

SAMPLE
ARCHITECT AND ENGINEERING AGREEMENT

FOR

Engineering and Consulting Services
for HVAC Controls, Lighting Controls, Submetering, etc.

MSA Project No. 20--071

Executed:
____ day of _____

**ARCHITECT/ENGINEER AGREEMENT
TABLE OF CONTENTS**

Agreement.....A-3

Introductory StatementA-4

Terms and Conditions of Agreement Between Owner and Architect/EngineerA-5

Article #	Description	
1.	Engagement and Relationship	A-5
2.	Scope of Architect's Basic Services	A-8
3.	Additional Services	A-11
4.	Personnel	A-14
5.	Owner's Responsibilities	A-15
6.	Construction Cost	A-17
7.	Ownership and Use of Architect's Drawings, Specifications and Other Documents	A-18
8.	Compliance with Laws and Regulations	A-19
9.	Dispute Resolution/Arbitration	A-20
10.	Termination, Postponement or Suspension	A-21
11.	Insurance Requirements and Indemnification	A-22
12.	Payments and Basis of Compensation	A-24
13.	Audits by Owner	A-27
14.	Miscellaneous Provisions	A-28

AGREEMENT

made as of the ____ day of _____ in the year of 20__

BETWEEN the Owner:

Maryland Stadium Authority
The Warehouse at Camden Yards
333 West Camden Street, Suite 500
Baltimore, MD 21201 (the "Owner")

and the Engineer:

for the following project:

M&T Bank Stadium
Engineering Consulting Services for HVAC Controls, Lighting
MSA Project No. 20-071

which is described in more detail in the Project Description attached hereto as Exhibit 1 (the "Project").

INTRODUCTORY STATEMENT

- A. The MSA was established by the State of Maryland, pursuant to Section 13-701 et seq. of the Maryland Financial Institutions Article of the Annotated Code of Maryland (the "Stadium Act"), as amended.
- B. The Owner has approved a Schedule (the "Construction Schedule") for the Project which shows that design and construction will be completed on or before the date set forth in the Construction Schedule attached as Exhibit 4 hereto (the "Scheduled Completion Date").
- C. The Owner has established a budget for the design and construction of the Project (the "Budget"), a copy of which is attached as Exhibit 5 hereto.
- D. The Owner desires to engage the Architect/Engineer to render professional services with respect to the entire Project, subject to the terms of this Agreement.
- E. The Architect/Engineer desires to be retained by the Owner to perform the architectural services required herein for the Owner.

NOW, THEREFORE, in consideration of the Recitals, which are deemed a material and substantive part of this Agreement, and in further consideration of the promises and agreements hereinafter set forth, the Owner and the Architect/Engineer agree as follows:

**TERMS AND CONDITIONS OF AGREEMENT
BETWEEN OWNER AND ARCHITECT/ENGINEER**

**ARTICLE 1
ENGAGEMENT AND RELATIONSHIP**

1.1 ENGAGEMENT: The Owner engages the Architect/Engineer with respect to the furnishing of those professional services set forth in this Agreement, and Architect/Engineer accepts such engagement, upon, subject to and in accordance with the terms, conditions and provisions of this Agreement.

1.2 RELATIONSHIP: The Architect/Engineer accepts the relationship of trust and confidence established between it and the Owner by this Agreement and shall furnish its best skill and judgment consistent with the standards of the profession and cooperate with the Owner and the Owner's consultants and contractors in furthering the interests of the Owner throughout the duration of this Agreement. The Architect/Engineer shall furnish efficient business administration and management services as required herein and shall use its best efforts to perform its services in an expeditious and economical manner consistent with the interests of the Owner. The Architect/Engineer shall be an agent of the Owner to the extent, and only to the extent, required to properly perform its obligations under this Agreement; and Architect/Engineer shall not represent or hold itself out to have any authority to act on behalf of or bind the Owner other than as specifically provided herein.

1.3 INTENTIONALLY OMITTED

1.4 THE ARCHITECT/ENGINEER: It is the intent of the Owner and the Architect/Engineer that this Agreement be construed in a manner that requires the Architect/Engineer to provide all necessary and customary architectural and engineering services for the Project, including, without limitation, the specific services set forth in Articles 1, 2 and 3 of this Agreement or which are reasonably inferable from the terms, provisions and conditions thereof.

1.5 STANDARD OF CARE: All services to be performed by the Architect/Engineer in respect of this Agreement shall be provided in a manner consistent with the degree of care and skill usually exercised by Architect/Engineers experienced in projects of similar scope and in accordance with standards of care and skill expected of Architect/Engineers experienced in the design of projects similar to the Project and under the direction of Architect/Engineers and engineers licensed and duly qualified in the jurisdiction in which the Project is located.

1.6 REQUEST FOR PROPOSALS: Unless modified by this Agreement, the Architect/Engineer's services shall be in accordance with the Request for Proposals (the "RFP") for the Project, as amended, a copy of which is attached hereto as Exhibit 1.

1.7 ARCHITECT/ENGINEER'S EMPLOYEES AND CONSULTANTS: The Architect/Engineer's services shall consist of those services performed by the Architect/Engineer, the Architect/Engineer's employees and the Architect/Engineer's consultants.

1.8 INTENTIONALLY OMITTED

1.9 DESIGN SCHEDULE: The Architect/Engineer's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Architect/Engineer's services. The Architect/Engineer and Owner hereby agree to the design schedule which has been incorporated and made a part of the Construction Schedule attached as Exhibit 4 hereto. Time limits established by this schedule shall not, except for reasonable cause, be exceeded by the Architect/Engineer. Any adjustments to the schedule shall be void and of no force and effect until such adjustments are agreed to in writing by Owner and Architect/Engineer.

1.10 OWNER'S CONSULTANTS: The Owner reserves the right to retain other Architect/Engineers, consultants, engineers, contractors and others for similar or dissimilar services. It is understood between the parties that, under conditions where the Owner deems it beneficial to the Project, the Architect/Engineer may be working in coordination and cooperation with other consultants who will be employed independently by the Owner and totally responsible to the Owner for their work and the performance of their respective agreements with the Owner. The Owner shall inform the Architect/Engineer of the specific relationship with other consultants, if any. All coordination fees associated therewith shall be included as part of Basic Services hereunder unless they arise after the date of this Agreement.

1.11 BUILDING CODES AND LAWS: All of the Architect/Engineer's services shall comply with all applicable building codes, statutes, ordinances, laws, rules and regulations.

1.12 DEFECTS: Any defective designs or specifications furnished by the Architect/Engineer will be promptly, upon notice or discovery, corrected by the Architect/Engineer at no cost to the Owner, and the Architect/Engineer will promptly reimburse the Owner for all damages, if any, resulting from the use of such defective designs or specifications. The Owner's approval, acceptance, use of or payment for all or any part of the Architect/Engineer's services hereunder or of the Project itself shall in no way alter the Architect/Engineer's obligations or the Owner's rights hereunder.

