dan Hardin presented the July, 2015 financial reports. Upon a motion by Mr. Glenn, seconded by Mr. Black, the Board unanimously approved the Expenditure Report for July, 2015. In addition, the Revenue Report, Oil and Gas Revenue Report, and Schedule of Investments Report were reviewed.

Mr. Dan Hardin presented a request for consideration to submit the continuation of the Research and Public Service Projects for FY 2017 to the Higher Education Department. After significant discussion and upon a motion by Mr. Glenn, seconded by Mr. Baeza, the Board unanimously approved this request.

Dr. McCleery presented a request for consideration for restructuring of the HED Capital Projects. The request was to move \$1,000,000 from Oil & Gas Reserves from the Renewable Energy Project and pledge the \$1,000,000 toward the Allied Health Building. This restructure would pledge a total of \$2,250,000 toward the Allied Health Building. After significant discussion and upon a motion by Mrs. Vinson, seconded by Mr. Glenn, the Board unanimously approved this request.

Dr. McCleery and Mr. Ron Black presented a request for consideration of the MOU between the City of Hobbs, Lea County, New Mexico Junior College, and the Hobbs Municipal School District. The request also asked the Board for consideration in giving Dr. McCleery authority to negotiate minor changes to the MOU. After significant discussion of the contents of the MOU and the Draw Procedures and upon a motion by Mrs. Vinson, seconded by Mr. Black, the Board unanimously approved these requests.

Mr. Bill Morrill presented a request for consideration of a Western Heritage Museum & Lea County Cowboy Hall of Fame Security Proposal. The proposal is for a new security system to include cameras, lights, and door alarms with costs to be taken from the NMJC reserves. The cost for the installation of cameras is \$107,408.33 with Sound and Signal Systems of Texas as the recommended vendor. The cost for the installation of door alarms is \$12,478.02 with Klein Security and Safety Systems as the vendor. The total cost of the project is \$119,886.35. Mr. Morrill explained that the need for added security was a result of an antiquated security system, as well as the increased security demands for the upcoming traveling exhibits. Upon a motion by Mr. Black, seconded by Mrs. Vinson, the Board unanimously approved this request.

Mr. Bill Kunko and Dr. Charley Carroll presented a request for consideration of a Data Center Upgrade to the New Mexico Junior College Computer Server room.

Total cost of the project is \$342,958. Upgrade will include a new server room/data center, electrical systems, air conditioning system, adding a secondary consolidated power source (generator) with a diesel engine, multiple Uninterruptable Power Systems (UPS), and a fire suppression system. Mr. Glenn commented his past experience of generators with diesel engines is they are service intensive and have a history of continual maintenance issues. Mr. Glenn requested further research of the diesel engine versus natural gas or propane and recommended a backup warranty be obtained if the decision is to go with the diesel. After detailed discussion and upon a motion by Mr. Glenn, seconded by Mrs. Vinson, the Board unanimously approved this request to include additional time for further research of the type of generator to be purchased.

Ms. Chappelle presented a request for consideration of the Presidential Search Committee. Ms. Chappelle pointed out the Board will ultimately retain the obligation and responsibility of selecting and making the final decision for the next New Mexico Junior College president. She stated the Board will have access to all applications turned in and all Board members will sign a Confidentiality Statement. Ms. Chappelle announced the selection of the Presidential Search Committee and upon a motion by Mr. Black, seconded by Mrs. Vinson, the Board unanimously approved this request.

Mr. Glenn presented a request for consideration of the Presidential Search Firm. Mr. Glenn stated four search firms were considered and recommended the NMJC Board approve a contract with the Association of Community College Trustees (ACCT) as the firm to assist New Mexico Junior College with the presidential search. Upon a motion by Mr. Black, seconded by Mrs. Vinson, the Board unanimously approved this request.

Dr. McCleery presented a request for consideration of the ACCT Confidentiality Statement. In addition, Dr. McCleery presented the ACCT Confidentiality Policies which included the Charge to the Presidential Search Committee and the Ground Rules for the Presidential Search Committee Meetings. Upon a motion by Mr. Black, seconded by Mr. Baeza, the Board unanimously approved the Confidentiality Statement. At this time Laurie Savona, ACCT Search Consultant, joined the meeting by video conference. Ms. Savona provided discussion of the

importance of the Confidentiality Statement, Charge to the Presidential Search Committee and the Ground Rules for the Presidential Search Committee Meetings. In addition, Ms. Savona provided significant discussion of the Presidential Search Timeline, Evaluation of Application Materials, Evaluating/Interview of Candidates, and the search process.

Mr. James Britsch recommended Mrs. Jan Beauchamp for the Administration Secretary – Pannell Library position per policy #203 – Employment of Relatives in the New Mexico Junior College Employee Handbook. Upon a motion by Mr. Black, seconded by Mr. Baeza, the Board unanimously approved the employment of Mrs. Jan Beauchamp, effective September 1, 2015.

Mr. Bill Morrill & Mr. Dennis Kelly recommended Mr. Terence Gardner for the Public Safety Officer position at a 12 month salary of \$53,825.00. Upon a motion by Mr. Glenn, seconded by Mrs. Vinson, the Board unanimously approved the employment of Mr. Terence Gardner, effective September 16, 2015.

Dr. McCleery read and presented a New Mexico Junior College retirement resolution to Ms. Susie D. Taylor for eleven years of service and dedication to New Mexico Junior College. In addition, Dr. McCleery read a retirement resolution on behalf of Mrs. Donna L. Springer to correct her retirement date from September 1, 2015 to August 1, 2015.

Dr. Larry Sanderson provided HLC Accreditation updates for November 9th and 10th, 2015. He reported a group of five team members are expected to be on campus. Dr. Sanderson updated the Board with the five criteria for accreditation that will be utilized by HLC to evaluate New Mexico Junior College. In addition, Dr. Sanderson provided a tentative HLC visiting team schedule.

Ms. Chappelle called for comments from the public. There being none, the next regular board meeting was scheduled for Thursday, September 17, 2015 beginning at 1:30 pm.

Mrs. Vinson moved the board go into closed session for the discussion of limited personnel matters under the provisions of section 10-15-1-H (2) of New Mexico Statutes Annotated 1978. Mr. Glenn seconded the motion. The roll call vote was as follows: Mr. Baeza – yes; Mr. Williams – yes; Mr. Black – yes; Mrs. Vinson – yes; Mr. Glenn – yes; and Ms. Chappelle – yes.

Upon re-convening in open meeting, Ms. Chappelle stated that the matters discussed in the closed meeting were limited only to those specified in the motion for closure.

Upon a motion by Mr. Black, seconded by Mrs. Vinson, the board meeting adjourned at 4:30 pm.

Pat Chappelle, Chair

Ron Black, Secretary

NEW MEXICO JUNIOR COLLEGE

Vice President for Finance

To: **New Mexico Junior College Board Members**
From: Dan Hardin
Date: September 10, 2015
RE: Expenditure and Revenue Reports for August

August is the second month of the 2015/2016 fiscal year. The Expenditure report reflects funds expended and encumbered. Total current unrestricted funds expended year-to-date is \$4,849,685.00. In reviewing the unrestricted fund expenditures some funds have a higher percentage of expenditures through August. These areas have expenditures that are tied to the beginning of the fall semester or have had large encumbrances. Internal Services is at 52% due to Maintenance Agreements being encumbered in Computer Services and the Document Center. Student Aid is at 47% due to the awards at the beginning of the fall semester. Auxiliary Enterprise is at 38% because of encumbering the Food Service contract with Great Western. In Athletics, grant-in-aid has been awarded for the student athletes. In the restricted funds year-to-date we have expended \$2,391,539.00 as we have the semi annual financial aid payout to the students. There will be more large expenditures in restricted financial aid in September as the student loans will be posted on September 25nd for the first time borrowers.

The expenditures and/or encumbrances for the month in the Plant funds were \$472,476.00 with the year-to-date total of \$2,909,921.00.

Total year-to-date expenditures through the month of August are \$10,151,145.00, which reflects the encumbrances for the various capital projects, the restricted fund expenditures, and the unrestricted expenditures.

The revenue for the month in Current Unrestricted Funds is \$3,590,904.00. Revenue consists of tuition and fees, the state appropriation, oil and gas monthly accrual, and auxiliary enterprises. As we mentioned last month, the Deferred Revenue from FY 15 was posted in August, which increased the Tuition and Fee revenue. In the restricted funds we received \$1,462,625.00 from restricted student aid and grant drawdown. Total revenue for the month of August is \$5,373,045.00, with the year-to-date revenue totaling \$7,731,577.00 or 19% of the projected revenue.

The Oil and Gas report is still reflecting the revenue the College received and is posting to FY 15. Oil and Gas funds received in August for the month of May were \$842,398.00.

In the Investment report there is \$10,593,127.00 in the LGIP, of which designated capital projects currently total \$15,066,253.47.

This is the Financial Report for August 2015.

NEW MEXICO JUNIOR COLLEGE
Expenditure Report
August 2015

17% of Year Completed

Fund	2014-15			2015-16			
	Final Budget	Year-to-Date Expended or Encumbered	Percentage of Budget Expended	Budget	Current Expended or Encumbered	Expended or Encumbered	Percentage of Budget Expended
CURRENT UNRESTRICTED FUND							
Instruction and General:							
Instruction	11,018,956	1,128,831	10%	10,103,380	635,158	1,149,054	11%
Academic Support	2,424,460	376,449	16%	2,628,124	224,012	446,003	17%
Student Services	2,074,588	252,656	12%	1,988,062	158,304	298,123	15%
Institutional Support	4,746,075	761,433	16%	3,694,568	310,710	726,031	20%
Operation & Maintenance of Plant	3,808,548	682,571	18%	3,658,460	308,112	761,995	21%
Subtotal - Instruction & General	24,072,627	3,201,940	13%	22,072,594	1,636,296	3,381,206	15%
Student Activities	0	0	0%	0	0	0	0%
Research	0	0	0%	0	0	0	0%
Public Service	0	0	0%	0	0	0	0%
Internal Service Departments	150,266	135,831	90%	85,520	15,606	44,841	52%
Student Aid	868,551	375,938	43%	668,551	294,645	315,866	47%
Auxiliary Enterprises	1,884,288	536,613	28%	1,858,486	270,531	707,282	38%
Athletics	1,425,760	358,580	25%	1,157,636	373,062	400,490	35%
Total Current Unrestricted Fund	28,401,492	4,608,902	16%	25,842,787	2,590,140	4,849,685	19%
CURRENT RESTRICTED FUND							
Grants	2,496,540	289,339	12%	2,055,881	131,043	753,718	37%
Student Aid	5,033,468	1,598,399	32%	4,989,673	1,461,083	1,637,821	33%
Total Current Restricted Fund	7,530,008	1,887,738	25%	7,045,554	1,592,126	2,391,539	34%
PLANT FUNDS							
Capital Outlay / Bldg. Renewal & Repl.							
Projects from Institutional Funds	8,757,760	1,753,567	20%	13,587,117	272,031	2,156,112	16%
Projects from State GOB Funds	3,050,000	2,456,022	0%	5,298,450		317,875	6%
Projects from State STB Funds	0	0	0%	705,000	59,000	59,000	0%
Projects from General Fund	0	3,856	0%	0		0	0%
Projects from Private Funds	0	0	0%	0		0	0%
Projects from State ER&R	332,720	86,843	26%	332,720	25,366	70,655	21%
Projects from State BR&R	597,281	246,157	41%	597,281	116,079	306,279	51%
Subtotal - Capital and BR&R	12,737,761	4,546,445	36%	20,520,568	472,476	2,909,921	14%
Debt Service							
Revenue Bonds	0	0	0%	0	0	0	0%
Total Plant Funds	12,737,761	4,546,445	36%	20,520,568	472,476	2,909,921	14%
GRAND TOTAL EXPENDITURES	48,669,261	11,043,085	23%	53,408,909	4,654,742	10,151,145	19%

