



DISTRICT MISSION

... Ensure that each student is empowered to achieve his or her dreams and contribute to his or her community and world ...

BOARD PURPOSE

Providing highly effective governance for Mapleton's strategic student achievement effort.

CORE ROLES

*Guiding the district through the superintendent
Engaging constituents
Ensuring effective operations and alignment of resources
Monitoring effectiveness
Modeling excellence*

2010-2011

FOCUS AREAS

*Student Achievement
Exceptional Staff
Character Development
Learning Environment
Communication
Community Involvement
Facilities Management
District Image*

BOARD MEMBERS

*Cindy Croisant
Victor Domenico
Craig Emmert
Norma Frank
Raymond Garcia*

SUPERINTENDENT

Charlotte Ciancio

Mapleton Public Schools Board of Education

Special Meeting
Las Delicias Restaurant

February 1, 2011
6:00 p.m.

SPECIAL MEETING OF THE BOARD OF EDUCATION

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Board Business
 - 5.1 Neenan Archistruction Contract, Policy EL 4.3
 - 5.2 Colorado Surplus Asset Fund Trust (C-Safe) Resolution, Policy EL 4.3
 - 5.3 Student Travel, Wrestling Team, Policy EL 4.8
6. Next Meeting Notification – Tuesday, February 22, 2011
7. Adjournment

Welcome to a meeting of the Mapleton Public School Board of Education!

The board's meeting time is dedicated to addressing Mapleton's mission and top-priority focus areas.

"Public Participation" is an opportunity during the business meeting to present brief comments or pose questions to the board for consideration or follow-up. Each person is asked to limit his or her comments to 3 minutes.

If you are interested in helping Mapleton's efforts, please talk with any member of the district leadership team or call the district office at 303-853-1015. Opportunities abound.

Your participation is desired.

ARCHISTRUCTION SERVICES AGREEMENT

BETWEEN

ADAMS COUNTY SCHOOL DISTRICT NO. 1

AND

THE NEENAN COMPANY LLLP

DATE: FEBRUARY 1, 2011

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AGREEMENT FOR ARCHISTRUCTION SERVICES

THIS AGREEMENT FOR ARCHISTRUCTION SERVICES, made as of this 1st day of February, 2011 ("Effective Date"), by and between **ADAMS COUNTY SCHOOL DISTRICT NO. 1**, a School District and political subdivision of the State, organized and existing under the laws of the State of Colorado, with offices at 591 East 80th Avenue, Denver, Colorado 80229 ("Owner") and **THE NEENAN COMPANY LLLP**, a limited liability limited partnership organized and existing under the laws of the State of Colorado, with offices at 2620 East Prospect Road, Suite 100, Fort Collins, Colorado, 80525 ("Archistructor").

BACKGROUND

A. Owner desires to design and construct renovations, additions, and new buildings at the Owner's Skyview Campus located at 8990 York Street in Thornton, Colorado ("Project"). The following are the four portions of the Project ("Portion(s) of the Project"):

New Mapleton Early College / Mapleton Expeditionary School of the Arts ("MEC / MESA")

A new approximately 82,450 square feet, targeted LEED Gold certification, high school on the Owner's existing Skyview High School campus.

New Skyview Academy / Clayton Partnership School

A new approximately 74,400 square feet, targeted LEED Gold certification, high school / K-8 school on the Owner's existing Skyview High School campus.

North Valley Young Adults Center ("NVYAC") School Addition

A new approximately 20,500 square feet, targeted LEED Gold certification, addition on the Owner's existing Skyview High School building. The NVYAC Portion of the Project will include the Student Center Renovation ("SCR"). The SCR will include demolition of the vocational arts / classroom wings of the Owner's existing Skyview High School building (approximately 136,000 square feet), renovation of locker rooms in the Owner's existing Skyview High School building (approximately 20,560 square feet), and installation of a fire sprinkler system in portions of the Owner's existing Skyview High School building that are not demolished (approximately 112,000 square feet). The SCR will be targeted LEED Certified.

B. Archistructor is a design/build organization that is willing and able to design and construct the Project.

C. The Work, and Owner's approval to proceed with the Work, is broken into a two-step process. By executing this Agreement, Owner is only authorizing Archistructor to proceed with the services described in Subparagraphs 2.1.1 through 2.1.6 in exchange for the payments specified in **Exhibit F**. Any further work by Archistructor requires Owner's acceptance of Archistructor's Proposal pursuant to Subparagraph 2.1.7.

D. Except as otherwise provided herein, Owner hereby represents that it has followed all appropriate procedures and has obtained all necessary approvals and authorizations to incur and perform all obligations of Owner set forth in this Agreement.

E. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Archistructor agree as follows:

AGREEMENT

1. ARTICLE 1—GENERAL PROVISIONS

1.1 Definitions.

Capitalized terms used herein shall have the meanings ascribed to them where first used or, if not defined where first used, in the following list of definitions.

1.1.1 “Agreement”

shall mean this Agreement for Archistruction Services, including the Exhibits and subsequent written Modifications, which Exhibits and Modifications are specifically made a part of the Agreement by this reference.

1.1.2 “Allowances”

shall mean dollar amounts allocated to certain categories of the Work for which the actual cost is not ascertainable at the time of the submittal of Archistructor’s Proposal. The dollar amounts for all Allowance items (without any fees for Archistructor’s Fee, Archistructor’s Warranty Fee, insurance and bonds, and costs for any regulatory agencies) shall be identified in the open items at Subparagraph 2.1.7.1.4 and shall be included in the costs for Divisions 1 through 16 within the Schedule of Values set forth in Subparagraph 2.1.7.1.2. Subject to Subparagraph 7.2.3, Allowance items shall be adjusted by Change Order as the actual costs become known and the Work is more specifically defined.