1.13 COPIES: The Architect/Engineer shall furnish the Owner, as a part of Basic Services, with copies of the documents prepared pursuant to Article 2, in such quantities as are reasonably requested by the Owner, at the end of each design phase.

1.14 COMMUNITY RELATIONS: At any time during the duration of this Agreement, upon Owner's request, the Architect/Engineer shall assist and support the Owner at no additional charge and as a part of Basic Services to the Owner, in preparing presentations of the intended design and status of the Project. Meetings and presentations will be with and to various organizations, including, but not limited to, governmental agencies, legislative bodies, community and civic associations, special interest groups and any other groups deemed necessary by the Owner. The Architect/Engineer shall assist the Owner to work out methods for ameliorating community concerns and shall contribute articles to any newsletters to be published by the Owner and distributed to civic associations and key public officials.

1.15 MEETINGS: The Owner and Architect/Engineer shall, unless waived by the Owner, conduct design meetings and other meetings scheduled by the Owner on at least a bi-weekly basis and participate in construction progress meetings on at least a weekly basis as a part of Basic Services. The Architect/Engineer shall provide at such meetings and at other intervals mutually agreeable to the Owner and Architect/Engineer appropriate drawings and other documents which depict the current status of design for the Owner's and Client's review. The Architect/Engineer shall keep minutes of all design meetings for the Owner's approval and shall distribute the minutes to the Owner and all other attendees.

1.16 SUBMISSIONS FOR OWNER'S APPROVAL: Upon completion of each design phase, the Architect/Engineer shall submit to the Owner, drawings, specifications and other documents for the Owner's approval as part of Basic Services.

1.17 GOVERNMENTAL APPROVALS: The Architect/Engineer 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, as a part of Basic Services.

1.18 DUTIES: Duties, responsibilities and limitations of authority of the Architect/Engineer shall not be restricted, modified or extended without written agreement of the Owner and Architect/Engineer.

1.19 COMMUNICATIONS: Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer unless direct communication between Owner and Architect/Engineer's consultant is deemed necessary by Owner to expedite the Project. The Architect/Engineer shall be advised of the substance of the direct communication between Owner and Architect/Engineer's consultants.

1.20 PERFORMANCE SPECIFICATIONS: The Architect/Engineer shall not provide for the design of any aspects of the Project by any contractors in the contract documents (performance specifications) without the prior written approval of the Owner. The Owner's approval shall not relieve the Architect/Engineer of any of its responsibilities under this Agreement.

1.21 PROPRIETARY SPECIFICATIONS: The Architect/Engineer agrees to specify at least three capable manufacturers that can meet each specification item as a part of Basic Services. If it is a benefit to the Project to use less than three capable manufacturers, then the Architect/Engineer must request approval in writing from the Owner.

1.22 TEST EVALUATION: The Architect/Engineer shall identify and provide to the Owner and written list of all necessary and appropriate testing requirements identified in the specifications. The Architect/Engineer shall review and take appropriate action with regard to the results of all tests as a part of Basic Services.

ARTICLE 2
SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES

2.1 BASIC SERVICES GENERALLY

2.1.1 Scope: The Architect/Engineer's Basic Services consist of those services described in this Article 2 and any other services specifically identified as Basic Services in Article 1 or elsewhere in this Agreement and shall include, without limitation, normal structural, mechanical, civil, electrical and other engineering services necessary or appropriate for the Project.

2.1.2 The Architect/Engineer shall also provide the scope of work as outlined in the Request for Proposal, **Section 3**.

2.2 INTENTIONALLY OMITTED

2.3 INTENTIONALLY OMITTED

2.4 INTENTIONALLY OMITTED

2.5 INTENTIONALLY OMITTED

2.6 INTENTIONALLY OMITTED

2.7 CONSTRUCTION PHASE

2.7.1 Intentionally Omitted

2.7.2 Intentionally Omitted

2.7.3 Intentionally Omitted

2.7.4 Intentionally Omitted

2.7.5 Intentionally Omitted

2.7.6 Intentionally Omitted

2.7.7 Intentionally Omitted

2.7.8 Contractor Payment Review: Based on the Architect/Engineer's observations at the site of the contractors' work and evaluations of each contractor's application for payment, the Architect/Engineer shall review and certify the amounts due the respective contractors within two (2) business days after receipt of contractor's application for payment. The Architect/Engineer shall forward the contractor's payment application for payment to the Owner for approval of payment.

2.7.8.1 The Architect/Engineer's certification for payment shall constitute a representation to the Owner, based on the Architect/Engineer's observations at the site, on the data comprising the contractor's application for payment, that, to the best of the Architect/Engineer's knowledge, information and belief, the contractor's work has progressed to the point indicated and the quality of the contractor's work is in accordance with the contract documents. The foregoing representations are subject to an evaluation of the contractor's work for conformance with the contract documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a certificate

for payment shall further constitute a representation that the contractor is entitled to payment in the amount certified.

2.7.8.2 The issuance of a certificate for payment shall not be a representation that the Architect/Engineer has: (a) made exhaustive or continuous on-site inspections to check the quality or quantity of the contractor's work; (b) reviewed construction means, methods, techniques, sequences or procedures; (c) 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 (d) ascertained how or for what purpose the contractor has used money previously paid on account of the contract sum.

2.7.9 Nonconformance of the Work: The Architect/Engineer shall advise Owner to reject any contractors' work which does not conform to the contract documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the contract documents, the Architect/Engineer will have the responsibility and authority, upon written authorization from the Owner, to require additional inspection or testing of the contractors' work in accordance with the provisions of the contract documents, whether or not such contractors' work is fabricated, installed, or completed; provided, however, the Architect/Engineer must obtain the Owner's prior written approval of any such special inspection or testing.

2.7.10 Submittals: The Architect/Engineer shall review and approve or take other appropriate action upon contractors' submittals such as shop drawings, product data and samples, for the purpose of: (a) compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations; and (b) checking for conformance with the requirements of the contract documents. The Architect/Engineer's action shall be taken within ten (10) business days so as to cause no delay in the contractors' work or in construction by the Owner's own forces. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractors, all of which remain the responsibility of the contractors to the extent required by the contract documents. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of construction means, methods, techniques, sequences or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the contract documents, the Architect/Engineer shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the contract documents.

2.7.11 Changes: The Architect/Engineer shall review and sign or take other appropriate action on change orders and construction change directives prepared by the owner. The Architect/Engineer shall provide drawings, specifications and other documentation and supporting data, evaluating contractors' proposals for changes in the scope of work and shall provide services in connection with evaluating substitutions proposed by contractors and making subsequent revisions to drawings, specifications and other documentation resulting therefrom. The Architect/Engineer may make recommendations to the Owner to make changes in the contractors' work.

2.7.12 Supplemental Instructions: The Architect/Engineer shall issue Architectural/Engineering supplemental instructions, field instructions, sketches, etc. to clarify any questions raised by any contractors.