NEW MEXICO JUNIOR COLLEGE
Revenue Report
August 2015

17% of Year Completed

Fund	2014-15			2015-16			
	Final Budget	Year-to-date Revenue	Percentage of Budget Received	Budget	Current Revenue	Year-to-date Revenue	Percentage of Budget Received
CURRENT UNRESTRICTED FUND							
Instruction and General:							
Tuition and Fees	3,684,200	1,168,697	32%	3,692,200	1,417,358	1,922,413	52%
State Appropriations	6,047,200	1,059,574	18%	6,129,500	510,928	1,021,732	17%
Advalorem Taxes - Oil and Gas	7,235,000	930,000	13%	7,235,000	465,000	930,000	13%
Advalorem Taxes - Property	6,003,500	0	0%	6,853,725		0	0%
Interest Income	5,000	51	1%	4,000	3	3	0%
Other Revenues	367,161	36,287	10%	317,000	20,069	20,433	6%
Subtotal - Instruction & General	23,342,061	3,194,609	14%	24,231,425	2,413,358	3,894,581	16%
Student Activities	0	0	0%	0	0	0	0%
Public Service	0	0	0%	0	0	0	0%
Internal Service Departments	27,000	0	0%	27,000			0%
Auxiliary Enterprises	2,251,000	1,182,539	53%	2,288,000	1,137,563	1,176,236	51%
Athletics	483,400	83,367	17%	487,100	39,983	80,893	17%
Total Current Unrestricted	26,103,461	4,460,515	17%	27,033,525	3,590,904	5,151,710	19%
CURRENT RESTRICTED FUND							
Grants	1,157,859	297,622	26%	2,055,881	131,883	754,304	37%
Student Aid	5,033,468	168,940	3%	4,989,673	1,330,742	1,506,047	30%
Total Current Restricted	6,191,327	466,562	8%	7,045,554	1,462,625	2,260,351	32%
PLANT FUNDS							
Capital Outlay / Bldg. Renewal & Repl.							
Projects from State GOB Funds	3,300,000	308,002	0%	5,000,000	317,875	317,875	0%
Projects from State STB Funds	0	0	0%	705,000	0	0	0%
Projects from General Fund	0	0	0%	0	0	0	0%
Projects from Private Funds	0	0	0%	0	0	0	0%
Interest Income (LGIP)	10,000	1,602	16%	13,105	1,641	1,641	0%
Total Plant Funds	3,310,000	309,604	9%	5,718,105	319,516	319,516	6%
GRAND TOTAL REVENUES	35,604,788	5,236,681	15%	39,797,184	5,373,045	7,731,577	19%

NEW MEXICO JUNIOR COLLEGE

Oil and Gas Revenue Report

June 2015

100% of Year Completed

		OIL		GAS		COMBINED		
Month of	Sales	Price per BBL	Lea County BBLs sold	Price per MCF	Lea County MCF sold	Monthly Revenue	2013-14 Original Budget	Variance Over (Under) Budget
Distribution								
Actual	July	\$75.60	5,043,401	\$5.99	15,571,479	1,232,271	465,000	767,271
Actual	August	\$80.78	4,888,347	\$5.46	15,838,690	1,090,531	465,000	625,531
Actual	September	\$77.29	4,582,238	\$5.46	15,443,043	1,002,059	465,000	537,059
Actual	October	\$72.15	5,068,963	\$4.90	15,511,710	967,962	465,000	502,962
Actual	November	\$65.01	4,872,656	\$4.20	16,152,246	960,049	465,000	495,049
Actual	December	\$51.46	5,015,297	\$3.90	16,346,691	691,458	465,000	226,458
Actual	January	\$39.89	5,086,948	\$3.05	15,217,830	580,363	465,000	115,363
Actual	February	\$40.90	4,819,225	\$3.16	14,799,293	643,429	465,000	178,429
Actual	March	\$39.99	6,002,050	\$2.73	16,430,801	699,383	465,000	234,383
Actual	April	\$45.96	6,206,853	\$2.86	16,997,526	778,060	465,000	313,060
Actual	May	\$51.25	6,146,306	\$3.03	17,863,571	842,398	465,000	377,398
Accrual	June					465,000	465,000	0
Y.T.D. Production Tax Revenue						9,952,963	5,580,000	4,372,963
Y.T.D. Equipment Tax Revenue						2,250,997	1,655,000	595,913
Total Year-to-Date Oil & Gas and Equipment Tax Revenue						12,203,960	7,235,000	4,968,876

Source: New Mexico Taxation and Revenue Department

NEW MEXICO JUNIOR COLLEGE

Schedule of Investments

August 2015

17% of Year Completed

Financial Institution	Amount Invested	Account Number	Interest Rate	Interest Earned
State of New Mexico Local Government Investment Pool	10,593,127	7102-1348	0.147%	1,641
Plus deposits	0			
Less withdrawals	0			
Total LGIP investments	<u>10,593,127</u>			<u>1,641</u>

Capital Projects	8/31/2015
Vehicles	2,812.94
Technology Upgrade	421,747.45
JASI	22,793.44
WHM South Gallery	266,594.43
Baseball Field	30,162.95
Rodeo Arena	17,076.20
Luminis Software	2,993.00
Landscaping	341,077.77
Campus Signage	2,801.67
Roof Replacement	27,382.26
Dorm/Apartment Refurbish	70,242.50
Campus Construction	386,891.25
Oil & Gas Training	161,766.39
Public Sector	19,227.00
Campus Security	109,045.04
Lumens Software-Distance Learnng	5,000.00
Copier Replacement	274.00
Non-Recurring Compensation	152,169.10
Athletics	142,991.36
Student Life Programming	12,260.28
Warehouse/Cont Ed Remodel	1,464.99
Succession Plan	108,152.25
Energy Technology Equipment	300,000.00
WHM Exhibits	110,798.78
Mansur Hall Upgrades	51,043.75
Senior Warm Water Wellness Ctr	3,500,000.00
Driving Range Upgrades	200,000.00
Cosmetology Remodel	700,000.00
Entertainment Technology	2,300,215.30
Cafeteria Upgrade	228,545.79
Channel 19 Upgrade	36,244.62
FERPA & Title IX	688.50
Equestrian Center	3,000,000.00
Bob Moran Upgrades	88,589.78
Campus/Hospital Fencing	200,000.00
Turf Replacement	184,175.00
Watson Hall Theater	238,511.90
WHM Titanic Exhibit	18,500.00
Mary Hagelstein Upgrades	100,000.00
HVAC Software-Central Plant	200,000.00
Infrastructure Upgrade	1,296,067.70
Cadet Supplement	3,268.04
Workforce Training Contingency	4,678.04
Total	15,066,253.47

NOTE: Capital projects total does not include encumbered funds



NEW MEXICO JUNIOR COLLEGE

Office of the President

Memo

DATE: September 11, 2015
TO: New Mexico Junior College Board Members
FROM: Steve McCleery *SM*
SUBJECT: Consideration of the Professional Services Contract for the Design/Design Development/Construction Documents/Construction Administration for the New Mexico Junior College Allied Health Building

Attached you have a proposal from Dekker/Perich/Sabatini for the Professional Services Contract for the Design/ Design Development/Construction Documents/Construction Administration for the New Mexico Junior College Allied Health Building. The Dekker/Perich/Sabatini Professional Services Contract meets the State of New Mexico purchasing requirements under the New Mexico Junior College Cooperative Educational Services (CES) Joint Powers Agreement (JPA). The administration recommends the approval of the proposal.

Thank you for your consideration.

Agreement Between Owner, Buyer and Architect

where the basis of payment is a
STIPULATED SUM

RECITAL

Buyer is an entity created by a Joint Powers Agreement as Authorized by Section 11-1-1, et. Seq., N.M.S.A., 1978, which consists of school districts in New Mexico that have joined together for the purpose of purchasing tangible personal property and services at economical prices.

Owner is a State owned higher education facility, which is a Party to the aforementioned Joint Powers Agreement, desiring to receive certain goods and services.

Seller has responded to a Request for Proposals published by Buyer in accordance with the Procurement Code, Section 13-1-137 (A), N.M.S.A., 1978, and a resultant contract has been issued to the Seller goods and services. Now the Buyer wishes to purchase such goods and services for the benefit of Owner. In order to consummate the agreement of the parties, it is necessary that the Buyer issue a Purchase Order to Seller under terms and conditions specified in the RFP, and that Owner issue its Purchase Order to Buyer under the same terms and conditions. This procedure insures that the funds of New Mexico taxpayers will be spent wisely and prudently.

To this extent, Buyer is acting as a conduit through which title to tangible goods may be vested in Owner. Buyer warrants and assures the Owner that it has complied with the Procurement Code, the Public Works Contract Act and the Sub-contractor Fair Practices Act in contracting for procurements from Seller. In consideration of the recitals and for other valuable consideration, it is agreed as follows:

1. Owner shall issue its purchase order to Buyer in which is stated the price, terms and conditions for acceptance of the goods and services by Owner. Buyer in turn shall issue its purchase order to Seller under the same price, terms, and conditions. Since Buyer is acting on behalf of Owner, it is agreed that Seller will assert no claim or suit against Buyer in the event that Seller fails to receive timely payment for its services and materials as set forth below or for any other claim which arises under this Agreement or the purchase orders.
2. Buyer's obligation hereunder will be to act as a procurement agent for the goods and services provided by Seller to Owner. Both Seller and Owner agree that neither will assert a claim against Buyer in the event that a dispute arises regarding the failure of Seller or Owner to perform as provided hereunder or as called for in the purchase orders.
3. If Buyer is named in a suit or dispute by either Seller or Owner, both parties agree jointly and severally to pay for Buyer's reasonable costs of defense, including attorney's fees and out of pocket expenses. This paragraph does not apply if the suit or dispute involves the intentional or

grossly negligent breach of Buyer's obligation as the escrow agent for payment under this Procurement Agreement.

4. Should Buyer be found to be liable for any claim against it in connection with the performance of this Agreement or the Purchase Orders, Owner will indemnify it by paying any sum determined to be owing by Buyer; provided, however, such liability shall not attach if such loss is occasioned by the gross negligence or intentional misconduct of Buyer.

AGREEMENT

Made as of the Twenty Sixth (26) day of August in the year Two Thousand Fifteen

BETWEEN the Owner: New Mexico Junior College

And the Buyer: Cooperative Educational Services,

And the Seller (hereafter called Architect): Dekker/Perich/Sabatini, Ltd.

The project is to provide architectural services for a new Allied Health building of approximately 25,000 sf on the campus of the New Mexico Junior College in Hobbs, NM. Refer to the attached proposal dated August 26, 2015. **These services include Schematic Design, Design Development, Construction Documents, Bidding and Negotiation, and Construction Administration. Programming is being contracted under a separate Agreement between NMJC/DPS and CES.**

The Owner, Buyer and Architect agree as set forth below:

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents, including terms and scope of work shall be as described in attached AIA B103 -2007 SP contract.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Architect shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND COMPLETION

3.1 The date of commencement shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Buyer in current funds for the Architect's performance of the Contract the Contract Sum listed in Exhibit A, subject to additions and deductions as provided in the Contract Documents.

ARTICLE 5
PROGRESS PAYMENTS

5.1 The Owner shall pay Buyer invoices, not exceeding the Contract Sum (referred to in 4.1), within 30 days of receipt of each invoice.

5.2 Based upon Applications for Payment submitted to the Owner's Representative by the Architect and Certificates for Payment issued by the Owner's Representative to the Buyer, the Buyer shall make payments to the Architect as provided below and elsewhere in the Contract Documents.

5.3 Progress payments, approved by Owner's Representative shall not be subject to retainage and shall be paid in full.

5.4 When an Application for Payment has been received by Owner's Representative, approval for payment indicated as Certificate for Payment, shall be transmitted to the Buyer within 5 working days. When the Buyer receives authorization, the Owner shall be invoiced within 5 working days.