1.1.3 “Archistructor’s Consultants”

shall mean those design professionals hired by Archistructor to perform Work for the Project.

1.1.4 “Archistructor’s Contingency”

shall mean the dollar amount identified within the Schedule of Values for the proposed GMP pursuant to Subparagraph 2.1.7.1.2, allocated for defraying unanticipated costs and expenses for the Cost of the Work due to errors in design and in estimating both time and money, but not for costs and expenses associated with Weather Conditions; differing site conditions; Excusable Delays; Additional Services; changes or delay due to any governmental, quasi-governmental or regulatory permitting, approval or licensing process; and Owner requested changes in the scope,

kind, and quality for the Work. Archistructor's Contingency shall be for Archistructor's sole use and benefit and such use shall not require notice to or approval of Owner. All spending for Archistructor's Contingency shall be reported to Owner on a monthly basis and, at Final Completion, the unspent portion of the Contingency, if any, shall be returned to the Owner.

1.1.5 Intentionally Not Used

1.1.6 "Archistructor's Proposal"

shall mean that Proposal furnished by Archistructor to Owner pursuant to Subparagraph 2.1.7 hereof setting forth, among other things, the Scheduled Substantial Completion Date, the GMP, and any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**.

1.1.7 Intentionally Not Used

1.1.8 "Architect"

shall refer to **Michael J. Daley at The Neenan Company LLP** who is a licensed professional Architect in the state of Colorado and shall be the Architect of Record.

1.1.9 "Construction Documents"

shall mean those documents produced pursuant to Subparagraph 2.1.8 hereof.

1.1.10 "Contract Documents"

shall mean those documents referred to in Paragraph 1.2, including written Modifications thereto.

1.1.11 "Cost of the Work"

shall mean the cost of all labor, materials, third party fees, equipment, and services incurred to perform the Work as defined in Paragraph 6.9.

1.1.12 "Drawings"

shall mean the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams, but in accordance with Paragraph 1.2 specifically excluding all computer animation and all perspective sketches prepared by Archistructor.

1.1.13 "Exhibits"

shall mean those Exhibits which are identified in Paragraph 13.10 hereof, which Exhibits are attached hereto, or shall be attached hereto, when complete information becomes available.

1.1.14 "General Conditions"

shall mean those items and the associated costs identified at Division 1 within the Schedule of Values set forth in Subparagraph 2.1.7.1.2 (and elsewhere within the Schedule of Values for specific items as follows), including, but not limited to, Archistructor's supervisory and administrative personnel engaged in the Work and their transportation; travel, accommodations and meals in the performance of the Work; establishing, operating and demobilizing the Site office, including, but not limited to, temporary office and storage facilities, office equipment, telephone service, postage and express delivery, and copying documents; and insurance and bonds, permits, fees, and licenses required by this Agreement for the performance of the Work.

1.1.15 "Guaranteed Maximum Price or GMP"

shall mean the maximum amount payable by Owner, not including any Change Orders or other increases provided for under this Agreement and not including the fees for design and pre-construction as set forth in **Exhibit F** and in the Archistructor's Proposal, but including Cost of the Work pursuant to Paragraphs 6.9 and 6.10, the Archistructor's Fee pursuant to Paragraph 6.11, and the Archistructor's Warranty Fee pursuant to Paragraph 6.13. The fees for design and pre-construction set forth in **Exhibit F** and in the Archistructor's Proposal are fixed amounts and are not subject to change except by Change Order.

1.1.16 "Hazardous Material"

shall mean any substance or material identified now or in the future as hazardous under any Law or Regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up.

1.1.17 "Laws" or "Laws and Regulations" or "Laws or Regulations"

shall mean any applicable laws, statutes, rules, regulations, ordinances, codes and orders of any governmental bodies, agencies, authorities and courts having jurisdiction over the design and construction of the Project or the parties.

1.1.18 "Modification"

shall mean Change Orders issued by Owner pursuant to Paragraphs 7.2 and 7.3 hereof, and any written amendments to the Agreement or Exhibits signed by both Owner and Archistructor.

1.1.19 "Owner's Other Contractors"

shall mean contractors, design professionals and any person or entity, other than Archistructor, Archistructor's Consultants or Subcontractors, retained by Owner to perform work pursuant to Paragraph 3.2 hereof.

1.1.20 "Preliminary Project Schedule"

shall mean that preliminary schedule for performance of the Work set forth in **Exhibit A**. This schedule shall be modified based on final development of the Project Scope Definition, the governmental approval process and the timing of Owner's acceptance of Archistructor's Proposal.

1.1.21 "Project Schedule"

shall mean that schedule for performance of the Work set forth in Archistructor's Proposal, as such schedule may be updated from time to time pursuant to Subparagraph 2.2.3 hereof. This schedule shall be modified based on the timing of Owner's acceptance of Archistructor's Proposal and the issuance of a building permit.

1.1.22 "Project Scope Definition"

shall mean the initial definition of Owner's objectives relative to the Project, including budgetary criteria, scheduling criteria, Site requirements and limitations (including zoning issues and topographical constraints) and preliminary facility requirements (including approximate area requirements and spatial relationships), all developed pursuant to this Agreement or interim agreements preceding this Agreement, if applicable.

1.1.23 "Proposal Acceptance Date"

shall mean the date when Owner has accepted Archistructor's Proposal pursuant to Subparagraphs 2.1.7.4 or 2.1.7.5 hereof.

1.1.24 "Site"

shall mean the geographical location where the Work is to be performed bounded by the legal description of the Project.

1.1.25 "Specifications"

shall mean that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, and performance of related services, all in outline format.