2.7.13 Contractor Performance: The Architect/Engineer shall interpret and make recommendations concerning performance of the contractors under the requirements of the contract documents on written request of the Owner. The Architect/Engineer's response to such requests shall be made within five (5) business days.

2.7.14 Interpretations: Interpretations and recommendations of the Architect/Engineer 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 or sketches.

2.7.15 Architect Recommendations: The Architect/Engineer's recommendations on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the contract documents and accepted by the Owner.

2.7.16 Contractor Claims: At the Owner's request, the Architect/Engineer shall render written recommendations within ten (10) business days on all claims, disputes or other matters in question between the Owner and contractors relating to the execution or progress of the contractor's work as provided in the contract documents.

2.7.17 Owner's Consultants: The Architect/Engineer shall provide coordination services in connection with the work of separate consultants retained by the Owner.

2.7.18 Substantial Completion: The Architect/Engineer shall conduct inspections to determine the date or dates of substantial completion and the date of final completion of the contractors' work. The Architect/Engineer, contractor and Owner shall sign off on a certificate of substantial completion (the "Certificate of Substantial Completion") in the form attached as Exhibit 9 for each portion of the contractors' work. The Architect/Engineer shall perform an initial and final punch list for each contract.

2.7.19 Punch List: The Architect/Engineer shall prepare the punch list in a database format compatible with that of the owner. The punch list items shall be a part of each Certificate of Substantial Completion.

2.7.20 Project Close-Out: As part of Project close-out, the Architect/Engineer shall forward to the Owner warranties and similar submittals required by the contract documents which have been received, including the final contractors' payment applications. The Architect/Engineer shall sign-off on a final Certificate of Substantial Completion ("Final Certificate of Substantial Completion").

2.7.21 Record Documents: The Architect/Engineer shall verify the accuracy of the as-built documents provided by the contractors to ensure they included all Change Orders, Field Instructions, etc on these documents. The Architect/Engineer shall provide the Owner with one (1) set of reproducible (Vellum) record documents (posted with all changes, and supplemental instructions) drawings and specifications and computer-aided design/drafting (CADD) system disks showing all significant changes to the drawings during the Construction Phase.

ARTICLE 3
ADDITIONAL SERVICES

3.1 GENERAL: The services described in this Article 3 are not included in Basic Services and shall be paid for by the Owner, as provided in this Agreement, in addition to the compensation for Basic Services. The services described under this Article 3 shall only be provided if authorized or confirmed in writing by the Owner.

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES: If more extensive representation at the site than is described in Subsection 2.7.3 is required, the Architect/Engineer shall provide one or more Project Representatives, with the reasonable approval of the Owner, to assist in carrying out such additional on-site responsibilities.

3.2.1 Project Representatives: Project Representatives shall be selected, employed and directed by the Architect/Engineer, and the Architect/Engineer shall be compensated therefor as agreed by the Owner and Architect/Engineer. Through the observations by such Project Representatives, the Architect/Engineer shall endeavor to provide further protection for the Owner against defects and deficiencies in the contractors' work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect/Engineer as described elsewhere in this Agreement.

3.2.2 Full-time On-site Representation: If the Owner deems it necessary, in best interest of the Project, the Owner shall direct the Architect/Engineer to provide, as an Additional Service, a full-time on-site representative. A full-time on-site representative, if provided, shall further expedite the review of shop drawings and shall resolve field issues and problems of the contractors.

3.3 CONTINGENT ADDITIONAL SERVICES: The services described below, if approved in writing by the Owner, shall be contingent additional services.

3.3.1 Major Revisions: Making major revisions in drawings, specifications or other documents when such revisions are:

3.3.1.1 inconsistent with written approvals or instructions previously given by the Owner;

3.3.1.2 requested by the Owner in writing because the bids received exceed the owner's estimate of Construction Cost, except where such excess is due to changes initiated by the Architect/Engineer in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;

3.3.1.3 required by the enactment of new codes, laws or regulations subsequent to the preparation of such documents; or

3.3.1.4 due to changes required as a result of the Owner's failure to render decisions within a time period reasonably specified by the Architect/Engineer.

3.3.2 Significant Changes: Providing services required because of significant changes in the Project including, but not limited to, changes in size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction.

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

3.3.4 Defects or Default: Providing services made necessary by the termination or default of a

contractor, or by major defects or deficiencies in the work of a contractor.

3.3.5 Claims: Providing services in evaluating an extensive number of claims submitted by a contractor or others in connection with the work.

3.3.6 Legal Proceedings: Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Architect/Engineer is party thereto.

3.3.7 Architect/Engineer's Failure to Perform: Notwithstanding anything to the contrary in this Agreement: (a) Owner shall not be responsible to pay and the Architect/Engineer shall not be entitled to receive compensation for any Contingent Additional Services if such services were required due to the fault of the Architect/Engineer or the Architect/Engineer's failure to perform in accordance with the terms of this Agreement; and (b) the services described in this Section 3.3 shall be deemed Additional Services only if the Architect/Engineer can demonstrate to Owner that a direct and material increase in the Architect/Engineer's costs has been incurred and caused by the Owner.

3.4 OPTIONAL ADDITIONAL SERVICES: The services described below, if approved in writing by the Owner, shall be optional additional services:

3.4.1 Feasibility Studies: Providing financial feasibility or other special studies.

3.4.2 Site Evaluation Studies: Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.4.3 Studies for Governmental Authorities: Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

3.4.4 Future Facilities: Providing services relative to future facilities, systems and equipment.

3.4.5 Verification of Owner's Information: Providing any services (in addition to visual observation under Subsection 2.3.5) to verify the accuracy of drawings or other information furnished by the Owner.

3.4.6 Estimates: Providing estimates of Construction Cost.

3.4.7 Materials and Equipment: Providing detailed quantity surveys or inventories of material and equipment.

3.4.8 Owning and Operating Costs: Providing analyses of owning and operating costs.

3.4.9 Planning For Rental Spaces: Providing services for planning tenant or rental spaces.

3.4.10 Investigations and Inventories: Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

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

3.4.12 Services after Construction Phase: Providing services after three (3) months after the issuance of the Final Substantial Completion Certificate.

3.4.13 Inspection of Completed Work: At the request of the Owner, approximately eight (8)

months after the issuance of a Certificate of Substantial Completion, Architect/Engineer shall assist the Owner with an inspection of the contractors' work, prepare a report of all observed defective materials, equipment and workmanship which requires corrective actions under any applicable warranties and submit same to the contractor(s).

3.4.14 Intentionally Omitted

3.4.15 Other Services: Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted Architect/Engineering practice.

3.4.16 Architect/Engineer's Failure to Perform: Notwithstanding anything to the contrary in this Agreement, the Owner shall not be responsible to pay and the Architect/Engineer shall not be entitled to receive compensation for any Optional Additional Services if such services were required due to the fault of the Architect/Engineer or the Architect/Engineer's failure to perform in accordance with the terms of this Agreement.