5.5 Each Application for Payment shall be based upon the fee schedule submitted by the Architect in accordance with the Contract Documents. The fee schedule shall allocate the entire Contract Sum among the various phases of the Work, and be prepared in such form and supported by such data to substantiate its accuracy as the Buyer may require. This schedule, unless objected to by the Buyer, shall be used as a basis for reviewing the Architect's Applications for Payment.

ARTICLE 6
MISCELLANEOUS PROVISIONS

6.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

6.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

1.5% Per Month.

6.3 The Owner’s representative shall be as follows, and may be modified at the option of the Owner: Charley Carroll, Director of Physical Plant.

6.4. Copies of Change Orders and other changes to this Agreement (including Exhibits) shall be provided to Buyer by Architect.

ARTICLE 7
TERMINATION OR SUSPENSION

7.1 Termination or suspension shall be per AIA Document B103-2007 SP.

ARTICLE 8
ENUMERATION OF CONTRACT DOCUMENTS

8.1 Attached: AIA document B103-2007 SP Standard Form of Agreement Between Owner and Architect for a Large or Complex Project.

8.2 Exhibit A: Preliminary project budget

8.3 Exhibit B: D/P/S CES Discounted Hourly Rates

8.4 Exhibit C: Design Professional Services Proposal, dated August 26, 2015

8.5 Exhibit D: AIA Document B214-2012 Standard Form of Architect’s Services: LEED Certification

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Architect, one to the Buyer for use in the administration of the Contract, and the remainder to the Owner.

OWNER

ARCHITECT

BUYER

(Signature)

(Signature)

(Signature)

(Printed name and title)

Matthew McKim, AIA
Vice President

(Printed name and title)



AIA[®]

Document B103™ – 2007 SP

Standard Form of Agreement Between Owner and Architect for a Large or Complex Sustainable Project

AGREEMENT made as of the Twenty Sixth day of August in the year Two Thousand Fifteen
(In words, indicate day, month and year.)

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

New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

And

Buyer
Cooperative Education Services (CES)
4216 Balloon Park RD NE
Albuquerque, NM 87109-5801

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

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109
Telephone Number (505) 761-9700

for the following Project:
(Name, location and detailed description)

Schematic Design, Design Development, Construction Documents, Bidding and Negotiation, and Construction Administration phase services for the New Allied Health Building on the campus of the NMJC. Currently the total project is set at \$6.9M, with a MACC of \$5.175M. Programming (performed under a separate contract between NMJC/DPS/CES) and budget will determine square footage and project scope.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Init.

TABLE OF ARTICLES

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

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

§ 1.1.1 The Owner's program for the Project:

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

Will be mutually developed by the Owner and Architect under a separate contract between NMJC/DPS and CES.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

This project is planned to be constructed on undeveloped land adjacent to the existing Western Heritage Center and will need to be connected to the existing chilled and hot water system. Anticipated is direct bury piping and not a utility tunnel extension.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

Total budget is anticipated at Six million nine hundred dollars. NMJC has received seven hundred five thousand dollars from the State and is requesting additional funding from the 2016 GO Bond. A preliminary breakdown of the budget is attached as Exhibit A to the Agreement.

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

Init.

The schedule will be mutually developed and agreed upon in writing between the Owner and Architect.

.2 Commencement of construction:

To be determined.

.3 Substantial Completion, as defined in Section 9.8.1 of AIA Document A201™–2007 SP, date or milestone dates:

To be determined.

.4 Other:

To be determined.

§ 1.1.5 The Owner intends the following procurement or delivery method for the Project:
(Identify method such as competitive bid, negotiated contract or construction management.)

To be determined.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:
(List number and type of bid/procurement packages.)

Due to funding, it is anticipated that a base bid with additive bid alternates will be developed. If an early work package becomes necessary, D/P/S will propose this service as an additional service.

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:
(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency.)

Based upon Executive Order 2006-001, this project will be required to meet LEED Certification at the Silver Level.

§ 1.1.8 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives, including those that are dependent on the Architect's services, are as follows:
(Identify incentive programs the Owner intends to pursue and deadlines for submitting or applying for the incentive program.)

To be determined.

§ 1.1.9 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

The Owner will provide the required survey and geotechnical report for use by the Architect.

§ 1.1.10 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address and other information.)

Charley Carroll
Director of Physical Plant
New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

Init.

(575) 492-2660

§ 1.1.11 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address and other information.)

Dr. Steve McCleery – President, Dan Hardin – Vice President for Finance.

§ 1.1.12 The Owner will retain the following consultants and contractors:
(List name, legal status, address and other information.)

.1 Cost Consultant:

The Architect will provide a cost estimate at the end of each design phase.

.2 Scheduling Consultant:

Not applicable.

.3 Geotechnical Engineer:

To be determined.

.4 Civil Engineer:

To be provided by the Architect.

.5 Other, if any:

(List any other consultants or contractors retained by the Owner, including a commissioning agent and others, such as a Project or Program Manager, construction contractor, or construction manager as constructor.)

Surveying – to be determined.

Environmental consultants if needed.

§ 1.1.13 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address and other information.)

Matthew McKim – Principal in Charge
Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

§ 1.1.14 The Architect will retain the consultants identified in Sections 1.1.14.1 and 1.1.14.2:
(List name, legal status, address and other information.)

§ 1.1.14.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

.2 Mechanical Engineer:

Bridgers and Paxton Consulting Engineers
4600 Montgomery NE
Albuquerque, NM 87109

Init.

.3 Electrical Engineer:

Bridgers and Paxton Consulting Engineers
4600 Montgomery NE
Albuquerque, NM 87109

§ 1.1.14.2 Consultants retained pursuant to Sustainability Services:

(If known, list Consultants who will provide services pursuant to Section 3.3, including any consultants already listed in Section 1.1.14.1.)

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

§ 1.1.14.3 Consultants retained under Additional Services:

If Landscape Architecture or Furniture, Fixtures and Equipment (FF+E) becomes necessary, these will be provided by Dekker/Perich/Sabatini, LTD. As additional services.

§ 1.1.15 Other Initial Information on which the Agreement is based:

D/P/S Proposal dated August Twenty Sixth, Two Thousand Fifteen attached to this Agreement as Exhibit C.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 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.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 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.

§ 2.5 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.

§ 2.5.1 Comprehensive General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) combined single limit and aggregate for bodily injury and property damage.

§ 2.5.3 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.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than Five Hundred Thousand Dollars and Zero Cents (\$ 500,000.00).

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and in the aggregate.

§ 2.5.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES AND SUSTAINABILITY SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Section 3.1 and 3.2 and include usual and customary structural, mechanical, and electrical engineering services. The Architect's Sustainability Services consist of those described in Section 3.3. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 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.

§ 3.1.2 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. 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.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Scheduling Consultant a schedule of the Architect's services for inclusion in the Project schedule. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review (2) for the performance of the Owner's consultants, and (3) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 Upon the Owner's reasonable request, the Architect shall submit information to the Scheduling Consultant and participate in developing and revising the Project schedule as it relates to the Architect's services.

§ 3.1.5 Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

§ 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.7 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

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

§ 3.2 Scope of Architect's Basic Services

§ 3.2.1 Schematic Design Phase Services

§ 3.2.1.1 The Architect shall provide the program under a separate contract and review the other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.1.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.1.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of the Owner's Sustainable Objective. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.1.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.1.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.1.5.1 In providing the Sustainability Services under Section 3.3, the Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.1.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.1.6 The Architect shall submit the Schematic Design Documents, and the Sustainability Plan prepared in accordance with Section 3.3.4.1, to the Owner and the Cost Consultant. The Architect shall meet with the Cost Consultant to review the Schematic Design Documents and the Sustainability Plan.

§ 3.2.1.7 Upon receipt of the Cost Consultant's estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents and the Sustainability Plan. If revisions to the Schematic Design Documents, or the Sustainability Plan, are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.2.2 Design Development Phase Services

§ 3.2.2.1 Based on the Owner's approval of the Schematic Design Documents and the Sustainability Plan, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.3, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.2.2.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Cost Consultant and advise the Owner and Cost Consultant of any adjustments to the Sustainability Plan. The Architect shall meet with the Cost Consultant to review the Design Development Documents and the Sustainability Plan.

§ 3.2.2.3 Upon receipt of the Cost Consultant's estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents and any revisions to the Sustainability Plan.

§ 3.2.3 Construction Documents Phase Services

§ 3.2.3.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements, the budget for the Cost of the Work, and the Sustainability Plan, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents 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 Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.2.5.4.

§ 3.2.3.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.2.3.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions); and (4) the Sustainability Plan. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.2.3.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Cost Consultant and advise the Owner and Cost Consultant of any adjustments to the Sustainability Plan. The Architect shall meet with the Cost Consultant to review the Construction Documents and the Sustainability Plan.

§ 3.2.3.5 Upon receipt of the Cost Consultant's estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents and any revisions to the Sustainability Plan.

§ 3.2.4 Bidding Or Negotiation Phase Services

§ 3.2.4.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

§ 3.2.4.2 Competitive Bidding

§ 3.2.4.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.2.4.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of addenda.

§ 3.2.4.2.3 If the Bidding Documents permit substitutions, the Architect shall consider requests for substitutions, including any effect on achievement of the Sustainable Objective or Sustainable Measures, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.2.4.3 Negotiated Proposals

§ 3.2.4.3.1 Proposal Documents shall consist of proposal requirements, and proposed Contract Documents.

§ 3.2.4.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors.

§ 3.2.4.3.3 If the Proposal Documents permit substitutions, the Architect shall consider requests for substitutions, including any effect on achievement of the Sustainable Objective or Sustainable Measures, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.2.5 Construction Phase Services

§ 3.2.5.1 General

§ 3.2.5.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project. If the Owner and Contractor modify AIA Document A201–2007 SP, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.2.5.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.2.5.1.3 Subject to Section 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.2.5.2 Evaluations of the Work

§ 3.2.5.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

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

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

§ 3.2.5.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect’s decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.2.5.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007 SP, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.2.5.3 Certificates for Payment to Contractor

§ 3.2.5.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.2.5.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.2.5.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.2.5.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.2.5.4 Submittals

§ 3.2.5.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.2.5.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.2.5.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.2.5.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.2.5.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.2.5.5 Changes in the Work

§ 3.2.5.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.2.5.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.2.5.6 Project Completion

§ 3.2.5.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to the Architect's issuance of a Certificate of Substantial Completion.

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

§ 3.2.5.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.2.5.6.4 The Architect shall forward to the Owner the following information received from the Contractor:
(1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment;
(2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents, except for Sustainability Documentation which by its nature must be completed after Substantial Completion.

§ 3.2.5.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.3 Scope of Architect's Sustainability Services

§ 3.3.1 In conjunction with the services described in Sections 3.1 and 3.2, the Architect shall provide the Sustainability Services described in this Section 3.3 as an additional service

§ 3.3.2 Sustainability Certification Agreements

If the anticipated Sustainable Objective set forth in the Initial Information includes a Sustainability Certification, the Architect shall provide the Owner with copies of all agreements required by the Certifying Authority to register the Project and pursue the Sustainability Certification. The Owner and Architect will review and confirm that the terms of those agreements are acceptable to the Owner before moving forward with the Sustainability Services under Section 3.3. The Owner agrees to execute all documents required by the Certifying Authority to be executed by the Owner, including any documentation required to establish the authority of the Architect as an agent of the Owner for the limited purpose of pursuing the Sustainability Certification.

§ 3.3.3 Sustainability Workshop

Following the Owner's approval of the preliminary design under Section 3.2.1.5, the Architect shall conduct a Sustainability Workshop with the Owner and, as requested by the Architect, with the Owner's consultants and the Architect's consultants, during which the participants will: review and discuss potential Sustainability Certifications; establish the Sustainable Objective; discuss potential Sustainable Measures to be targeted; examine strategies for implementation of the Sustainable Measures; and discuss the potential impact of the Sustainable Measures on the Project schedule and the Owner's program and budget.