1.1.26 Intentionally Not Used

1.1.27 "Subcontractor"

shall mean a person or entity retained by Archistructor as an independent contractor or supplier to provide labor, materials, equipment and/or services necessary to complete a specific portion of the Work, provided, however, that "Subcontractor" shall not include the Architect, Archistructor's Consultants or any of Owner's Other Contractors. "Subcontract" shall mean any agreement between a Subcontractor and Archistructor relating to the Work or the Project.

1.1.28 "Weather Conditions Allowance"

shall mean an Allowance amount, if any, identified within the Archistructor's Proposal for costs and expenses that are incurred by Archistructor in order to facilitate the Work when the Work is affected by inclement weather. Inclement weather may include, but is not limited to, the occurrence of snow, ice, frost, rain, drought, heat, cold, and high winds. Costs and expenses incurred may include, but are not limited to, those resulting from snow, ice, frost, and water removal; temporary heat or cooling equipment and consumption expense; temporary enclosures; temporary protection; mud removal and replacement with clean fill material; and repairing of construction access roads. Archistructor shall notify the Owner of all spending for this Allowance amount prior to expending the costs. This Allowance shall not be for costs incurred by Archistructor for Excusable Delays pursuant to Paragraph 5.4, including Adverse Weather Days in excess of the number of Adverse Weather Days set forth in Archistructor's Proposal.

1.1.29 "Work"

shall mean all design, construction, and other services required by the Contract Documents, and includes all other labor, materials, equipment and services provided or to be provided by Archistructor to fulfill Archistructor's obligations to complete the Project in accordance with the Contract Documents.

1.2 Contract Documents.

1.2.1 The following documents shall be the Contract Documents:

1.2.1.1 this Agreement, including its Exhibits;

1.2.1.2 Drawings included in the executed Archistructor's Proposal referenced at Subparagraph 2.1.7.1.3 together with Construction Documents developed in accordance with Subparagraph 2.1.8 hereof, but only to the extent accepted by Owner in writing pursuant to Subparagraph 2.1.7.2;

1.2.1.3 Archistructor's Proposal as accepted by Owner in writing as provided in Subparagraph 2.1.7.4; and,

1.2.1.4 written Modifications and Exhibits to any of documents referenced above.

1.2.2 Notwithstanding the foregoing Subparagraph 1.2.1, Contract Documents specifically exclude all computer animation and all perspective sketches prepared by Archistructor, which documents are furnished by Archistructor solely to assist Owner in understanding the conceptual design for the Project and not to fully represent all components of the design for the Project.

1.3 Correlation and Intent.

1.3.1 The Archistructor represents and warrants that the Contract Documents include all items necessary for proper execution and completion of the Work. Performance by Archistructor shall be required only to the extent consistent with and reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3.2 In case either party believes there is any inconsistency, conflict or ambiguity among the Contract Documents, such party shall bring it to the other party's attention promptly. In the event of such inconsistency, conflict or ambiguity, the higher standard or greater requirement shall prevail, unless the parties agree otherwise in writing.

1.4 Architectural and Engineering Services.

1.4.1 Architectural and engineering services required under the Contract Documents shall be performed by qualified and duly licensed architects, engineers and other design professionals. Owner shall communicate with the Architect and Archistructor's Consultants only through Archistructor, unless Owner and Archistructor agree otherwise.

1.4.2 The standard of care for all architectural and engineering services performed or furnished pursuant to this Agreement shall be the standard of care and skill ordinarily used by members of the architectural or engineering professions practicing under similar conditions in the area where the Project is located at the same time as the services performed hereunder.

1.4.3 The Architect and Archistructor's Consultants shall review codes and Laws and Regulations applicable to the Project. The Architect and Archistructor's Consultants shall respond in the design of the Project to requirements imposed by regulatory agencies having jurisdiction over the Project.

1.4.4 Any other provisions of this Agreement notwithstanding, as to Archistructor's compliance with the American with Disabilities Act of 1990, as modified ("ADA"), Archistructor shall use diligent efforts to prepare design documents and Construction Documents to conform to the requirements of the ADA and the regulations thereunder, including the Fair Housing reference as well as other applicable Laws and Regulations protecting the disabled. However, standards for design practice under the ADA and Fair Housing legislation are newly evolving, and may in fact, sometimes be in conflict with existing building codes

and/or the interpretation thereof. Therefore, Archistructor shall not be responsible if any aspect of its design does not conform to the ADA or Fair Housing requirements if the claim of non-conformance arises by virtue of a binding interpretation made by an entity with jurisdiction after the date of receipt of the construction permit.

1.4.5 Any other provisions of this Agreement notwithstanding, Archistructor shall not be responsible for additional costs and delay created by any exercise by a life safety official in his or her authority under the "General Authority and Responsibilities" section of the version of the International Fire Code applicable to the Project, (or the exercise by any other inspector of similar rights under other applicable code provisions) to order changes in fire plans (or other applicable portions of the Drawings and Specifications) after issuance of the construction permit, but only if such fire plans or other Drawings or Specifications were in fact, at the time of their submittal to the applicable governmental entity issuing the permit, in compliance with all applicable Laws and Regulations and only if such changes in fire plans (or other applicable portions of the Drawings and Specifications) does not result from errors and omissions by Archistructor.

1.5 Responsibility of the Parties.

1.5.1 To the extent permitted by Law, Owner shall be responsible to Archistructor for acts and omissions of: (a) Owner's agents and employees; (b) Owner's Other Contractors and their respective agents and employees; and, (c) any other person or entity performing work on the project for, or on behalf, of Owner, or Owner's Other Contractors. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

1.5.2 To the extent permitted by Law, Archistructor shall be responsible to Owner for acts and omissions of: (a) Archistructor's agents and employees; (b) Archistructor's Consultants and Subcontractors, and their respective agents and employees; and, (c) any other person or entity performing portions of the Work for or on behalf of Archistructor, Archistructor's Consultants, or Subcontractors.