ARTICLE 4
PERSONNEL

4.1 PROJECT STAFFING: Except as hereinafter provided, the Architect/Engineer shall staff the Project and render its services hereunder in strict accordance with the project staffing plan (the "Staffing Plan") attached hereto as Exhibit 10. The Architect/Engineer shall not deviate from the Staffing Plan or increase or decrease its staff without first obtaining the prior written consent of the Owner in each instance, except that minor changes in staff which do not involve Key People (as defined in Section 4.2 below), may be made without the prior written consent of the Owner so long as there is no increase in cost to the Owner as a result of such change. Each request for a staff change shall be accompanied by a resume and qualification package with respect to the proposed new staff member. If an increase in staff by Architect/Engineer is required as a result of Architect/Engineer's negligent or intentional failure to properly perform its services hereunder, then the services of such staff shall be provided by Architect/Engineer without cost and with no increase in Architect/Engineer's Fee (hereinafter defined). Architect/Engineer shall be responsible for all damages and other liabilities (including any which arise under the Client Agreement) which result from Architect/Engineer's failure to properly staff the Project in accordance with the Staffing Plan. If an increase in the staff is required due to circumstances beyond the control of the Architect/Engineer, the Architect/Engineer shall be compensated for such staff in accordance with Article 12), provided that the Architect/Engineer has obtained the Owner's prior written approval for such additional staff.

4.2 KEY PEOPLE: Architect/Engineer agrees that it shall assign Key Person(s) to this Project (the "Key People"), as approved by the Owner, as set forth in the Staffing Plan attached as Exhibit 10; and that the Key People shall devote all of their time as necessary to the Project as may be appropriate to and consistent with full and timely performance of this Agreement by the Architect/Engineer. Key People are principals and employees of the Architect/Engineer that the Owner desires to be and remain assigned to the Project. The Architect/Engineer agrees that the Key People shall not be removed from their responsibilities on this Project without the prior written consent of Owner, except in the event of death, disability or departure from the employment of Architect/Engineer. All computations and other work performed by the employees of the Architect/Engineer shall be adequately supervised by one or more of the Key People. If the Owner determines that any of the Key People are not performing the job satisfactorily, the Owner shall have the right to direct that such individual(s) be replaced. The Architect/Engineer shall provide the Owner with resumes of possible replacements and the Owner shall have the opportunity to interview any such replacement candidates.

4.2.1 Consultant's Key People: The Architect/Engineer shall include a provision in all agreements with its consultants requiring each consultant to obtain the prior written approval of the Owner before the consultant assigns its Key People to the Project, and to include provisions relating to staffing substantially the same as those set forth in this Article 4.

4.3 REPLACEMENTS: If any of the Key People becomes unavailable to perform services in connection with the Project under this Agreement, the Architect/Engineer, subject to the prior written approval of the Owner, shall promptly appoint a replacement, including a current resume and rate of compensation, and the Owner shall have the opportunity to interview each such replacement.

4.4 RE-ASSIGNMENT: The Architect/Engineer shall not transfer or re-assign any of the Key People to other matters undertaken by the Architect/Engineer without the prior written consent of the Owner. The Owner shall have the right to require that the Architect/Engineer re-assign any of the Key People or any of the Architect/Engineer's other personnel at the reasonable discretion of the Owner.

ARTICLE 5
OWNER'S RESPONSIBILITIES

5.1 CONSULTATION WITH THE ARCHITECT/ENGINEER: The Owner shall consult with the Architect/Engineer regarding requirements for the Project, including the Owner's contemplated objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.

5.2 BUDGET UPDATE: The Owner shall establish and update the Budget based on consultation with the Architect/Engineer, which shall include the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

5.3 OWNER'S REPRESENTATIVE: The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner's Representatives shall be as described in Exhibit 11 until further notification.

5.4 INTENTIONALLY OMITTED

5.5 LEGAL DESCRIPTIONS: The Owner shall furnish all necessary surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site, if available. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, flood plains, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining 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. The Owner shall not warrant the accuracy of the information provided pursuant to this Section 5.5.

5.6 ADDITIONAL OWNER CONSULTANTS: The Owner shall furnish the services of additional consultants when such services are reasonably required by the scope of the Project as mutually determined by the Architect/Engineer and the Owner, provided that Owner shall retain such consultants only if such consultants are not retained by Architect/Engineer.

5.7 TESTS AND INSPECTIONS: The Owner shall furnish all necessary structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the contract documents.

5.8 LEGAL AND ACCOUNTING SERVICES: The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify any contractor's application for payment or to ascertain how or for what purposes the contractor has used the money paid by or on behalf of the Owner.

5.9 CERTIFICATES: To the extent the form of certificates or certifications have not been agreed to prior to the execution of this Agreement and attached hereto by way of exhibit, proposed language of certificates or certifications requested of the Architect/Engineer or Architect/Engineer's consultants shall be submitted to the Architect/Engineer for review and approval at least five (5) business days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

5.10 APPROVALS: The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as possible for the orderly progress of the Architect/Engineer's

services and work of the contractors.

5.11 COMMUNICATION: The Owner shall furnish the Architect/Engineer copies of material written communications with the contractors.

ARTICLE 6
CONSTRUCTION COST

6.1 CONSTRUCTION COST: The Construction Cost shall be the total cost or estimated cost associated with actual construction to the Owner of all elements of the Project designed or specified by the Architect/Engineer. The fixed limit of Construction Cost is established as a condition of this Agreement and identified in the Schedule of Construction Cost attached hereto as Exhibit 8. The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected, or specially provided for by the Architect/Engineer, plus a reasonable allowance for the contractors' overhead and profit. In addition, the cost of permits, and a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the work during construction.

6.2 CONSTRUCTION COST EXCLUSIONS: Construction Cost does not include the compensations of the Architect/Engineer and Architect/Engineer's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 5, but that are a part of the Project Budget.

6.3 RESPONSIBILITY FOR CONSTRUCTION COST: The Architect/Engineer's review of the Project Budget and of preliminary estimates of Construction Cost or detailed estimates of Construction Cost prepared by the owner is solely for the Architect/Engineer's guidance in the Architect/Engineer's preparation of the Construction Documents. Accordingly, the Architect/Engineer cannot and does not warrant the accuracy of the estimates of the owner, or warrant or represent that bids of negotiated prices will not vary from the Project Budget or from any estimate of Construction Cost or evaluation reviewed by the Architect/Engineer.