§ 3.3.4 Sustainability Plan Services

§ 3.3.4.1 Following the Sustainability Workshop, the Architect shall prepare a Sustainability Plan based on the Sustainable Objective and targeted Sustainable Measures.

(Paragraph deleted)

§ 3.3.4.3 The Architect shall perform those Sustainable Measures identified as the responsibility of the Architect in the approved Sustainability Plan and any approved changes to the Sustainability Plan. If the Sustainability Plan requires the Architect to provide services beyond those based on the Initial Information, those services shall be provided pursuant to Section 4.3.1.1.

§ 3.3.4.4 Subject to Section 4.3.3, the Architect shall make adjustments to the Sustainability Plan as the design and construction of the Project progresses to reflect any approved changes.

§ 3.3.5 Design Phases

§ 3.3.5.1 The Architect shall prepare Schematic Design Documents, Design Development Documents and Construction Documents that incorporate the Sustainable Measures identified in the Sustainability Plan, as appropriate.

§ 3.3.5.2 As part of the Sustainable Measures, the Owner's Sustainable Objective for the Project may require the use of materials and equipment that have had limited testing or verification of performance. The Architect may be unable to determine whether the materials or equipment will perform as represented by the manufacturer or supplier. The Architect shall discuss with the Owner the proposed use of such materials or equipment and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturer's or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Architect shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.

§ 3.3.6 Construction Phase

§ 3.3.6.1 The Architect shall advise and consult with the Owner regarding the progress of the Project toward achievement of the Sustainable Measures. Based on site visits performed in accordance with Section 3.2.5.2.1 and other information received from the Contractor, the Architect shall promptly notify the Owner of known deviations from the Contract Documents and defects or deficiencies in the Work that the Architect recognizes will impact achievement of Sustainable Measures. The Architect shall meet with the Owner and Contractor to discuss alternatives to remedy the condition.

§ 3.3.6.2 If the Architect determines that implementation of a proposed change in the Work would materially impact a Sustainable Measure or the Sustainable Objective, the Architect shall notify the Owner. The Owner may authorize further investigation of such change.

§ 3.3.6.3 Subject to Section 4.3.2.2, the Architect shall provide responses to the Contractor's request for information to describe how a product, material or equipment was intended to satisfy the requirements of a Sustainable Measure or contribute toward achievement of the Sustainable Objective.

§ 3.3.7 Project Registration and Submissions of Sustainability Documentation to the Certifying Authority

§ 3.3.7.1 If the Sustainable Objective includes a Sustainability Certification, the Architect, as agent for the Owner, shall perform the services set forth in this Section 3.3.7.

§ 3.3.7.2 The Architect shall register the Project with the Certifying Authority. Registration fees and any other fees charged by the Certifying Authority, and paid by the Architect, shall be a reimbursable expense under Section 11.9.1 of this Agreement and shall be credited against any initial payment received pursuant to Section 11.11.1.1.

§ 3.3.7.3 Subject to Section 4.3.3, the Architect shall collect the Sustainability Documentation from the Owner and Contractor; organize and manage the Sustainability Documentation; and submit the Sustainability Documentation to the Certifying Authority as required for the Sustainability Certification process.

§ 3.3.7.4 Subject to Section 4.3.3, and provided the Architect receives timely notice from the Owner or Certifying Authority, the Architect shall prepare and file necessary documentation with the Certifying Authority to appeal a ruling or other interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification.

§ 3.3.7.5 Subject to Section 4.3.3, the Architect shall prepare and submit the application for certification of the Project to the Certifying Authority, including any required supporting documentation, in accordance with the Sustainability Plan.

§ 3.3.7.6 Subject to Section 4.3.3, the Architect shall prepare responses to, and submit additional documentation required by, comments or questions received from the Certifying Authority.

§ 3.3.7.7 Any certification, declaration or affirmation the Architect makes to the Certifying Authority shall not constitute a warranty or guarantee to the Owner or the Owner’s contractors or consultants.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services or Sustainability Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.3.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Programming (B202™–2009)	NP	
§ 4.1.2 Multiple preliminary designs	NP	
§ 4.1.3 Measured drawings	NP	
§ 4.1.4 Existing facilities surveys	NP	
§ 4.1.5 Site Evaluation and Planning (B203™–2007)	NP	
§ 4.1.6 Building information modeling (E202™–2008)	TBD	4.2.1
§ 4.1.7 Civil engineering	Architect	4.2.2
§ 4.1.8 Landscape design	NP	
§ 4.1.9 Architectural Interior Design (B252™–2007)	Architect	4.2.3
§ 4.1.10 Value Analysis (B204™–2007)	NP	
§ 4.1.11 Detailed cost estimating	NP	
§ 4.1.12 On-site project representation (B207™–2008)	NP	
§ 4.1.13 Conformed construction documents	NP	
§ 4.1.14 As-Designed Record drawings	NP	
§ 4.1.15 As-Constructed Record drawings	Architect	4.2.4
§ 4.1.16 Post occupancy evaluation	NP	
§ 4.1.17 Facility Support Services (B210™–2007)	NP	
§ 4.1.18 Tenant-related services	NP	
§ 4.1.19 Coordination of Owner’s consultants	NP	
§ 4.1.20 Telecommunications/data design	NP	
§ 4.1.21 Security Evaluation and Planning (B206™–2007)	NP	
§ 4.1.22 Commissioning (B211™–2007)	Owner	
§ 4.1.23 Historic Preservation (B205™–2007)	NP	
§ 4.1.24 Furniture, Furnishings, and Equipment Design (B253™–2007)	NP	

Init.

§ 4.1.25	Regional or Urban Planning (B212™-2012)	NP	
4.1.26	LEED Certification (B214-2012)	Architect	4.2.5

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

4.2.1 Building Information Modeling (BIM) will be assessed by the Architect and its consultants (collectively Architect) and implemented in their sole discretion based on feasibility.

4.2.2 Civil Engineering design services will be provided by the Architect for the scope of work defined as the project area or LEED site area. Offsite improvements to bring utilities to the project site or to make other improvements would be viewed as an additional service. Extending the existing campus chilled and hot water lines as direct bury pipe is the responsibility of the Architect, although this may change if the site and distance to the existing loop changes.

4.2.3 Architectural Interior Design are included in this Agreement. Scope of such services include working with the Owner to identify and select new interior finishes and decorative lighting, but not window coverings, furnishings and equipment such as classroom and conference chairs and tables, office desks or chairs as these are considered FF+E items.

4.2.4 Architect will prepare As-Constructed Record Drawings in electronic format by updating Architect's electronic files. In this effort Architect shall be entitled to rely upon the Contractor's redline field set of drawings, and is not required to make field measurements to confirm accuracy or completeness of Contractor's redline set.

4.2.5 LEED Certification is required by the Governor's mandate as LEED Silver or higher. The Architect will provide these consulting services per Exhibit D – AIA Document B214.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.4 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .3 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .4
- .5
- .6
- .7 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .8
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .10 Assistance to the Initial Decision Maker, if other than the Architect;
- .11 Changing or editing previously prepared Instruments of Service, including the Sustainability Plan, necessitated by the Certifying Authority's changes in the requirements necessary to achieve the Sustainability Certification; or
- .12 Assistance to the Owner or Contractor with preparation of Sustainability Documentation for which the Owner or Contractor is responsible pursuant to the Sustainability Plan.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Fifty Two (52) visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

(Paragraphs deleted)

§ 4.3.4 Except as otherwise provided in Section 4.3.5, if the services covered by this Agreement have not been completed within Thirty Two (32) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

§ 4.3.5 If the Sustainability Services required of the Architect by Section 3.3 have not been completed within Thirty Eight (38) months after the date of Substantial Completion, through no fault of the Architect, extension of the Architect's services under Section 3.3 beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall furnish the services of a Scheduling Consultant that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

§ 5.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Cost Consultant that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

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

§ 5.7 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.8 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 5.10 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.11 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.12 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.13 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.14 Based on the Owner's approval of the Sustainability Plan and any approved changes to the Sustainability Plan, the Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the

Sustainability Plan, or as otherwise required by the Contract Documents. The Owner shall require that each of its contractors and consultants performs their respective services in accordance with the Sustainability Plan.

§ 5.15 The Owner shall provide to the Architect any information requested by the Architect that is relevant and necessary for achievement of the Sustainable Objective, including: design drawings; construction documents; record drawings; shop drawings and other submittals; operation and maintenance manuals; master plans; building operation costs; building operation budgets; pertinent records relative to historical building data, building equipment and furnishings; and repair records.

§ 5.16 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

§ 5.17 The Owner shall be responsible for preparing, filing, and prosecuting appeals to the Certifying Authority, or taking any other actions determined by the Owner to be necessary or desirable, arising from the revocation or reduction of an awarded Sustainability Certification.

§ 5.18 Unless the Architect is to provide commissioning services pursuant to Section 4.1.22, the Owner shall provide the services of a commissioning agent that shall be responsible for commissioning of the Project.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Cost Consultant to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Cost Consultant prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Cost Consultant's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Cost Consultant's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Cost Consultant's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Cost Consultant, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project and to allow the Certifying Authority to publish the Instruments of Service, or any other information, in accordance with the policies and agreements required by the Certifying Authority. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes, including requirements of a Certifying Authority, in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. Solely for the purpose of obtaining or maintaining the Sustainability Certification, the Architect also grants the Owner a nonexclusive license to submit the Architect's Instruments of Service, directly or through third parties, to the Certifying Authority to comply with the requirements imposed by the Certifying Authority and further grants the Owner a nonexclusive license to allow the Certifying Authority to publish the Instruments of Service in accordance with the policies and agreements required by the Certifying Authority. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The licenses granted under this Section permit the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. The licenses granted in this Section 7.3 are valid only if the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the licenses granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 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 the method of binding dispute resolution selected in this Agreement 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 8.1.1.

Init.

§ 8.1.2 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 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project. 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.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner’s officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, 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 under this Agreement. The Architect’s duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.4 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, except as specifically provided in Section 9.7.

§ 8.1.4.1 The mutual waiver in this Section 8.1.4 expressly includes those consequential damages resulting from failure of the Project to achieve the Sustainable Objective, or failure to achieve one or more Sustainable Measures, including unachieved energy savings, unintended operational expenses, lost financial or tax incentives, or unachieved gains in worker productivity.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect’s services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

Init.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. 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.

§ 9.2 If the Owner suspends the Project, 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.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 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.

§ 9.6 In the event of termination not 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 9.7.

§ 9.7 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, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.10.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 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. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the

Architect for review at least 14 days prior to 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.

§ 10.5 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.

§ 10.6 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.

§ 10.7 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.

§ 10.8 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, (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) the Certifying Authority or such other persons or entities that need to receive such information in order for the Owner or Architect to fulfill their obligations under this Agreement.

§ 10.9 The Owner and Architect acknowledge that achieving the Sustainable Objective is dependent on many factors beyond the Architect's control, such as the Owner's use and operation of the Project; the Work provided by the Contractor or the work or services provided by the Owner's other contractors or consultants; or interpretation of credit requirements by a Certifying Authority. Accordingly, the Architect does not warrant or guarantee that the Project will achieve the Sustainable Objective.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Sections 3.1 and 3.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Fixed Fee with detail as follows:

AE Basic Fee breakdown

Basic Services \$372,600.00

LEED AP Consulting \$ 58,500.00

Total Basic Services less NMGRT, Reimbursables \$431,100.00

NMGRT will be in addition to the fees shown above and billed at the prevailing rate at invoicing.

§ 11.2 For the Architect's Sustainability Services described under Section 3.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

As shown in 11.1.

§ 11.3 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Additional Services shall be mutually agreed upon in writing by the parties in advance of the services being performed.

§ 11.4 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Init.

Additional Services shall be mutually agreed upon in writing by the parties in advance of the services being performed.