1.5.3 Nothing in the Agreement shall create a contractual relationship between Owner and any person or entity other than Archistructor.

1.6 Archistructor's Representative.

Archistructor's representative for the Project shall be **Mark Christensen**, who is the primary point of contact with Owner regarding all matters relating to the Project and is authorized to act on Archistructor's behalf with respect to the Project.

2. ARTICLE 2—ARCHISTRUCTOR'S RESPONSIBILITIES

2.1 Design Phase Services.

2.1.1 Intentionally Not Used

2.1.2 Schematic Design Phase

2.1.2.1 Based on the Project Scope Definition created during the project analysis phase and based on Owner-furnished information described in Subparagraph 3.1.3, Archistructor shall prepare for Owner's review and approval conceptual design documents, consisting of drawings and other documents which describe the scope and character of the Project and which establish the scale and relationship of the Project components ("Schematic Design Documents"). The Schematic Design Documents shall include the following:

2.1.2.1.1 a Site plan, indicating building location, parking and landscaped area, grading and drainage concepts, and major Site improvements;

2.1.2.1.2 floor plans, including interior layouts, structural bay sizes, and overall dimensions;

2.1.2.1.3 building elevations and sections;

2.1.2.1.4 preliminary identification of building systems and materials;

2.1.2.1.5 preliminary outline specifications; and,

2.1.2.1.6 design or perspective sketch.

2.1.2.2 On or about the time of the scheduled submittal for the deliverables under this Subparagraph 2.1.2, Archistructor and Owner shall meet to approve and confer about the submittals, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from work product delivered during the project analysis phase, as well as any changes to the Project budget or Preliminary Project Schedule. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents. The Schematic Design Documents shall be approved in writing by Owner before Archistructor proceeds to the Design Development phase.

2.1.3 Design Development Phase

2.1.3.1 Based on the approved Schematic Design Documents, Archistructor shall prepare for Owner review and approval design development

documents, consisting of Drawings and other documents required to fix and to describe the size, quality and character of the Project ("Design Development Documents"). The Design Development Documents shall include:

- 2.1.3.1.1 architectural components including, without limitation, wall and roof systems, interior features and finishes, vertical transportation, and special construction;
- 2.1.3.1.2 structural systems including foundations and superstructure;
- 2.1.3.1.3 on-site civil engineering;
- 2.1.3.1.4 mechanical and plumbing systems;
- 2.1.3.1.5 electrical systems, including data cabling and data infrastructure;
- 2.1.3.1.6 fire and life safety systems; and,
- 2.1.3.1.7 landscaping, irrigation and drainage.

2.1.3.2 On or about the time of the scheduled submittal for the deliverables under Subparagraph 2.1.3.1 above, Archistructor and Owner shall meet to approve and confer about the submittals, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from work product delivered during the schematic design phase, as well as any changes to the Project budget or Preliminary Project Schedule. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents. The Design Development Documents shall be approved in writing by Owner before Archistructor proceeds to the Archistructor's Proposal phase.

2.1.4 Governmental Approval Process Services

2.1.4.1 To the extent that Owner is subject to one or more of the following requirements regarding the Project under C.R.S. § 22-32-124, Archistructor shall assist Owner as requested and as necessary to ensure satisfactory compliance with such requirements:

2.1.4.1.1 Advise the appropriate planning commission or other governmental body performing similar functions (hereinafter the "Planning Authority") regarding Owner's plans to acquire land within the planning authority's jurisdiction, and consult with said planning authority on issues regarding conformance, insofar as is feasible, of said land to any adopted zoning or development plans.

2.1.4.1.2 Prepare and submit a site development plan to the appropriate Planning Authority for review and comment prior to construction of any structure or building.

2.1.4.1.3 Assist Owner with respect to any hearing requested by a Planning Authority relating to the proposed Site location or Site development plan.

2.1.4.1.4 Provide necessary services and consultation to ensure that all buildings and structures comprising the Project are constructed in conformity with the standards of the Colorado Department of Public Safety, Division of Fire Safety ("Department"), and to obtain any necessary approvals and/or certificates of occupancy.

2.1.5 Pre-Construction Services

2.1.5.1 Pre-construction services shall be performed by qualified professionals, cost estimators, or contractors, with such services being performed concurrently with Archistructor's performance of the design services.

2.1.5.2 Pre-construction services shall include developing a program for the active involvement of subcontractors in the pre-construction phase in order to generate interest among the subcontractor community in the Adams County School District No. 1, as well as in Adams County and surrounding counties, and to ensure competitive bidding of the Work. The program shall include developing opportunities for these subcontractors to perform work on the Project and also providing the Owner with an opportunity to participate in determining "Best Value" for the Project in the selection of those Subcontracts in excess of \$10,000.00, but not including Subcontracts that are being performed on a design-build basis, including those for mechanical, electrical, and plumbing ("MEP"). Best Value may include, but not be limited to, safety record, financial ability to perform, insurance coverage, ability to meet quality and scope requirements, total cost, percentage fees for all markups of direct costs for change orders, management qualifications, past history of project difficulties, timeliness of performance, bonding qualifications, innovative design, and value engineering approaches. The cost of bonding shall be included in the total cost to be evaluated in the determination of the Subcontractors to be selected to perform the Work as the Best Value. Archistructor shall only be required to solicit a minimum of 3 bids for any particular scope of work and the actual requirement that a Subcontractor furnish a bond shall be at Archistructor's sole discretion. If, in the course of selection of Subcontractors, Owner requires Archistructor to utilize a Subcontractor not recommended by Archistructor and such selection increases Archistructor's costs for the Work, the Contract Price shall be equitably adjusted.