ARTICLE 7
OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S
DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

7.1 DOCUMENTS: All drawings, specifications, reports, surveys, Computer-Aided Design/Drafting (CADD) System disks/tapes and other documents, including models, photographs and renderings, prepared and/or furnished by the Architect/Engineer pursuant to this Agreement, shall be the property of the Owner and may not be copyrighted by the Architect/Engineer or its consultants. In the event that the Owner reuses any of the final working drawings and specifications for the construction of another project by Owner through another licensed professional, the Architect/Engineer's name shall be removed therefrom and another licensed professional shall assume full responsibility for the reuse of such drawings and specifications. The Architect/Engineer shall have no liability or responsibility arising from such reuse. Nothing contained herein shall prohibit the Architect/Engineer from retaining a copy of the above documents. The Architect/Engineer shall require all of its consultants and/or subconsultants to give the Owner copyright protection substantially as set forth in this Article 7.

7.2 OWNERSHIP: The data used in compiling, and the results of, any tests, surveys or inspections at the Site, as well as all photographs, drawings, specifications, schedules, data processing output, computations, studies, audits, reports, models and other items of like kind prepared by or with the assistance of the Architect/Engineer and its employees and consultants, shall be the property of the Owner.

7.3 RELEASE OF PROJECT INFORMATION; CONFIDENTIALITY: The Architect/Engineer shall not issue any press releases or engage in any dialogues or interviews with the media or any other persons or entities for the dissemination to the general public without the prior written consent of the Owner. The contents and substance of all discussions and communications, oral or written, between the Owner, the Client and the Architect/Engineer shall be kept confidential and shall not be disclosed by the Architect/Engineer to any persons or entities unaffiliated with the Project, including, without limitation, governmental authorities and community groups, without the prior written consent of the Owner. The Architect/Engineer shall obtain a similar agreement from firms, consultants and others employed by it in the form attached as Exhibit 12. The Owner reserves the right to release all information as well as to time its release, form and content. This requirement shall survive the expiration of the Agreement.

7.4 ARCHITECT/ENGINEER'S USE IN PROMOTIONAL MATERIALS: The Architect/Engineer shall have the right, with the prior written consent of the Owner, to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect/Engineer's promotional and professional materials. The Architect/Engineer's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the

Architect/Engineer in writing of the specific information considered by the Owner to be confidential or proprietary.

ARTICLE 8
COMPLIANCE WITH LAWS AND REGULATIONS

8.1 EMPLOYMENT LAWS; LICENSING REQUIREMENTS: The Architect/Engineer shall comply, at its own expense, with the provisions of all laws and regulations applicable to the Architect/Engineer as an employer of labor or otherwise. The Architect/Engineer shall further comply, at its own expense, with all laws and regulations, including, but not limited to, licensing requirements, pertaining to its professional status and that of its employees, partners, associates, consultants under subcontracts and others employed to render the services under this Agreement.

8.2 NON-DISCRIMINATION IN EMPLOYMENT: The Architect/Engineer agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subconsultant agreement except a subconsultant agreement for standard commercial supplies or raw materials; and (c) to post and to cause subconsultants to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

8.3 MINORITY BUSINESS ENTERPRISES: The Architect/Engineer shall make all reasonable efforts to comply with the Minority Business Enterprise ("MBE") participation goal pursuant to Title 14, Subtitle 3 of the State Finance and Procurement Article of the Annotated Code of Maryland. The name, address, percentage and dollar value of each State of Maryland Department of Transportation certified MBE that the Architect/Engineer intends to use on the Project is attached hereto as Exhibit 13. The Architect/Engineer's MBE Affidavit is attached hereto as Exhibit 14.

8.4 AMERICANS WITH DISABILITIES ACT: The Project shall be designed in accordance with the Americans with Disabilities Act ("ADA"). The Architect/Engineer shall work with an appointed HVAC controls, lighting controls, and submetering task force during the design process. The task force shall meet on a regular basis with the Architect/Engineer, the Owner and Client to review and provide comments regarding the design of the Project.

ARTICLE 9
DISPUTE RESOLUTION\ARBITRATION

9.1 DISPUTES: In the event of any dispute or controversy of any nature whatsoever, the Architect/Engineer shall strictly abide by the Owner's decision for the purpose of the prompt and uninterrupted continuation of the performance of its duties, obligations and services under this Agreement; but the Architect/Engineer may submit to Owner a written exception to any decision of the Owner within ten (10) days after receipt of such decision stating the basis of its exception and reserving the right to file a claim against the Owner after completion of the Project for additional compensation or damages. The continued performance by the Architect/Engineer of its duties, obligations and services under this Agreement shall not operate as a waiver of any such claim, nor shall it be prejudicial to the Architect/Engineer's rights, hereby reserved, to have such exception and claim later adjudicated by a court of competent jurisdiction after completion of the Project.

9.2 CONTINUED PERFORMANCE AND PAYMENT: The Architect/Engineer shall continue to perform its obligations under this Agreement pending resolution of any dispute, and the Owner shall continue to make payments of all amounts due the Architect/Engineer which are not in dispute.

9.3 NO ARBITRATION: No dispute or controversy under this Agreement shall be subject to binding arbitration except to the extent that either (a) the Owner and Architect/Engineer mutually agree to arbitrate or (b) the Architect/Engineer is joined as a party in an arbitration proceeding between the Owner and a contractor.

ARTICLE 10
TERMINATION, POSTPONEMENT OR SUSPENSION

10.1 TERMINATION: At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Architect/Engineer, to terminate this Agreement in whole or in part. In the event of a termination, the Architect/Engineer shall deliver to the Owner all drawings, specifications, reports and other data, records and materials in the Architect/Engineer's custody or control pertaining to the Project, and the Owner shall pay to the Architect/Engineer all amounts due and earned to the time of the termination, in accordance with the provisions of this Agreement. Except as specifically set forth above, such termination shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such termination is made necessary or desirable because of the Architect/Engineer's failure to fulfill the Architect/Engineer's obligations under this Agreement or any other fault of the Architect/Engineer, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Architect/Engineer under this Agreement. Such monies may be applied toward any damages or expenses sustained by the Owner as a result of such failure including, without limitation, any excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Architect/Engineer shall remain liable to the Owner for all such damages and expenses without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Architect/Engineer shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Architect/Engineer therefore.

10.2 POSTPONEMENT OR SUSPENSION: At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Architect/Engineer, to postpone or suspend all or any part of the Project. In the event of any postponement or suspension, the Owner shall have the right, in its discretion, upon written notice to Architect/Engineer, to keep this Agreement in effect during the period of such postponement or suspension; provided however, that if the postponement or suspension exceeds a period of ninety (90) days the Architect/Engineer shall be reimbursed for the actual costs incurred by the Architect/Engineer as a result of such postponement or suspension. Except as specifically set forth above, such postponement or suspension shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such postponement or suspension is made necessary or desirable because of the Architect/Engineer's failure to fulfill the Architect/Engineer's obligations under this Agreement or any other fault of the Architect/Engineer, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Architect/Engineer under this Agreement. Such monies may be applied toward any damages or expenses sustained by the Owner as a result of such failure including, without limitation, any excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Architect/Engineer shall remain liable to the Owner for all such damages and expenses without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Architect/Engineer shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Architect/Engineer therefor.