§ 11.5 Compensation for Additional Services of the Architect’s consultants when not included in Sections 11.3 or 11.4, shall be the amount invoiced to the Architect plus Tenpercent (10 %), or as otherwise stated below:

§ 11.6 Where compensation for Basic Services described in Sections 3.1 and 3.2 is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Thirty	percent (	30	%)
Construction Documents Phase	Twenty Five	percent (	25	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty Five	percent (	25	%)
Total Basic Compensation	one hundred	percent (	100	%)

The Owner acknowledges that with an accelerated Project delivery or multiple bid package process, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6.1 Where compensation for the Sustainability Services described in Section 3.3 is also based on a stipulated sum or percentage of the Cost of the Work, the Sustainability Services shall be compensated in accordance with the schedule set forth in Section 11.6 unless otherwise provided below:

(If different than Section 11.6, insert the compensation schedule for Sustainability Services based on a stipulated sum or percentage of the Cost of the Work.)

LEED AP Consulting compensation is an additional service and will be billed as work is completed.

§ 11.7 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.6 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.8 The hourly billing rates for services of the Architect and the Architect’s consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Refer to Exhibit B for Architect’s discounted hourly rates for use with a CES Three Party Agreement.

Employee or Category

Rate

§ 11.9 Compensation for Reimbursable Expenses

§ 11.9.1 Reimbursable Expenses are in addition to compensation for Basic, Sustainability and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;

Init.

- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .11 Additional expenses for Project specific software or other equipment or materials necessary to achieve, or directly related to, the Sustainable Objective, with prior written approval from the Owner;
- .12 Registration fees and any other fees charged by the Certifying Authority;
- .13 Presentation materials required for submission to the Certifying Authority or as otherwise necessary to achieve the Sustainable Objective, with prior written approval from the Owner; and
- .14 Other similar Project-related expenditures.

§ 11.9.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0 %) of the expenses incurred.

§ 11.10 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

None

§ 11.11 Payments to the Architect

§ 11.11.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.11.1.1 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred. These costs will be treated as Reimbursable and are shown on D/P/S's proposal dated August Twenty Sixth, Two Thousand Fifteen.

§ 11.11.2 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 Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

1.00 % Monthly

§ 11.11.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.11.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

12.1 Owner acknowledges that Architect will use a variety of electronic media in the course of creation of the construction documents, which may include, but not be limited to, Building Information Management (BIM) software, Computer Aided Drafting (CAD) software, three-dimensional modeling software, databases, spreadsheets and the like. Owner acknowledges that these electronic files, while part of the instruments of service, are not construction documents, and differences may exist between these electronic files and corresponding hard-copy construction documents. Virtual models of the project, while useful in the development of the design intent and instruments of service, are not to be construed as complete or accurate representations of all facets and details of the project and shall not be relied upon independent of the hard-copy construction drawings. Architect makes no representation as to the accuracy or completeness of the electronic files. In the event that a conflict arises between the signed or sealed hard-copy construction documents prepared by Architect and/or its consultants and the electronic files, the signed or sealed hard-copy construction documents shall govern.

With Owner's approval and completion by Owner or Owner's Contractor of Architect's form for Electronic File Release Indemnification, copies of electronic files for the project will be provided to the Owner and/or the Contractor for their use. However, it is expressly understood that use of these electronic files is at the Owner's and/or the Contractor's own risk, and the Owner and/or Contractor shall, to the fullest extent permitted by law, indemnify and hold harmless the Architect and its consultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or resulting from the use of these electronic files, or changes made by anyone other than the Architect or its consultants, or from any transfer or reuse of the electronic files with the prior written consent of the Architect. Owner and/or Contractor agree that by the use of these electronic files during construction, the Contractor is not relieved of the duty to fully comply with the contract documents, including, and without limitation, the need to check, confirm and coordinate all dimensions and details, take field measurements, verify field conditions and coordinate the work with that of other contractors for the project.

Under no circumstances shall delivery of the electronic files for use by the Owner and/or Contractor be deemed a sale by the Architect or its consultants, and the Architect makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Architect or its consultants be liable for any loss of profit or any consequential damages as a result of the Owner's and/or Contractor's use or reuse of the electronic files

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 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.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B103™–2007 SP, Standard Form Agreement Between Owner and Architect for a Large or Complex Sustainable Project
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
None
- .3 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)
Exhibit A – Preliminary Project Budget
Exhibit B – Architect's Discounted Hourly Rates
Exhibit C – Architect's Proposal dated August Fourth, Two Thousand Fifteen
Exhibit D – AIA Document B214-2012

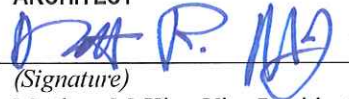
This Agreement entered into as of the day and year first written above.

OWNER

(Signature)

(Printed name and title)

ARCHITECT



(Signature)

Matthew McKim, Vice President

(Printed name and title)



Init.

Total budget is anticipated at Six million nine hundred dollars. NMJC has received seven hundred five thousand dollars from the State and is requesting additional funding from the 2016 GO Bond. A preliminary breakdown of the budget is attached as Exhibit A to the Agreement.

PAGE 3

The schedule will be mutually developed and agreed upon in writing between the Owner and Architect.

...

To be determined.

...

To be determined.

...

To be determined.

...

To be determined.

...

Due to funding, it is anticipated that a base bid with additive bid alternates will be developed. If an early work package becomes necessary, D/P/S will propose this service as an additional service.

...

Based upon Executive Order 2006-001, this project will be required to meet LEED Certification at the Silver Level.

...

To be determined.

...

The Owner will provide the required survey and geotechnical report for use by the Architect.

...

Charley Carroll
Director of Physical Plant
New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240
(575) 492-2660

PAGE 4

Dr. Steve McCleery – President, Dan Hardin – Vice President for Finance.

...

The Architect will provide a cost estimate at the end of each design phase.

...

Not applicable.

...

To be determined.

...

To be provided by the Architect.

...

Surveying – to be determined.
Environmental consultants if needed.

...

Matthew McKim – Principal in Charge
Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

...

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

...

Bridgers and Paxton Consulting Engineers
4600 Montgomery NE
Albuquerque, NM 87109

PAGE 5

Bridgers and Paxton Consulting Engineers
4600 Montgomery NE
Albuquerque, NM 87109

...

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

...

If Landscape Architecture or Furniture, Fixtures and Equipment (FF+E) becomes necessary, these will be provided by Dekker/Perich/Sabatini, LTD. As additional services.

...

D/P/S Proposal dated August Twenty Sixth, Two Thousand Fifteen attached to this Agreement as Exhibit C.

...

§ 2.5.1 Comprehensive General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) combined single limit and aggregate for bodily injury and property damage.

PAGE 6

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than Five Hundred Thousand Dollars and Zero Cents (\$ 500,000.00).

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and in the aggregate.

...

§ 3.2.1.1 The Architect shall ~~review the program and provide the program under a separate contract and review the~~ other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

PAGE 11

§ 3.3.1 In conjunction with the services described in Sections 3.1 and 3.2, the Architect shall provide the Sustainability Services described in this ~~Section 3.3.~~ Section 3.3 as an additional service

PAGE 12

~~§ 3.3.4.2 The Architect shall provide the Scheduling Consultant with a schedule for implementation of the Sustainability Plan for incorporation into the Project Schedule, including submissions of Sustainability Documentation to the Architect and the submission to the Certifying Authority.~~

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§ 4.1.1	Programming (B202 TM -2009)	<u>NP</u>	
§ 4.1.2	Multiple preliminary designs	<u>NP</u>	
§ 4.1.3	Measured drawings	<u>NP</u>	
§ 4.1.4	Existing facilities surveys	<u>NP</u>	
§ 4.1.5	Site Evaluation and Planning (B203 TM -2007)	<u>NP</u>	
§ 4.1.6	Building information modeling (E202 TM -2008)	<u>TBD</u>	<u>4.2.1</u>
§ 4.1.7	Civil engineering	<u>Architect</u>	<u>4.2.2</u>
§ 4.1.8	Landscape design	<u>NP</u>	
§ 4.1.9	Architectural Interior Design (B252 TM -2007)	<u>Architect</u>	<u>4.2.3</u>
§ 4.1.10	Value Analysis (B204 TM -2007)	<u>NP</u>	
§ 4.1.11	Detailed cost estimating	<u>NP</u>	
§ 4.1.12	On-site project representation (B207 TM -2008)	<u>NP</u>	
§ 4.1.13	Conformed construction documents	<u>NP</u>	
§ 4.1.14	As-Designed Record drawings	<u>NP</u>	

§ 4.1.15	As-Constructed Record drawings	<u>Architect</u>	<u>4.2.4</u>
§ 4.1.16	Post occupancy evaluation	<u>NP</u>	
§ 4.1.17	Facility Support Services (B210™-2007)	<u>NP</u>	
§ 4.1.18	Tenant-related services	<u>NP</u>	
§ 4.1.19	Coordination of Owner's consultants	<u>NP</u>	
§ 4.1.20	Telecommunications/data design	<u>NP</u>	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	<u>NP</u>	
§ 4.1.22	Commissioning (B211™-2007)	<u>Owner</u>	
§ 4.1.23	Historic Preservation (B205™-2007)	<u>NP</u>	
§ 4.1.24	Furniture, Furnishings, and Equipment Design (B253™-2007)	<u>NP</u>	
§ 4.1.25	Regional or Urban Planning (B212™-2012)	<u>NP</u>	
4.1.26	LEED Certification (B214-2012)	<u>Architect</u>	<u>4.2.5</u>

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4.2.1 Building Information Modeling (BIM) will be assessed by the Architect and its consultants (collectively Architect) and implemented in their sole discretion based on feasibility.

4.2.2 Civil Engineering design services will be provided by the Architect for the scope of work defined as the project area or LEED site area. Offsite improvements to bring utilities to the project site or to make other improvements would be viewed as an additional service. Extending the existing campus chilled and hot water lines as direct bury pipe is the responsibility of the Architect, although this may change if the site and distance to the existing loop changes.

4.2.3 Architectural Interior Design are included in this Agreement. Scope of such services include working with the Owner to identify and select new interior finishes and decorative lighting, but not window coverings, furnishings and equipment such as classroom and conference chairs and tables, office desks or chairs as these are considered FF+E items.

4.2.4 Architect will prepare As-Constructed Record Drawings in electronic format by updating Architect's electronic files. In this effort Architect shall be entitled to rely upon the Contractor's redline field set of drawings, and is not required to make field measurements to confirm accuracy or completeness of Contractor's redline set.

4.2.5 LEED Certification is required by the Governor's mandate as LEED Silver or higher. The Architect will provide these consulting services per Exhibit D – AIA Document B214.

...

- ~~.4 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~.5 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~
- ~~.6 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

- ~~.8 Evaluation of the qualifications of bidders or persons providing proposals;~~

PAGE 15

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Fifty Two (52) visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

- .4 Two (2) inspections for any portion of the Work to determine final completion
- ~~.5 () adjustments to the Sustainability Plan~~
- ~~.6 () meetings during the Design and Construction Phases required to define, develop and incorporate the Sustainable Measures into the Contract Documents~~
- ~~.7 () submittals to the Certifying Authority~~
- ~~.8 () responses to the Certifying Authority's comments and questions~~
- ~~.9 () appeals to the Certifying Authority pursuant to Section 3.3.7.4~~
- ~~.10 () meetings with the Owner and Contractor, pursuant to Section 3.3.6.1, to discuss alternatives to remedy deviations from the Contract Documents or defects or deficiencies in the Contractor's Work~~

§ 4.3.4 Except as otherwise provided in Section 4.3.5, if the services covered by this Agreement have not been completed within Thirty Two (32) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

§ 4.3.5 If the Sustainability Services required of the Architect by Section 3.3 have not been completed within Thirty Eight (38) months after the date of Substantial Completion, through no fault of the Architect, extension of the Architect's services under Section 3.3 beyond that time shall be compensated as Additional Services.