2.1.5.3 The scope of the remaining pre-construction services is set forth in **Exhibit B**.

2.1.6 Additional Services.

Additional Services, if any, are set forth in **Exhibit C** and are not part of the Work provided by Archistructor pursuant to the Agreement. Additional Services shall not include any items necessary for proper execution and completion of the Work as provided in Subparagraph 1.3.1. Such services, and any other services not specifically identified in Paragraph 2.1 hereof, are optional and shall be provided by Archistructor and paid for by Owner if requested in writing by Owner, and incorporated into the Work by Change Order. Such services shall be performed in accordance with the terms of the Contract Documents.

2.1.7 Archistructor's Proposal Phase

2.1.7.1 Archistructor shall submit a Proposal ("Archistructor's Proposal") for each Portion of the Project which shall include, unless the parties mutually agree otherwise, the following:

2.1.7.1.1 proposed GMP and any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**;

2.1.7.1.2 Schedule of Values showing an ASI 16 Division breakdown of the GMP together with any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**;

2.1.7.1.3 list of the Drawings and Specifications, including all addenda, which were used in preparation of Archistructor's Proposal;

2.1.7.1.4 list of Allowances and a list of open items and a statement of their basis;

2.1.7.1.5 list of options and Allowances for mitigation of concrete slab moisture vapor emissions and pH made by Archistructor in preparation of Archistructor's Proposal and Owner's Acknowledgement and Acceptance;

2.1.7.1.6 list of assumptions and clarifications made by Archistructor in the preparation of Archistructor's Proposal to supplement the information contained in the Drawings and Specifications;

2.1.7.1.7 Scheduled Substantial Completion Date upon which the proposed GMP is based, and the Project Schedule;

2.1.7.1.8 number of Adverse Weather Days included in the Project Schedule per Paragraph 5.4;

2.1.7.1.9 schedule of applicable alternate prices;

2.1.7.1.10 schedule of applicable unit prices;

2.1.7.1.11 fees for Archistructor for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance for changes in the Work;

2.1.7.1.12 time limit for acceptance of Archistructor's Proposal; and,

2.1.7.1.13 list of permits and identification of who is responsible for obtaining and paying for them.

2.1.7.2 The date for the submittal of Archistructor's Proposal shall be agreed upon between the Owner and Archistructor.

2.1.7.3 Upon submittal of Archistructor's Proposal, Archistructor and Owner shall meet to review Archistructor's Proposal. If Owner finds any inconsistencies or inaccuracies in the information presented, it shall promptly give notice to Archistructor of such findings. Archistructor shall, upon receipt of Owner's notice, make appropriate adjustments to Archistructor's Proposal if such adjustments are necessary to make Archistructor's Proposal consistent with the Project Scope Definition. Notwithstanding anything to the contrary in this Agreement, once Archistructor has submitted Archistructor's Proposal, Archistructor shall have no obligation or right to proceed with or perform any Work in addition to the Work described in Subparagraphs 2.1.1 through 2.1.6 unless and until Owner accepts such Proposal as set forth in Subparagraph 2.1.7.4 below, provided that Archistructor shall not rescind the Archistructor's Proposal before the conclusion of the period set forth in Archistructor's Proposal. Owner may direct the Archistructor in writing to perform additional work pending action by Owner to approve or reject the Proposal, but only if Owner provides written assurances that it will pay for all such additional work in the event that Owner rejects the Proposal.

2.1.7.4 If Owner accepts Archistructor's Proposal, as may be amended by Archistructor pursuant to Subparagraph 2.1.7.3, Owner shall sign such Proposal, the date such signing occurs being referred to as the "Proposal Acceptance Date." Archistructor and Owner shall execute a Change Order to modify the Contract Price by the GMP, plus any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**, both as set forth in the Archistructor's Proposal, and to incorporate the Archistructor's Proposal as accepted as a Contract Document. The Contract Price as modified, and Scheduled Substantial Completion Date, shall be subject to modification by changes in the Work as provided in Article 7 and Paragraph 5.4 hereof. Upon such acceptance by Owner, Archistructor shall proceed with the completion of the Construction Documents and the balance of the Work.

2.1.7.5 Unless Owner accepts Archistructor's Proposal in writing on or before the date specified in Archistructor's Proposal for such acceptance, Archistructor's Proposal shall not be effective and is deemed to be withdrawn. If Owner fails to so accept Archistructor's Proposal, or rejects Archistructor's Proposal, then:

2.1.7.5.1 either Party shall have the right to suggest modifications to Archistructor's Proposal that are acceptable to Owner and Archistructor; whereupon, if such modifications are accepted in writing by Archistructor and Owner, Archistructor's Proposal shall be deemed accepted in accordance with Subparagraph 2.1.7.4 hereof and Owner shall sign such Proposal; or,

2.1.7.5.2 Owner may terminate this Agreement for its convenience in accordance with Paragraph 10.4.

2.1.7.6 As Allowances and open items are resolved from time to time, Archistructor shall modify the list presented with the Proposal and submit the modified list to Owner in accordance with Article 7.

2.1.8 Construction Documents Phase

2.1.8.1 Based on the approved Archistructor's Proposal and pursuant to the Preliminary Project Schedule and Project Schedule, Archistructor shall prepare, and furnish to Owner, Drawings, Specifications, and other documents and electronic data which set forth in detail the requirements for construction of the Work ("Construction Documents"). The Construction Documents shall:

2.1.8.1.1 be consistent with the intent of those documents identified in Archistructor's Proposal;

2.1.8.1.2 include updates as required by the Department from its review of documents submitted to the Department;

2.1.8.1.3 provide information for the use of those in the building trades;

2.1.8.1.4 include documents customarily required for regulatory agency approvals; and,

2.1.8.1.5 comply with all applicable Laws and Regulations.