ARTICLE 11
INSURANCE REQUIREMENTS AND INDEMNIFICATION

11.1 INSURANCE REQUIREMENTS: Architect/Engineer shall maintain, at its own expense, the following insurance coverages, insuring the Architect/Engineer, his employees, agents and designees and the Indemnities as required herein, which insurance shall be placed with insurance companies reasonably acceptable to Owner and shall incorporate a provision requiring the giving of written notice to Owner and the Indemnitees (hereinafter defined) at least forty-five(45) days prior to the cancellation, non-renewal or material modifications of any such policies as evidenced by return receipt of United States certified mail:

- (a) Architect/Engineer's Professional Liability Insurance in the amount of Two Million Dollars (\$2,000,000) (including contractual liability coverage with all coverage retroactive to the earlier of the date of this Agreement and the commencement of Architect/Engineer's services in relation to the Project) covering personal injury, bodily injury and property damages, said coverage to be maintained for a period of three (3) years after the date of final payment hereunder.
- (b) Comprehensive General Liability Insurance in the amount of Two Million Dollars (\$2,000,000) including coverage for blanket contractual liability, broad form property damage and personal injury, political risk, and products/completed functions.
- (c) Umbrella Liability Insurance in an amount of Ten Million Dollars (\$10,000,000) following the underlying Comprehensive General Liability Insurance.
- (d) Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, in the amount of One Million Dollars (\$1,000,000) covering personal injury, bodily injury and property damage.
- (e) Workmen's Compensation Insurance in the amount of the statutory maximum with an employer's liability coverage of at least Five Hundred Thousand (\$500,000).

All deductibles on any policy of insurance to be purchased by Architect/Engineer hereunder shall be borne by the Architect/Engineer.

11.2 ADDITIONAL INSURED: Architect/Engineer shall insure specifically the indemnity contained in Subsection 11.5 below and shall include the indemnitees (as defined in Subsection 11.5 below) as additional insureds by causing amendatory riders or endorsements to be attached to the insurance policies described above in Subsections 11.1(a), 11.1(b), 11.1(c), 11.1(d) and 11.1(e). The insurance coverage afforded under these policies shall be primary to any insurance carried independently by the Indemnitees. Said amendatory riders or endorsements shall indicate that, as respects the Indemnitees, there shall be severability of interest under said insurance policies for all coverages provided under said insurance policies. The following language shall be specifically included as an endorsement under the Architect/Engineer's general liability policy:

"The coverage afforded to the additional insured under this policy shall be primary insurance. If the additional insured has other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Company's liability under this policy shall not be reduced by the existence of such other insurance. It is further agreed that the coverage afforded to the additional insured shall not apply

to the sole negligence of the additional insured."

11.3 CONSULTANTS INSURANCE: The Architect/Engineer shall require that its consultants maintain, at their own expense, the insurance coverages set forth in Section 11.1.

11.4 CERTIFICATE: Architect/Engineer shall submit valid certificates in form and substance satisfactory to Owner evidencing the effectiveness of the foregoing insurance policies along with original copies of the amendatory riders to any such policies to Owner for Owner's approval before Architect/Engineer commences the rendition of any services hereunder.

11.5 INDEMNIFICATION: The Architect/Engineer hereby agrees to indemnify, defend and hold the Owner and their respective members, directors, officers, agents, employees and designees (collectively, the "Indemnitees") harmless from all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees, that the Indemnitees might incur by reason of injury or damage sustained to any person or property (including, but not limited to any one or more of the Indemnitees) arising out of negligent acts, errors or omissions of the Architect/Engineer or occurring in connection with the performance or lack of performance by the Architect/Engineer of his duties and obligations under or pursuant to this Agreement, and whether or not any other party contributes to such performance or lack of performance by the Architect/Engineer.

ARTICLE 12
PAYMENTS AND BASIS OF COMPENSATION

12.1 PAYMENTS: Subject to the provisions of this Article 12, the Owner shall make payments directly to the Architect/Engineer within thirty (30) days after the Owner's receipt and approval of (a) the Architect/Engineer's detailed monthly statement, lien waivers or releases and documentation for reimbursable expenses (b) a certificate duly executed by Architect/Engineer covering that portion of the contractor's work completed on the Project prior to the date of said certificate; and (c) notarized updated MBE Summary indicating the MBE's participation on the Project for architectural/engineering services in accordance with the form attached hereto as Exhibit 13.

12.2 INITIAL PAYMENT: There shall be no Initial Payment made upon execution of this Agreement.

12.3 TOTAL COMPENSATION: The Owner shall compensate the Architect/Engineer for the services provided by the Architect/Engineer hereunder as follows: (a) for Basic Services, on the basis of the services actually performed as provided in Section 12.4 not to exceed the total lump sum fee set forth in the description of Architect/Engineer's compensation ("Description of Architect/Engineer's Compensation") attached hereto as Exhibit 15, (b) for Additional Services as provided in Section 12.5 and Exhibit 15 and (c) for Reimbursable Expenses as provided in Section 12.6 and Exhibit 15.

12.4 BASIC SERVICES: Basic Services shall include all services described in Article 2, and any other services specifically identified in this Agreement as part of Basic Services, and shall not exceed the stipulated sum stated in the Description of Architect/Engineer's Compensation attached as Exhibit 15 unless approved in advance by Owner in writing.

12.4.1 Program Fee: The Program Fee shall be a negotiated amount as set forth in Exhibit 15.

12.4.2 Phased Basic Services: Progress payments for Basic Services shall be made as set forth in the following amounts.

Phase I – Design Development
Phase II – Construction Documents
Phase III – Construction Administration
Total Basic Compensation

All reimbursables are fixed and included in the above amounts. Reimbursables will be billed as a percentage of the completed work.

12.4.3 Change in Project Scope: In the event of a material change in the scope of the Project or the scope of the Architect/Engineer's services, the Architect/Engineer shall continue to perform in accordance with the terms of this Agreement during the course of any renegotiation of the Architect/Engineer's compensation hereunder.

12.5 ADDITIONAL SERVICES: For Additional Service as described in Article 3, other than (a) Increased Project Representation, as described in Section 3.2; and (b) services of outside consultants, which shall be compensated as set forth in Subsection 12.5.1, compensation shall be computed as the direct personnel expense times a multiplier as set forth in Exhibit 15. Direct personnel expense ("Direct Personnel Expense") shall be defined as the direct salaries of the Architect/Engineer's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

12.5.1 Additional Services of Outside Consultants: For Additional Services of outside consultants, compensation shall be computed as the Direct Personnel Expense of the outside consultant times a multiplier as set forth in Exhibit 15.

12.5.2 Increased Project Representation: For Increased Project Representation as described in Section 3.2, compensation shall be as set forth in Exhibit 15.