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[X] Litigation in a court of competent jurisdiction

PAGE 20

§ 8.3 Arbitration

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 8.3.4 Consolidation or Joinder

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an~~

~~additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

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Fixed Fee with detail as follows:

AE Basic Fee breakdown

Basic Services	\$372,600.00
LEED AP Consulting	\$ 58,500.00
Total Basic Services less NMGRT, Reimbursables	\$431,100.00

NMGRT will be in addition to the fees shown above and billed at the prevailing rate at invoicing.

...

As shown in 11.1.

...

Additional Services shall be mutually agreed upon in writing by the parties in advance of the services being performed.

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Additional Services shall be mutually agreed upon in writing by the parties in advance of the services being performed.

§ 11.5 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.3 or 11.4, shall be the amount invoiced to the Architect plus ~~percent~~ (Tenpercent (10 %)), or as otherwise stated below:

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Thirty</u>	percent (	<u>30</u>	%)
Construction Documents Phase	<u>Twenty Five</u>	percent (	<u>25</u>	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Twenty Five</u>	percent (	<u>25</u>	%)

...

LEED AP Consulting compensation is an additional service and will be billed as work is completed.

...

Refer to Exhibit B for Architect's discounted hourly rates for use with a CES Three Party Agreement.

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§ 11.9.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0 %) of the expenses incurred.

...

None

...

§ 11.11.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.11.1.1 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred. These costs will be treated as Reimbursable and are shown on D/P/S's proposal dated August Twenty Sixth, Two Thousand Fifteen.

§ 11.11.2 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 Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

1.00 % Monthly

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12.1 Owner acknowledges that Architect will use a variety of electronic media in the course of creation of the construction documents, which may include, but not be limited to, Building Information Management (BIM) software, Computer Aided Drafting (CAD) software, three-dimensional modeling software, databases, spreadsheets and the like. Owner acknowledges that these electronic files, while part of the instruments of service, are not construction documents, and differences may exist between these electronic files and corresponding hard-copy construction documents. Virtual models of the project, while useful in the development of the design intent and instruments of service, are not to be construed as complete or accurate representations of all facets and details of the project and shall not be relied upon independent of the hard-copy construction drawings. Architect makes no representation as to the accuracy or completeness of the electronic files. In the event that a conflict arises between the signed or sealed hard-copy construction documents prepared by Architect and/or its consultants and the electronic files, the signed or sealed hard-copy construction documents shall govern.

With Owner's approval and completion by Owner or Owner's Contractor of Architect's form for Electronic File Release Indemnification, copies of electronic files for the project will be provided to the Owner and/or the Contractor for their use. However, it is expressly understood that use of these electronic files is at the Owner's and/or the Contractor's own risk, and the Owner and/or Contractor shall, to the fullest extent permitted by law, indemnify and hold harmless the Architect and its consultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or resulting from the use of these electronic files, or changes made by anyone other than the Architect or its consultants, or from any transfer or reuse of the electronic files with the prior written consent of the Architect. Owner and/or Contractor agree that by the use of these electronic files during construction, the Contractor is not relieved of the duty to fully comply with the contract documents, including, and without limitation, the need to check, confirm and coordinate all dimensions and details, take field measurements, verify field conditions and coordinate the work with that of other contractors for the project.

Under no circumstances shall delivery of the electronic files for use by the Owner and/or Contractor be deemed a sale by the Architect or its consultants, and the Architect makes no warranties, either express or implied, of

merchantability and fitness for any particular purpose. In no event shall the Architect or its consultants be liable for any loss of profit or any consequential damages as a result of the Owner's and/or Contractor's use or reuse of the electronic files

...

None

...

(List other documents, if any, including additional scopes of service forming part of the Agreement.)

Exhibit A – Preliminary Project Budget

Exhibit B – Architect's Discounted Hourly Rates

Exhibit C – Architect's Proposal dated August Fourth, Two Thousand Fifteen

Exhibit D – AIA Document B214-2012

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Matthew McKim, Vice President

Certification of Document's Authenticity

AIA® Document D401™ – 2003

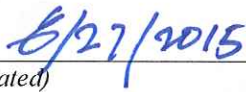
I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:59:26 on 08/27/2015 under Order No. 3739495376_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B103™ – 2007 SP, Standard Form of Agreement Between Owner and Architect for a Large or Complex Sustainable Project, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)



(Title)



(Dated)

New Mexico Junior College
 Allied Health Building
 Preliminary Project Budget
 13-Aug-15

Exhibit A



\$285 Estimated construction cost per SF
 18,158 Building size in SF based on MACC
 \$5,175,000 Estimated MACC

CONSTRUCTION COST	Item	Notes
\$5,175,000.00	MACC	Based on estimated \$/SF above
\$50,000.00	CMAR preconstruction services	Estimated
\$5,225,000.00	GMP (Guaranteed Maximum Price)	Cost of the work + Precon fee + CMAR fee + General Conditions
SOFT COSTS		
\$287,375.00	NMGRT on construction(Lea County Rate)	5.5000%
\$15,000.00	Required survey	Estimated
\$8,000.00	Geotechnical investigation	Estimated
\$2,000.00	Fire flow investigation	Estimated
\$55,000.00	Special inspection and testing during construction	Estimated, code requirement, DPS structural will outline the scope of testing during CDs
\$414,000.00	Design fees	
\$65,000.00	LEED design fees	
\$35,000.00	Reimbursable allowance	DPS travel, drawing reproduction, etc.
\$217,894.74	Technology package	Estimated at \$12/sf
\$155,250.00	Owner's contingency	3% of the MACC
\$400,000.00	FF+E	Estimated
\$1,654,519.74	SUBTOTAL	
\$36,943.75	NMGRT on design fees (Albuquerque rate)	7.1875%
\$1,691,463.49	SOFT COSTS TOTAL	*Note: NMGRT can change twice a calendar year
\$6,916,463.49	TOTAL PROJECT COST	

Exhibit B

Dekker/Perich/Sabatini

Discounted Hourly Rates for CES Members

Valid thru 12/31/15

	Standard rate	CES Discounted Rate
Senior Principal:	\$225.00 per hour	\$220.50 per hour
Principal:	\$175.00 per hour	\$171.50 per hour
Advisor:	\$145.00 per hour	\$142.10 per hour
Director/Specialist:	\$125.00 per hour	\$122.50 per hour
Senior Architect:	\$125.00 per hour	\$122.50 per hour
Construction Administrator:	\$125.00 per hour	\$122.50 per hour
Registered Architect:	\$105.00 per hour	\$102.90 per hour
Intern Architect II:	\$85.00 per hour	\$83.30 per hour
Intern Architect I:	\$65.00 per hour	\$63.70 per hour
Senior Planner:	\$115.00 per hour	\$112.70 per hour
Planner:	\$90.00 per hour	\$88.20 per hour
Intern Planner:	\$65.00 per hour	\$63.70 per hour
Senior Structural Engineer:	\$125.00 per hour	\$122.50 per hour
Project Engineer:	\$105.00 per hour	\$102.90 per hour
Engineering Intern:	\$75.00 per hour	\$73.50 per hour
Interior Designer II:	\$90.00 per hour	\$88.20 per hour
Interior Designer I:	\$80.00 per hour	\$78.40 per hour
Interior Design Intern II:	\$75.00 per hour	\$73.50 per hour
Interior Design Intern I:	\$65.00 per hour	\$63.70 per hour
Landscape Architect:	\$105.00 per hour	\$102.90 per hour
Landscape Designer:	\$80.00 per hour	\$78.40 per hour
Graphic Visualization Artist II	\$80.00 per hour	\$78.40 per hour
Graphic Visualization Artist I	\$65.00 per hour	\$63.70 per hour
CAD/Revit Technician II:	\$80.00 per hour	\$78.40 per hour
CAD/Revit Technician I:	\$55.00 per hour	\$53.90 per hour
Administrative Assistant:	\$55.00 per hour	\$53.90 per hour

Notes:

1. NMGRT will be added to the above rates at the prevailing rate at the time of each billing.
2. Rates are subject to annual adjustment

EXHIBIT C



August 26, 2015

Dr. Steve McCleery
President
New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

Re: Design Professional Services for the new NMJC Allied Health Building

Dear Dr. McCleery,

Dekker/Perich/Sabatini is pleased to submit this proposal for professional services related to the above referenced project. This proposal is based on the telephone discussions with you and Dan Hardin and our working knowledge of your campus and Lea County. This proposal is for our work and the work of our consultant team from Programming through Construction Administration.

Our understanding of the scope of the work is as follows:

1. Project Scope and Methodology

We understand that the scope of this project is to design a new building of approximately 25,000sf adjacent to the existing Western Heritage Center for your Allied Health program. This site is outside the circle drive, but will need to connect to the existing campus central plant facility for both chilled and hot water supplies. We understand that the plant has the capacity for this building and an engineering assessment will not be required. We are also assuming that the new chilled and hot water piping will be direct bury and extending the tunnel system will not be required.

The programming phase will be delivered under a separate contract, this proposal is for Schematic Design, Design Development, Construction Documents, Bidding and Negotiation, and Construction Administration.

We understand that the expected total project cost is \$6.9M resulting in a **maximum allowable construction cost (MACC) of \$5.175M** assuming that 75% of the total project is the MACC with the remaining 25% covering soft costs which include our fees, testing, FF+E, building technology, permits, and various material testing/surveys as required.

We also propose to procure a contractor using the Construction Manager at Risk (CMAR) method in order to involve the contractor as early as possible to provide value to the project regarding costs, constructability and identifying any bid alternates.

2. Project Team

Our project team will be as follows for design work indicated under Basic and Additional Services:

Architecture	Dekker/Perich/Sabatini
Interior Design	Dekker/Perich/Sabatini
Landscape Architecture	<i>Not included</i>
Structural Engineering	Dekker/Perich/Sabatini
Civil Engineering	Pettigrew and Associates
MEP Engineering	Bridgers and Paxton Consulting Engineers
Technology Systems Design	Bridgers and Paxton Consulting Engineers (if needed)

3. LEED

Based upon Executive Order 2006-001, this project will be required to meet LEED Certification at the Silver Level. Successful LEED certification requires the design team to both design a project to meet LEED standards, and perform additional calculations, documentation, and management efforts which go beyond typical design efforts. D/P/S does not charge more for designing to meet LEED standards, or other green building program standards, but we do request compensation for the rest of the additional effort required to achieve LEED certification. This number is broken out separately below. In addition to the fee for ourselves and our MEP consultants, additional expenses will include USGBC fees for registration and certification, which will be forwarded to you at cost as reimbursable expenses. These fees are broken out below.

4. Technology Systems Design

Although not included in this initial proposal, we can provide technology systems consulting and design as an additional service. These design services would include development of a concept design for the technology systems, documentation of that conceptual design, and detailed design documents indicating the systems within the building. These systems will include: information transport systems, wireless networking systems, audio-visual systems, paging, public address and intercom systems, and physical security systems. A detailed description of this scope can be provided at your request.

5. Furniture, Fixtures and Equipment (FFE)

Although not included in this initial proposal, D/P/S can provide FF+E procurement services to NMJC if desired, such as the following:

- Existing Furniture and Budget Evaluation
- Furniture Programming and Selection
- New Furniture Specifications
- Furniture Installation Coordination

We have provided these services to many of our higher education clients, finding that today's modern, flexible spaces require furniture integration for maximum functionality.

6. Landscape Design

At your request, this proposal does not include Landscape or Irrigation design. D/P/S is capable of providing this service and does so for most of our clients. We can provide this service to you if desired, and would encourage these services in order to allow for the best coordination of planting and irrigation with new and existing utilities.

7. Fees

Our fees for the project are shown below. The fee for Basic Services is a lump sum and includes design fees for D/P/S (Architectural, Structural, Interior Design) and our consultants (Civil Engineering, MEP Engineering).