2.1.8.2 On or about the time of the scheduled submittal for the deliverables under Subparagraph 2.1.8.1 above, Archistructor and Owner shall meet to approve and confer about the submittal, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from the documents identified in Archistructor's Proposal. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents.

2.1.9 Construction Administration Services

The following services (collectively known as "Construction Administration") will be provided by Architect and Archistructor's Consultants during the construction of the Project by Archistructor:

2.1.9.1 assisting in obtaining necessary approvals from regulatory agencies for the construction of the project;

2.1.9.2 as a representative of the Owner, visiting the Site at intervals appropriate to the stage of construction, or as otherwise agreed by Owner and Archistructor (with a written report of the observations from such site visits transmitted to the Owner), to: (a) endeavor to guard Owner against defects and deficiencies in the construction; (b) become familiar with the progress of the construction; and, (c) determine in general if the construction is being performed in a manner indicating that the construction, when fully completed, will be in accordance with the Contract Documents;

2.1.9.3 reviewing shop drawings, product data, samples and other submittals;

2.1.9.4 clarifying and interpreting the Construction Documents; and,

2.1.9.5 preparing a record set of drawings for submittal to Owner in both electronic and print format indicating significant changes made during construction.

2.2 General Construction Services.

2.2.1 General Obligations of Archistructor

Unless otherwise provided in the Contract Documents, Archistructor shall furnish, or cause to be furnished, and shall pay for all design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, electricity, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

2.2.2 Supervision of Work

Archistructor shall supervise and direct the Work, using reasonable skill and attention. Archistructor shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

2.2.3 Project Schedule and Reporting

2.2.3.1 The Project Schedule shall show the critical path of the schedule, and shall integrate Owner requirements and indicate design activities; the planned date of commencement of Work at the Site; the Scheduled Substantial Completion Date; the dates for the start and completion of the various stages of the Work; the dates for submittal, review, and receipt of applicable permits and approvals from governmental authorities; and other factors that may affect the Scheduled Substantial Completion Date. Archistructor shall update the Project Schedule from time-to-time as required by the conditions and progress of the Work.

2.2.3.2 The Project Schedule will identify, among other things, the dates on which Owner is required to furnish information, review documents or render decisions (each an "Owner Review Date") and, when applicable, the period of time that Owner has to provide such information, perform such review or render such decisions (each, an "Owner Review Period"). If a time period for an Owner Review Period is not specified, it shall be seven (7) business days, unless an earlier review or decision is required to prevent delay for the Project Schedule or unless Owner reasonably requires a longer Owner Review Period for a specific issue provided such longer Owner Review Period does not create delay for the Project Schedule. Each Owner Review Period shall commence on the day after Archistructor delivers to Owner a written request, together with any documents for Owner's review, for Owner to provide information, review documents, or render a decision. If Archistructor does not deliver a complete request to Owner, or if Owner reasonably requires additional information, the Owner Review Period shall not commence until Archistructor delivers such request and information to Owner, and the respective Owner Review Date shall be extended on a day-for-day basis until Archistructor delivers such request and information to Owner.

2.2.3.3 Owner and Archistructor shall hold regularly scheduled meetings throughout the design and construction of the Project to thoroughly discuss the Project Schedule, progress of the Work, and status of planned Work.

2.2.3.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

2.2.4 Taxes

2.2.4.1 Owner hereby declares that it is exempt from paying any State use taxes or any State sales taxes on any materials, supplies, or equipment used or installed on the Project. Archistructor will rely on this declaration and the Contract Price shall not include costs for any State use taxes or State sales taxes. If any State use taxes or State sales taxes are applicable to, or assessed against, the Project, Owner shall pay them. To effectuate the exemption, Archistructor shall obtain a Certificate of Exemption from the Colorado Department of Revenue and file copies with Owner before making any purchases for, or commencing work for, the construction portion of the Work.

2.2.4.2 Owner and Archistructor shall work together to investigate whether any local use taxes or any local sales taxes are applicable to the Project.

Unless such investigation determines that they are applicable, the Contract Price shall not include costs for any local use taxes or any local sales taxes on any materials, supplies, or equipment used or installed on the Project. If such taxes are not included in the Contract Price and they are later assessed against the Project, Archistructor and Owner shall work together to mitigate or eliminate those taxes. If such taxes are then payable, Owner shall pay them.

2.2.5 Permits, Approvals, Licenses and Notices

2.2.5.1 Archistructor shall (a) obtain and pay for those permits, approvals and licenses identified in the permit list set forth in Archistructor's Proposal as being Archistructor's responsibility and (b) shall pay for those regulatory agencies' charges and inspection fees identified in the Archistructor's Proposal as being Archistructor's responsibility. As of the Effective Date of this Agreement the permits, approvals and licenses identified as being the Archistructor's responsibility are those for the electrical, plumbing, and storm water permits; all building permits; and the health department permit. Any governmental, quasi-governmental or regulatory fees or charges not identified on the permit list, but required to be obtained to complete the Work, shall be authorized by Change Order and shall increase the Contract Price by the amount of such fee or charge. Archistructor shall provide reasonable assistance and cooperation to Owner with respect to those permits, approvals and licenses identified as Owner's responsibility, including assistance in preparing applications and furnishing copies of previously developed drawings or data or slightly modified versions thereof.

2.2.5.2 Unless they are to be obtained by Owner, Archistructor shall prepare and submit all applications and supporting documents necessary for obtaining any required permits, approvals, and licenses for the Project. All such Work shall be in accordance with the Project Schedule, the applicable professional standards, and the reasonably known requirements of the applicable authority. Owner shall cooperate with Archistructor to comply with all requirements for applications and supporting documentation. If, without negligence by Archistructor, there is a change in the Scheduled Substantial Completion Date or Contract Price as a result of any governmental, quasi-governmental or regulatory permitting, approval or licensing process, such changes shall be made by Change Order in accordance with the procedures set forth in Article 7.