12.6 REIMBURSABLE EXPENSES

12.6.1 General: For Reimbursable Expenses, as hereinafter described, compensation shall be computed as the actual amount of the reimbursable expenses, subject to the limitations set forth below. Reimbursable Expenses include only those reasonable and actual expenditures made by the Architect/Engineer and the Architect/Engineer's employees and consultants in the interest of the Project for the items listed in the following subsections. Reimbursable Expenses shall be documented with receipts and shall be highlighted in expense reports if combined with non-reimbursable expenses. Any Reimbursable Expense items (other than travel and living expenses of the Architect/Engineer and its employees for trips to the Project area and reasonable telephone expenses) requiring expenditures in excess of one thousand dollars (\$1,000.00) per each separate occasion shall require the prior written approval of the Owner (or, when so indicated by Owner, oral approval from Owner's authorized representative, provided that each such oral approval shall be confirmed in writing). The Architect/Engineer has provided the Owner with a projected schedule of items of reimbursable expense specifically set forth in Exhibit 15 attached hereto, which shall not be materially exceeded without the prior written approval of the Owner. These expenses will be reimbursed at cost and without a markup and shall include:

12.6.1.1 Long-distance telephone calls and telegrams, express mail, commercial messenger service, hand delivery, and/or overnight delivery service;

12.6.1.2 Fees paid for securing approval of authorities having jurisdiction over the Project;

12.6.1.3 Reasonable expense of reproductions necessary for the rendition of services hereunder, which expense shall not include the expense of producing the sets of documents covered in Architect/Engineer's compensation for Basic Services;

12.6.1.4 Costs of reproductions, postage, deliveries and handling of drawings, specifications and other documents excluding all in-house reproductions (reproductions normally made on the Architect/Engineer's owned or lease equipment) for the office use of the Architect/Engineer and the Architect/Engineer's Consultants.

12.6.1.5 Costs of photographic production techniques.

12.6.1.6 Costs of public stenographic services and transcripts for meetings as and when required by the Owner; and

12.6.1.7 Expense of any sales, use, occupation or similar taxes applicable to this Agreement;

12.6.1.8 Expense of models, rendering, videos, presentation materials and photographs when authorized in advance in writing by the Owner;

12.6.1.9 Transportation expenses incurred in connection with the Project if the Architect/Engineer is required to travel more than fifty (50) miles from the Architect/Engineer's office at the standard State rate of travel pursuant to Exhibit 16, or at the direct cost of transportation expense incurred when traveling by

common carrier (airfare or rail: coach class only);

12.6.1.10 Reasonable living expenses in connection with out-of-town travel in accordance with state standard of travel pursuant to Exhibit 16 hereto (alcohol and/or entertainment are not considered Reimbursable Expenses).

12.6.1.11 Such other expenses incurred in connection with the Project when specifically authorized in advance in writing by the Owner.

12.7 PROJECT COMPLETION: It is the intent of the parties that the Architect/Engineer shall continue to perform the services required hereunder through the three (3) months after the Scheduled Completion Date as described in Exhibit 4. If Basic Services have not been completed within three (3) months after the Architect/Engineer's signature on the Final Certificate of Substantial Completion under Subsection 2.7.20, through no fault of the Architect/Engineer, the Architect/Engineer shall be compensated for its services as an Additional Service under Section 12.5. The Architect/Engineer shall have no claim against the Owner, its consultants or contractors, or the Client for any loss, cost, expense, claim or liability incurred as a result of the failure to attain project close-out by the Scheduled Completion Date, but shall look to its right to increased compensation as set forth above as its sole remedy for any such failure; all other remedies being hereby expressly waived. The foregoing shall not, however, be deemed to invalidate the indemnification obligations set forth in Section 11.5.

12.8 ARCHITECT/ENGINEERS ACCOUNTING RECORDS: Records of Architect/Engineer's expenses and hours pertaining to this Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. Said records shall be available to the Owner or its authorized representative for inspection and copying during regular business hours during the term of this Agreement and for three (3) years after the date of the final certificate of payment.

ARTICLE 13
AUDITS BY OWNER

13.1 ACCESS TO ARCHITECT/ENGINEER'S BOOKS AND RECORDS: The Architect/Engineer agrees that the Owner or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement have access to and the right to examine any directly pertinent books, documents, papers, and records of the Architect/Engineer involving transactions related to this Agreement.

13.2 ACCESS TO CONSULTANT'S BOOKS AND RECORDS: The Architect/Engineer further agrees to include in all its consultant agreements hereunder a provision to the effect that the consultants agree that the Owner or any of its duly authorized representatives shall, until expiration of three (3) years after final payment under the consultant agreements, have access to and the right to examine any directly pertinent books, documents, papers, and records of such consultants, involving transactions related to the Project.

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW: This Agreement shall be governed by the laws of the State of Maryland.

14.2 SUCCESSORS AND ASSIGNS: The Owner and the Architect/Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

14.3 ASSIGNMENTS: The Architect/Engineer shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Owner. The Architect/Engineer shall notify the Owner immediately in writing of any significant changes in its ownership or organization or in the ownership or organization of any of the joint venturers comprising the Architect/Engineer. Except for an assignment by Owner of any of its rights under this Agreement to the State of Maryland, or any agency or department thereof, or an entity supplying funds for the construction of the Project, the Owner shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Architect/Engineer, which consent shall not be unreasonably withheld or delayed. When requested by an entity supplying funds for the construction of the Project, including any lender, the Architect/Engineer shall enter into a reasonable and customary "Agreement to Complete".

14.4 REMEDIES CUMULATIVE: The remedies provided in this Agreement shall be in addition to, and not in substitution for, the rights and remedies which would otherwise be vested in either party hereto, under law or at equity, all of which rights and remedies are specifically reserved by each party; and the failure to exercise any remedy provided for in this Agreement shall not preclude the resort to any such remedy for future breaches by the other party, nor shall the use of any special remedy hereby provided prevent the subsequent or concurrent resort to any other remedy which by law or equity would be vested in either party for the recovery of damages or otherwise in the event of a breach of any of the provisions of this Agreement to be performed by the other party.

14.5 JURISDICTION AND VENUE: If the Owner is a party to any litigation with respect to the Project (whether as plaintiff, defendant or third party defendant) the Architect/Engineer consents to being joined in such action and to the jurisdiction of the Court in which the action is instituted (if the Architect/Engineer is named as a defendant or impleaded as a third party defendant) and to service of process by that court; and the Architect/Engineer waives any right to contest its joinder in such action on the grounds of improper jurisdiction or venue.

14.6 CONTRACT AFFIDAVIT: Simultaneously with the execution of this Agreement, the Architect/Engineer shall execute, seal and deliver to the Owner the signed Contract Affidavit attached hereto as Exhibit 16.

14.7 EXHIBITS: All exhibits attached hereto are hereby incorporated into this Agreement and are deemed a material part of this Agreement.

14.8 NON-HIRING OF EMPLOYEES: No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Agreement, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.