Basic Services (not including Programming)	\$ 372,600
<u>LEED (including consultants)</u>	<u>\$ 58,500</u>
Total	\$ 431,100

We propose the following fee breakdown by design phase:

<i>Programming (Part of a separate contract between NMJC/DPS/CES)</i>	0%
Schematic Design	15%
Design Development	30%
Construction Documents	25%
Bidding and Negotiation	5%
Construction Administration	25%

This fee does not include reimbursables such as travel, LEED fees and the cost of final document printing which is outlined below. As we have done with the College in the past, we propose to charge travel time at a flat rate of \$30 per hour for all D/P/S employees and reimbursement of expenses at cost.

Our estimated **reimbursable allowance** is as follows:

<i>Travel</i>	\$ 25,000
<i>LEED Fees (registration and review by USGBC)</i>	\$ 5,500
<i>Estimated reimbursable allowance</i>	\$ 30,500

Exclusions to the fees listed above:

- NMGRT is not included, this will be billed at the prevailing rate at the time of invoicing
- Bid drawing reproducible costs is not included, these can either be paid for directly to the printer by NMJC or D/P/S can modify their reimbursable budget to account for this cost.
- Since this building will be using chilled and hot water from the existing campus plant, we didn't include the cost to perform a life cycle cost analysis to evaluate three different mechanical systems. If this becomes necessary, we can provide a cost for the College's review.
- This assumes that offsite utility or other improvements will not be required.
- The LEED required Commissioning Agent is excluded as service will need to be contracted directly with NMJC. We will aid the College to procure these services and can recommend reputable companies to solicit proposals.
- If daylighting analysis becomes necessary to achieve these LEED points, D/P/S would request additional services for this effort.

8. Terms:

As we have done in the past, we propose to enter into a three-party agreement with Cooperative Education Services (CES) and will complete this agreement along with an AIA document B103-2007 Standard Form of Agreement Between Owner and Architect for a Large or Complex Project.

We will invoice CES monthly based on our percentage of completion by phase. Payments are due and payable thirty (30) days from the date of the invoice. All amounts unpaid one month after the invoice date shall accrue interest at a rate of 1.50% per month, but not to exceed the applicable maximum lawful interest rate in the jurisdiction in which the project is located. This proposal shall be valid for a period of forty five days from the date indicated above, after which Dekker/Perich/Sabatini reserves the right to modify it. If the final scope of work varies in a material way from the scope described herein, Dekker/Perich/Sabatini reserves the right to make appropriate adjustments.

Thank you for the opportunity to submit this fee proposal and work with you and the College again! If you have any questions or require any additional information, please don't hesitate to contact me at (505) 923-3553 direct or (505) 259-7904 cell.

Sincerely,

Dekker/Perich/Sabatini



Matthew McKim, AIA
Principal



AIA[®]

Document B214[™] – 2012

Standard Form of Architect's Services: LEED[®] Certification

Exhibit D

for the following **PROJECT**:
(Name and location or address)

New Allied Health Building on the campus of the NMJC. Currently the total project is anticipated at \$6.9M, with a MACC of \$5.175M. Programming (under a separate contract with NMJC/DPS/CES) and budget will determine square footage and project scope.

THE OWNER:

(Name, legal status and address)

New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

And

Buyer
Cooperative Education Services (CES)
4216 Balloon Park RD NE
Albuquerque, NM 87109-5801

THE ARCHITECT:

(Name, legal status and address)

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109
Telephone Number (505) 761-9700

THE AGREEMENT

This Standard Form of Architect's Services is part of or modifies the accompanying Owner-Architect Agreement (hereinafter, the Agreement) dated the Twenty Sixth day of August in the year Two Thousand Fifteen.

(In words, indicate day, month and year.)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with G802[™]-2007, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

Init.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	LEED CERTIFICATION SERVICES
3	ADDITIONAL SERVICES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION
6	MISCELLANEOUS PROVISIONS
7	SPECIAL TERMS AND CONDITIONS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 The Architect's performance of the services set forth in this document is based upon the following information. Material changes to this information may entitle the Architect to Additional Services.

(List below information, including a list of the Owner's consultants and other conditions or assumptions, that will affect the Architect's performance.)

Architect and Owner's performance of services are described in the Primary Owner – Architect Agreement.

§ 1.1.1 The Owner has established a goal for the Project to achieve Leadership in Energy and Environmental Design (LEED) Certification at the level set forth below:

(List level of LEED Certification, e.g. Platinum, Gold, Silver, Certified.)

Silver

under the following United States Green Building Council (USGBC) LEED Green Building Rating System and version:

(List the LEED Green Building Rating System and applicable version targeted for the Project.)

Version LEED NC-2009 is anticipated to be used for this project.

§ 1.2 Check one box below to indicate whether the Architect is responsible, under the accompanying Owner-Architect Agreement, for preparation of the Contract Documents and submission of the necessary construction documents to the public authority having jurisdiction over the Project (the Prime Architect); or whether the Architect is not responsible for preparation of the Contract Documents under the accompanying Owner-Architect Agreement, and is providing services under this Standard Form of Architect's Services only as a LEED consultant to the Owner (LEED Consulting Architect):

Prime Architect

LEED Consulting Architect

If the Architect is performing the Architect's services as the Prime Architect, the Architect shall perform the services set forth in this Standard Form of Architect's Services but shall not perform the services described in Section 2.8. If the Architect is performing the Architect's services as the LEED Consulting Architect, the Architect shall perform the services set forth in this Standard Form of Architect's Services but shall not perform the services described in Section 2.7.

ARTICLE 2 LEED CERTIFICATION SERVICES

§ 2.1 The Architect shall review applicable criteria for achieving the targeted level of LEED Certification identified in Section 1.1.1 and shall consult with the Owner with regard to such requirements. The Architect shall attend

meetings during the Design and Construction Phases, communicate with members of the Project team, and issue progress reports as appropriate to coordinate the LEED Certification process for the Project.

§ 2.2 The Architect shall coordinate the LEED Certification Services provided by the Architect and the Architect's consultants 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. 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 related to the LEED Certification of the Project.

§ 2.3 LEED Certification Agreements

The Architect shall provide the Owner with copies of all agreements required by the Green Building Certification Institute (GBCI) or the USGBC to register the Project and pursue the anticipated LEED Certification. The Owner and Architect will review the agreements, and confirm that the terms of those agreements are acceptable to the Owner, before the Architect performs the LEED Certification Services under this Article 2. The Owner agrees to execute all documents required by the GBCI or the USGBC to be executed by the Owner, including any documentation required to establish the authority of the Architect as an agent of the Owner for the limited purpose of pursuing LEED Certification.

§ 2.4 LEED Workshop

No later than the conclusion of the Schematic Design Phase, the Architect shall conduct a LEED Workshop with the Owner and, as requested by the Architect, with the Owner's consultants and the Architect's consultants, during which the attendees will: review the LEED Green Building Rating System; examine LEED credits to be targeted, utilizing the appropriate Green Building Rating System Project Checklist, and identify potential LEED points associated with those credits; examine strategies for implementation of the targeted LEED credits; and discuss the potential impact of the targeted LEED credits on the Project schedule and Owner's program and budget.

§ 2.5 LEED Certification Plan

§ 2.5.1 Following the LEED Workshop, the Architect shall prepare a LEED Certification Plan based on the targeted LEED credits. The LEED Certification Plan shall consist of, at a minimum, the appropriate Green Building Rating System Project Checklist indicating the targeted LEED credits; the Owner's LEED Certification goal; information describing the Owner's, the Owner's consultants', the Contractor's and the Architect's responsibilities for each LEED credit; and a list of the LEED Documentation, as set forth in Section 2.6.2, required from each of them. The Architect shall submit the LEED Certification Plan to the Owner for the Owner's approval.

§ 2.5.1.1 Following the Owner's approval of the LEED Certification Plan, the Architect shall provide the services specifically identified as the responsibility of the Architect in the LEED Certification Plan and any approved changes to the LEED Certification Plan. If the LEED Certification Plan requires the Architect to provide services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project, those services shall be provided pursuant to Section 3.3.

§ 2.5.2 Subject to Section 3.1 or Section 3.2, the Architect shall make adjustments to the LEED Certification Plan, as the design and construction of the Project progresses, to reflect any changes approved by the Owner.

§ 2.6 Project Registration and Submission of LEED Documentation to the GBCI

§ 2.6.1 The Architect, as agent for the Owner, shall register the Project with the GBCI. Registration fees and any other fees charged by the GBCI, and paid by the Architect, shall be a reimbursable expense and shall be credited against any initial payment received pursuant to Section 5.4.

§ 2.6.2 The Architect shall collect documentation, calculations and submittals necessary to meet the LEED Certification requirements (LEED Documentation) from the Owner, the Owner's consultants and the Contractor, and organize and manage the LEED Documentation as necessary for the LEED Certification process.

§ 2.6.3 Subject to Section 3.1 or Section 3.2, and provided the Architect receives timely notice from the Owner or the GBCI, the Architect shall prepare and file necessary documentation with the GBCI to appeal a ruling or other interpretation denying a minimum program requirement, prerequisite, or credit or point necessary to achieve the LEED Certification.

§ 2.6.4 Subject to Section 3.1 or Section 3.2, the Architect shall prepare and submit the LEED Certification Application for the Project to the GBCI, including any required supporting documentation, in accordance with the LEED Certification Plan.

§ 2.6.5 Subject to Section 3.1 or Section 3.2, the Architect shall prepare responses to, and submit additional documentation required by, comments or questions received from the GBCI.

§ 2.6.6 Any certification, declaration or affirmation the Architect makes to the GBCI shall not constitute a warranty or guarantee to the Owner or the Owner's contractors or consultants.

§ 2.7 Services Performed Only by the Prime Architect Pursuant to Section 1.2

§ 2.7.1 LEED Certification Drawings and Specifications

The Architect shall prepare Construction Documents that incorporate the requirements of the LEED Certification Plan, as appropriate.

§ 2.7.2 In order to achieve LEED Certification, the Project may require the use of materials and equipment that have had limited testing or verification of performance. The Architect may be unable to determine that the materials or equipment will perform as represented by the manufacturer or supplier. The Architect shall discuss with the Owner the proposed use of such materials or equipment and potential effects on LEED Certification of the Project that may occur if the materials or equipment fail to perform in accordance with the manufacturer's or supplier's representation. The Owner will render a written decision regarding the use of such materials or equipment. In the event the Owner elects to proceed with the use of such materials or equipment, the Architect shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.

§ 2.7.3 LEED Certification Services during Bidding or Negotiation

§ 2.7.3.1 The Architect shall conduct a pre-bid conference to receive questions regarding Bidding Documents related to LEED Certification.

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

§ 2.7.3.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions, related to LEED Certification, to all prospective bidders.

§ 2.7.3.4 The Architect shall assist the Owner with evaluating information in bids or proposals and determination of the successful bid or proposal, if any, related to LEED Certification.

§ 2.7.4 LEED Certification Services during Construction

§ 2.7.4.1 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents, related to LEED Certification, that include a detailed written statement indicating the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

§ 2.7.4.2 The Architect shall prepare supplemental Drawings, Specifications and other information in response to requests for information by the Contractor related to LEED Certification.

§ 2.7.4.3 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 3.1.4, to become generally familiar with and to keep the Owner informed about the progress of the portions of the Work related to LEED Certification. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall not have control over, charge of, or be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.

§ 2.7.4.4 Subject to Section 3.1, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples for the limited purpose of checking for

conformance with applicable LEED credit requirements. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Owner's consultants or Contractor, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.7.4.5 The Architect shall review properly prepared, timely requests by the Owner, Owner's consultants or Contractor for changes in the Work related to LEED Certification. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination, without extensive investigation or preparation of additional drawings or specifications, whether the requested changes in the Work are materially different from the requirements of the LEED Certification Plan.

§ 2.7.4.6 If the Architect determines that implementation of a requested change in the Work would result in a material effect on LEED Certification, the Architect shall notify the Owner, who may authorize further investigation of such change. Based upon the Architect's investigation and information furnished by the Contractor, if any, the Architect shall make recommendations to the Owner regarding the implementation of the requested changes.