2.2.5.3 Archistructor shall give all notices and comply with all applicable Laws and Regulations relating to obtaining the permits, approvals and licenses set forth in the Archistructor's Proposal as Archistructor's responsibility.

2.2.6 Safety

2.2.6.1 Archistructor shall have overall responsibility for safety precautions and programs in the performance of the Work. Additionally, while the provisions of this Subparagraph 2.2.6 hereof establish the responsibility for safety between Owner and Archistructor, they do not relieve Subcontractors of their responsibility for the safety of persons or property in the performance for their work, nor for compliance with applicable Laws and Regulations.

2.2.6.2 Archistructor shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect:

2.2.6.2.1 employees, students, teachers, and other persons at the Site;

2.2.6.2.2 materials and equipment stored at on-site or off-site locations for use in performance of the Work; and,

2.2.6.2.3 the Project and all property located at the Site and adjacent to Work areas, whether or not said property or structures are part of the Project or involved in the Work.

2.2.6.3 Archistructor shall designate an individual at the Site in the employ of Archistructor who shall act as Archistructor's designated safety representative with a duty to prevent accidents. Unless otherwise identified by Archistructor in writing to Owner, the designated safety representative shall be Archistructor's project superintendent. Archistructor shall immediately notify Owner of all accidents and injuries occurring at the Site. When Archistructor is required to file an accident report with a public authority, Archistructor shall furnish a copy of the report to Owner.

2.2.6.4 Archistructor shall provide Owner with copies of all notices, licenses, permits and approvals required of Archistructor by applicable Laws or Regulations.

2.2.6.5 Archistructor shall comply with all applicable provisions of the Occupational Safety and Health Administration ("OSHA") and all laws, ordinances, rules, regulations and orders of all governmental agencies or authorities having jurisdiction to protect the safety of employees and/or other persons who may be affected by the Work. Archistructor shall erect and maintain all necessary safeguards to protect workers on the Project Site and the owners and users of adjacent property, and shall post danger signs and other warnings against hazards created by the Work, including but not limited to protruding nails, hoists, well holes, elevator shafts, hatchways, scaffolding, window openings, stairways, excavations and falling materials.

2.2.6.6 If Owner reasonably believes that any part of the Work or Site is unsafe, Owner may require Archistructor, without assuming responsibility for Archistructor's safety program, to stop performance of the Work and take reasonable corrective measures satisfactory to Owner.

2.2.7 Royalties and Patents

Archistructor shall pay royalties and license fees for patented or copyrighted designs, processes or products incorporated into the Work, and further agrees to defend, indemnify and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising there from. Notwithstanding the above, if a particular design, process or product is required by

Owner, Owner shall, to the extent permitted by Law, defend, indemnify and hold Archistructor harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any such patented or copyrighted design, process or product. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. If Archistructor has reason to believe the use of a specified design, process or product is an infringement of a patent or copyright, Archistructor shall promptly provide notice to Owner.

2.2.8 Cleaning of Site

Archistructor shall maintain the Site and regularly remove debris, rubbish and waste materials resulting from the Work. After completing Work in an area, Archistructor shall clean the area and remove all debris, rubbish and waste materials, and its construction equipment, tools, machinery, and surplus materials. Archistructor shall make reasonable provisions to minimize and confine dust and debris resulting from the Work. Archistructor shall not be required to clean areas or remove any materials, debris or waste materials left by Owner or Owner's Other Contractors.

2.2.9 Record Documents and Accounts

2.2.9.1 Archistructor shall maintain at the Site one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. Such record copies shall be delivered to the Owner upon completion of the Work and prior to final payment.

2.2.9.2 Archistructor shall keep such full and detailed accounts as may be necessary for proper financial management under the Agreement and preserve all such records for a period of six years after final payment.

3. ARTICLE 3—OWNER'S RESPONSIBILITIES

3.1 Owner's Services.

3.1.1 Owner's Representative

3.1.1.1 Owner's Representative for the Project, **Don Herman, COO**, or an alternative designated representative to the extent designated in writing, shall be the primary contact with Archistructor regarding all matters relating to the Project and authorized to act on Owner's behalf with respect to the Project.

3.1.1.2 Owner may obtain independent review of the Contract Documents by a separate architect, engineer, contractor, or cost estimator under contract to, or employed by, Owner. Such independent review shall be undertaken at Owner's expense in a timely manner and shall not delay the orderly progress of the Work.

3.1.2 Permits, Approvals, Licenses and Notices

3.1.2.1 Owner shall (a) obtain and pay for those permits, approvals and licenses identified in the permit list set forth in Archistructor's Proposal as being the Owner's responsibility; and, (b) pay for those regulatory agencies' charges and inspection fees identified in the permit list in Archistructor's Proposal as being Owner's responsibility. As of the Effective Date of this Agreement the permits, approvals and licenses identified as being the Owner's responsibility are those for removal/remediation of Hazardous Materials that are in the Owner's existing buildings. Owner shall provide reasonable assistance and cooperation to Archistructor with respect to those items identified as being Archistructor's responsibility.

3.1.2.2 Owner shall give all notices and comply with all applicable Laws and Regulations relating to the permits, approvals and licenses, if any, set forth in Archistructor's Proposal as Owner's responsibility.