14.9 PERSONAL LIABILITY OF PUBLIC OFFICIALS: In carrying out any of the provisions of the Agreement, or in exercising any power or authority granted to them by or within the scope of this Agreement, there shall be no personal liability upon the members of the MSA or any employees or

representatives of the Owner, either personally or as officials of the State, it being understood that in all such matters they act solely as agents and representatives of the Owner.

14.10 POLITICAL CONTRIBUTION DISCLOSURE: The Architect/Engineer shall comply with the provisions of Sections 30-1 through 30-4 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies, or a political subdivision of the State, during a calendar year under which the person receives in the aggregate of \$100,000 or more, shall, on or before February 1 of the following year, file with the Secretary of State of Maryland certain specified information to include disclosure of political contributions in excess of \$100 to a candidate for elective office in any primary or general election.

14.11 MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATION: If the General Assembly fails to appropriate funds or if funds are not otherwise made available by the Client for continued performance for any fiscal period of this Agreement succeeding the first fiscal period, this Agreement shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the Owner's rights or the Architect/Engineer's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Architect/Engineer and the Owner from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The Architect/Engineer shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. The Owner shall notify the Architect/Engineer as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first.

14.12 NOTICES: All notices required or permitted to be given by one party to the other hereunder shall be in writing and shall be sent by certified U.S. Mail or commercial messenger receipt service, or shall be hand-delivered, as set forth in Exhibit 17. Either party may change its address for the purpose of receiving notices under this Agreement by written notice to the other party in the manner set forth above.

14.13 GENERAL CONDITIONS: Terms which are not defined in this Agreement shall have the same meaning as those in the General Conditions of the Contract for Construction provided to the Architect/Engineer by Owner.

14.14 INTEGRATED AGREEMENT: This Agreement and the RFP (unless modified by this Agreement) represent the entire and integrated agreement between the Owner and the Architect/Engineer 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/Engineer.

14.15 NO THIRD PARTY BENEFICIARIES: 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/Engineer.

14.16 NO JOINT VENTURE: Architect/Engineer acknowledges that Owner is not a partner or joint venturer of Architect/Engineer and that Architect/Engineer is not an employee or agent of Owner.

14.17 HAZARDOUS MATERIALS: Unless otherwise provided in this Agreement, the Architect/Engineer and Architect/Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances; provided, however, the Architect/Engineer shall report to the Owner the presence and location of any hazardous material that an Architect/Engineer of similar skill and expertise should have noticed.

14.18 OWNER APPROVAL: Whenever provision is made herein or in the contract documents for the approval or consent of Owner, or that any matter be to Owner's satisfaction, unless specifically stated to the contrary, such approval or consent shall be made by Owner in its sole discretion and determination.

14.19 HEADINGS: The headings and captions of the Sections in this Agreement are inserted for identification purposes only, and shall not govern the construction, nor alter, vary, or change any of the terms, conditions, or provisions of this Agreement or any Sections hereof.

14.20 TIME OF THE ESSENCE: Time is of the essence in the performance of the obligations of the Architect/Engineer under this Agreement.

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

WITNESS

OWNER: Maryland Stadium Authority

(Signature)

Michael J. Frenz.
Executive Director

WITNESS

ARCHITECT/ENGINEER: Architect

(Signature)

(Printed Name and title)

List of Exhibits

- Exhibit 1.....Project Description
- Exhibit 2.....Architect/Engineer Proposal
- Exhibit 3.....Contracting Strategy
- Exhibit 4.....Construction Schedule
- Exhibit 5.....Budget
- Exhibit 6.....Request For Proposal
- Exhibit 7.....Intentionally Omitted
- Exhibit 8.....Schedule of Construction Cost
- Exhibit 9.....Certificate of Substantial Completion & Final Completion Certificate
- Exhibit 10.....Staffing Plan
- Exhibit 11.....Owner's Representatives
- Exhibit 12.....Confidentiality Agreement
- Exhibit 13.....MBE Participation
- Exhibit 14.....MBE Affidavit
- Exhibit 15.....Description of Architect/Engineer's Compensation
- Exhibit 16.....State Standard of Travel Reimbursement
- Exhibit 17.....Contract Affidavit
- Exhibit 18.....Notices

EXHIBIT 4

PROJECT SCHEDULE

EXHIBIT 5

BUDGET

EXHIBIT 8

SCHEDULE OF CONSTRUCTION COST

CERTIFICATE OF SUBSTANTIAL COMPLETION

CONTRACT NO.: _____ CONTRACT DATE _____

CONTRACT NAME: _____

PROJECT NAME: _____

DEFINITION: The date of Substantial Completion on the Work or designation portion thereof is the Date certified by the Architect/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner and or Client can occupy or utilize the Work or designated portion thereof for the use for which it is intended, as expressed in the Contract Documents.

PROJECT, OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

The Work to which this Certificate applies has been reviewed and found to be substantially complete. The date of Substantial Completion of the Project or portion thereof designated above is established as _____, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected, prepared by the contractor and amended by the Architect/Engineer and Construction Manager is attached hereto. The failure to include any items on such a list does not alter the responsibilities of the Contractor to complete all work in accordance with the Contract Documents. The list of items shall be completed or corrected by the Contractor within thirty (30) days of the above date of Substantial Completion. The date of commencement of warranties for items on the attached list will be the date of final payment unless otherwise agreed to in writing.

The responsibilities of the Owner/Client and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER: _____

CONTRACTOR: _____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractor=s obligations to complete the Work in accordance with the Contract Documents.

ARCHITECT/ENGINEER:
Date: _____
A/E: _____
By: _____

CONSTRUCTION MANAGER:
Date: _____
CM: _____
By: _____

CONTRACTOR agrees to this Certificate of Substantial Completion on:

OWNER agrees to this Certificate of Substantial Completion on:

Date: _____
Contr.: _____
By: _____

Date: _____
Owner: _____
By: _____

MARYLAND STADIUM AUTHORITY
333 W. Camden Street, Suite 500
Baltimore, Maryland 21201

FINAL COMPLETION CERTIFICATE

CONTRACT NO.: _____

CONTRACT: _____

CONTRACT NAME:

PROJECT NAME:

DEFINITION: The date of Final Completion on the Work is the Date certified by the Architect/Engineer when construction is complete, including all close out documents, claims settled and is, in accordance with the Contract Documents. The Owner and or Client took beneficial occupancy of the Work for the use for which it is intended, as expressed in the Contract Documents.

PROJECT, OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

The Work to which this Certificate applies has been reviewed and found to be complete. The date of Completion of the Project or portion thereof designated above (the Contract) is established as _____. The Contractor has no claims or liens against the Project or the Owner.

The responsibilities of the Owner/Client and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER: _____

CONTRACTOR: _____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractor=s obligations of the Contract Documents.

ARCHITECT/ENGINEER:
Date: _____
A/E: _____
By: _____

CONSTRUCTION MANAGER:
Date: _____
CM: _____
By: _____