§ 2.8 Services Performed Only by the LEED Consulting Architect Pursuant to Section 1.2

§ 2.8.1 LEED Certification Drawings and Specifications

The Architect shall review the Schematic Design Documents, Design Development Documents and Construction Documents, advise the Owner of potential impediments to the achievement of LEED Certification or targeted credits or points, and discuss remedial options with the Owner. The Architect shall not be responsible for discovering errors or omissions in the Schematic Design Documents, Design Development Documents and Construction Documents or violation of any applicable codes.

§ 2.8.2 LEED Certification Services during Bidding or Negotiation

§ 2.8.2.1 The Architect, if requested by the Owner, shall attend a pre-bid conference, conducted by the Owner or the Owner's consultants, to receive questions regarding Bidding Documents related to LEED Certification.

§ 2.8.2.2 The Architect shall assist the Owner and the Owner's consultants with providing clarifications and interpretations of the Bidding Documents related to LEED Certification.

§ 2.8.2.3 The Architect shall assist the Owner and the Owner's consultants with review of substitutions related to LEED Certification, if the Bidding Documents permit substitutions.

§ 2.8.2.4 The Architect shall assist the Owner and the Owner's consultants with evaluating information in bids or proposals related to LEED Certification.

§ 2.8.3 LEED Certification Services during Construction

§ 2.8.3.1 The Architect shall assist the Owner and the Owner's consultants in reviewing requests by the Contractor for additional information about the Contract Documents related to LEED Certification.

§ 2.8.3.2 The Architect shall provide advice and recommendations to the Owner and the Owner's consultants regarding supplemental Drawings, Specifications and other information that may be developed by the Owner and the Owner's consultants in response to requests for information by the Contractor related to LEED Certification.

§ 2.8.3.3 Subject to Section 3.2, the Architect shall provide advice and recommendations to the Owner and Owner's consultants regarding the Contractor's submittals such as Shop Drawings, Product Data and Samples for the limited purpose of checking for conformance with applicable LEED credit requirements. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Owner's consultants or Contractor, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the

Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's recommendations regarding a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.8.3.4 The Architect shall provide advice and recommendations to the Owner and the Owner's consultants regarding requests by the Owner, Owner's consultants or Contractor for changes in the Work related to LEED Certification.

§ 2.8.3.5 If the Architect determines that implementation of a requested change in the Work would result in a material effect on LEED Certification, the Architect shall notify the Owner, who may authorize further investigation of such change. Based upon the Architect's investigation and information furnished by the Contractor, if any, the Architect shall make recommendations to the Owner regarding the implementation of the requested changes.

§ 2.9 Project Completion

§ 2.9.1 For purposes of this Standard Form of Architect's Services, Substantial Completion shall be defined in accordance with AIA Document A201™-2007. Verification that the Project has achieved LEED Certification, or the actual achievement of LEED Certification, shall not be a condition precedent to the issuance of a Certificate of Substantial Completion.

§ 2.9.2 If the Architect's Service required under this Standard Form of Architect's Services have not been completed within Thirty Two (32) months after the date of Substantial Completion, through no fault of the Architect, extension of the Architect's services under this Standard Form of Architect's Services beyond that time shall be compensated as Additional Services.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 If the Architect is performing its services as the Prime Architect, pursuant to Section 1.2, the Architect shall provide LEED Certification Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Three (3) adjustments to the LEED Certification Plan
- .2 Six (6) meetings during the Design and Construction Phases required to define, develop and incorporate the items included in the LEED Certification Plan into the Contract Documents
- .3 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor related to LEED Certification
- .4 Fifty Two (52) visits to the site by the Architect over the duration of the Project during construction, beyond those established in the Agreement, and specifically related to LEED Certification
- .5 Two (2) submittals to the USGBC/GBCI
- .6 Two (2) responses to the USGBC/GBCI's comments and questions
- .7 One (1) appeals to the GBCI pursuant to Section 2.6.3

(Paragraphs deleted)

§ 3.3 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Preparation of design and documentation, related to LEED Certification, for alternate bid or proposal requests proposed by the Owner;
- .2 LEED Certification Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .3 Changing or editing previously prepared Instruments of Service, including the LEED Certification Plan, necessitated by changes in the requirements to achieve the LEED Certification goals established for the Project.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall furnish a program setting forth the Owner's objectives, schedule, constraints and criteria, including system requirements and relationships, special equipment and site requirements.

§ 4.2 The Owner shall provide to the Architect any information requested by the Architect that is relevant and necessary for achievement of LEED Certification, including design drawings; construction documents; record drawings; shop drawings and other submittals; operation and maintenance manuals; master plans; building operation costs; building operation budgets; pertinent records relative to historical building data, building equipment and furnishings; and repair records.

§ 4.3 The Owner shall provide access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress as necessary for the Architect to provide the LEED Certification Services.

§ 4.4 The Owner shall furnish the services of design consultants, testing agencies, and contractors necessary to allow the Architect to provide the LEED Certification Services.

§ 4.5 Based on the Owner's approval of the LEED Certification Plan and any approved changes to the LEED Certification Plan, the Owner shall perform those items identified as the responsibility of the Owner in the LEED Certification Plan or as otherwise required by the Contract Documents. The Owner shall require that each of its contractors and consultants perform the consultant's or contractor's services in accordance with the LEED Certification Plan.

§ 4.6 The Owner shall comply with the requirements of the USGBC or the GBCI as they relate to the Project both during construction and after completion of the Project.

§ 4.7 The Owner shall be responsible for preparing, filing, and prosecuting appeals to the GBCI, or taking any other action determined by the Owner to be necessary or desirable, arising from the revocation or reduction of an awarded LEED Certification.

§ 4.8 Unless otherwise provided in the Agreement, or in Article 7 of this Standard Form of Architect's Services, the Owner shall provide an independent commissioning agent for the Project.

§ 4.9 The Owner shall advise the Architect of any proposed changes to the Project which may affect the LEED Certification Plan.

ARTICLE 5 COMPENSATION

§ 5.1 For the Architect's LEED Certification Services described under Article 2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Fee is included in the Primary Owner – Architect Agreement.

§ 5.2 For Additional Services that may arise during the course of the Project, including those under Sections 3.1 or 3.2, and 3.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

To be handled by the Primary Owner – Architect Agreement.

§ 5.3 Compensation for Additional Services of the Architect's consultants when not included in Section 5.2, shall be the amount invoiced to the Architect plus Ten percent (10 %), or as otherwise stated below:

NA

§ 5.4 Upon incorporation of this Standard Form of Architect's Services as part of the Agreement, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made for registration fees and other fees payable to the GBCI and necessary to achieve the LEED Certification. The Architect's payments to the GBCI shall be credited

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to the Owner's account at the time the expense is incurred. All fees paid by the Architect to the USGBC on behalf of the project shall be treated as Reimbursable expenses as described in the Primary Owner – Architect Agreement.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 In the event of a conflict between the terms of this Standard Form of Architect's Services and the terms of the accompanying Owner-Architect Agreement, the terms of this Standard Form of Architect's Services shall control.

§ 6.2 The Owner and Architect acknowledge that LEED Certification is awarded by an independent third party organization, and is dependent on factors beyond the Architect's control, such as the Owner's use and operation of the Project; the Work provided by the Contractor or the work or services provided by the Owner's other contractors or consultants; or interpretation of LEED credit requirements by the GBCI. Accordingly, the Architect does not warrant or guarantee that the Project will be granted LEED Certification.

§ 6.3 In addition to any other waiver of consequential damages in the accompanying Owner-Architect Agreement, the Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Standard Form of Architect's Services, including failure of the Project to achieve LEED Certification or the level of LEED Certification indicated in the LEED Certification Plan; failure to achieve one or more LEED credits or points; unachieved energy savings; unintended operational expenses; lost financial or tax incentives; or unachieved gains in worker productivity. Except as specifically provided in the Agreement, or in Article 7 of this Standard Form of Architect's Services, this mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of the Agreement.

§ 6.4 Solely for the purpose of obtaining or maintaining LEED Certification, the Architect grants the Owner a nonexclusive license to submit the Architect's Instruments of Service, directly or through third parties, to the USGBC or the GBCI to comply with the requirements imposed by the USGBC or the GBCI and further grants the Owner a nonexclusive license to allow the USGBC or the GBCI to publish the Instruments of Service in accordance with the policies and agreements required by the USGBC or the GBCI. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Standard Form of Architect's Services. The license granted in this Section 6.4 is valid only if the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Agreement and this Standard Form of Architect's Services. If the Architect rightfully terminates the Agreement for cause, the license granted in this Section 6.4 shall terminate.

ARTICLE 7 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Standard Form of Architect's Services: LEED® Certification, if any, are as follows:

None.

Additions and Deletions Report for **AIA® Document B214™ – 2012**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:00:33 on 08/27/2015.

PAGE 1

Exhibit D

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New Allied Health Building on the campus of the NMJC. Currently the total project is anticipated at \$6.9M, with a MACC of \$5.175M. Programming (under a separate contract with NMJC/DPS/CES) and budget will determine square footage and project scope.

...

New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

And

Buyer
Cooperative Education Services (CES)
4216 Balloon Park RD NE
Albuquerque, NM 87109-5801

...

(Name, legal status and address)

Dekker/Perich/Sabatini, LTD.
7601 Jefferson NE Suite 100
Albuquerque, NM 87109
Telephone Number (505) 761-9700

...

This Standard Form of Architect's Services is part of or modifies the accompanying Owner-Architect Agreement (hereinafter, the Agreement) dated the Twenty Sixth day of August in the year Two Thousand Fifteen.

PAGE 2

Architect and Owner's performance of services are described in the Primary Owner – Architect Agreement.

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Silver

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Version LEED NC-2009 is anticipated to be used for this project.

...

Prime Architect

PAGE 6

§ 2.9.2 If the Architect's Service required under this Standard Form of Architect's Services have not been completed within Thirty Two (32) months after the date of Substantial Completion, through no fault of the Architect, extension of the Architect's services under this Standard Form of Architect's Services beyond that time shall be compensated as Additional Services.

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- .4 Fifty Two (52) visits to the site by the Architect over the duration of the Project during construction, beyond those established in the Agreement, and specifically related to LEED Certification
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- .6 Two (2) responses to the USGBC/GBCI's comments and questions
- .7 One (1) appeals to the GBCI pursuant to Section 2.6.3

~~§ 3.2 If the Architect is performing its services as the LEED Consulting Architect, pursuant to Section 1.2, the Architect shall provide LEED Certification Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:~~

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- ~~.2 () meetings during the Design and Construction Phases, required to define, develop and incorporate the items included in the LEED Certification Plan into the Contract Documents~~
- ~~.3 () reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor related to LEED Certification~~
- ~~.4 () submittals to the USGBC/GBCI~~
- ~~.5 () responses to the USGBC/GBCI's comments and questions~~
- ~~.6 () appeals to the GBCI pursuant to Section 2.6.3~~

PAGE 7

Fee is included in the Primary Owner – Architect Agreement.

...

To be handled by the Primary Owner – Architect Agreement.

§ 5.3 Compensation for Additional Services of the Architect's consultants when not included in Section 5.2, shall be the amount invoiced to the Architect plus Ten percent (10 %), or as otherwise stated below:

NA

§ 5.4 Upon incorporation of this Standard Form of Architect's Services as part of the Agreement, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made for registration fees and other fees payable to the GBCI and necessary to achieve the LEED Certification. The Architect's payments to the GBCI shall be credited to the Owner's account at the time the expense is incurred. All fees paid by the Architect to the USGBC on behalf of the project shall be treated as Reimbursable expenses as described in the Primary Owner – Architect Agreement.

PAGE 8

None.



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:00:33 on 08/27/2015 under Order No. 3739495376_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B214™ – 2012, Standard Form of Architect's Services: LEED® Certification, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)



(Title)



(Dated)