3.1.3 Furnishing of Services and Information

3.1.3.1 When the services set forth in Subparagraphs 3.1.3.1.1 through 3.1.3.1.6 below are reasonably deemed necessary by Archistructor or Owner to properly carry out the Work, Owner shall furnish the services with reasonable promptness utilizing consultants under direct contract with Owner ("Owner's Consultants") and at the Owner's expense. Except to the extent Archistructor knows of any inaccuracy, Archistructor, Archistructor's Consultants, and Subcontractors shall be entitled to rely upon the accuracy of any such information, reports, surveys, drawings and tests described in Subparagraphs 3.1.3.1.1 through 3.1.3.1.6. Archistructor, Archistructor's Consultants, and Subcontractors shall not have any liability to Owner related to such services or work product and Owner shall indemnify, defend, and hold Archistructor, Archistructor's Consultants, and Subcontractors harmless from any cost, liability or damages related to, or arising from the performance of, such services or work product. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. If Archistructor believes it would be unreasonable to rely upon such services or work product, Archistructor shall bring its concerns to Owner's attention immediately.

3.1.3.1.1 Reports, surveys, drawings, and tests concerning the conditions of the Site that are required by Law.

3.1.3.1.2 Surveys describing physical characteristics, legal limitations and utility locations for the Site, 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; flood plains; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries; contours of the site at one foot intervals; 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 information on the survey shall be referenced to a project benchmark.

3.1.3.1.3 The services of a geotechnical engineer, including, but not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations and design options. Owner shall meet with the Architect, structural engineer, and geotechnical engineer to review all recommendations and design options presented by the geotechnical engineer, and Owner shall select the options to be included for the Archistructor's Work for the Project.

3.1.3.1.4 The services of independent testing laboratories to perform all inspections, including all "third party inspections," and tests required by the Contract Documents except costs incurred in connection with inspections or tests conducted for replacement of defective Work and except as otherwise specifically provided in the Contract Documents to be the Archistructor's responsibility. Notwithstanding the foregoing, Archistructor shall be responsible for arranging and obtaining, and shall pay all costs in connection with all materials, mix designs, or equipment submitted for approval prior to Archistructor's purchase thereof for incorporation in the Work.

3.1.3.1.5 Chemical, air and water pollution tests, tests for hazardous materials existing on the Site prior to the commencement of construction, and other laboratory and environmental tests, inspections and reports which are required by Law.

3.1.3.1.6 The services of other consultants when such services are reasonably required by the scope of the Project and reasonably requested by Archistructor.

3.1.3.2 Owner shall furnish and disclose to Archistructor, to the extent that Owner has knowledge thereof, all information, including the results and reports of prior tests, inspections or investigations conducted for the Project or the Site, involving (a) chemical, air and water pollution; (b) Hazardous Materials; (c) environmental or geotechnical conditions; (d) the presence of pollutants; or, (e) any other information related to the Project or Site relevant to Archistructor in performing the Work.

3.1.3.3 If Owner has knowledge of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, Owner shall give prompt written notice to Archistructor.

3.1.3.4 Owner shall furnish required information and services identified in this Agreement and shall promptly provide decisions and approvals pertaining thereto reasonably requested by Archistructor in a timely manner, consistent with the orderly progress of the services, but in no case in less than the Owner Review Period pursuant to Subparagraph 2.2.3.2.

3.1.4 Financial Information

3.1.4.1 If reasonably requested by Archistructor prior to Archistructor's commencing construction Work at the Site, Owner shall provide evidence reasonably satisfactory to Archistructor that sufficient funds are available and committed for the entire cost of the Project, including an amount for changes in the Work as may be approved in the course of the Work. Unless such reasonable evidence is provided, Archistructor shall not be required to commence or continue Work. The failure of Archistructor to insist upon Owner providing this evidence at any one time shall not be a waiver of Owner's obligation to make payments pursuant to this Agreement, nor shall it be a waiver of Archistructor's right to require that such evidence be provided at a later date.

3.2 Work by Owner or Owner's Other Contractors.

3.2.1 Owner reserves the right to perform construction or operations related to the Project outside the scope of Archistructor's Work with Owner's own forces, and to award separate contracts to Owner's Other Contractors in connection with portions of the Project or other construction or operations on the Site, provided, however, that such work shall be performed under conditions of insurance and waivers of subrogation identical to the provisions of this Agreement including, but not limited to, the requirement that each of Owner's Other Contractors shall provide Archistructor with evidence of insurance on an ACORD Form naming Archistructor as an "additional insured" prior to Owner's Other Contractors entering the Site. Owner's contracts with Owner's Other Contractors shall contain provisions requiring them to comply with Archistructor's safety protocol, requirements, and directions for the Project, including attending all required safety meetings, and requiring them to comply with all applicable Laws and Regulations concerning construction safety. If Owner's Other Contractors fail to comply, Archistructor may, after reasonable efforts in accordance with the circumstances to gain their compliance, remove them from the Site. If Archistructor claims that delay or additional cost is involved because of Owner's use of Owner's Other Contractors, Archistructor shall assert such claims as provided in Subparagraph 7.8.1 hereof.

3.2.2 To the extent practical, Archistructor shall afford Owner's Other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and Archistructor shall coordinate its Work with the work of Owner's Other Contractors. Archistructor shall not be required to incur delay caused by Owner's Other Contractors presence at the Site. All Owner's Other Contractors' materials and equipment shall be stored at Owner's or Owner's Other Contractors sole risk and Archistructor shall not be obligated to protect or care for such items. Archistructor shall not be liable in any way for any injury, loss or damage which may occur to any of Owner's or Owner's Other Contractors property or installations at the Site except to the extent caused by the negligence or other misconduct of Archistructor or its employees. Owner agrees to defend, indemnify and hold harmless Archistructor from all liability, costs, damages, fees, and expenses, arising out of, or connected with, the activities of Owner's Other Contractors at the Site, including damage to Archistructor's and Subcontractor's property or Work caused by Owner's Other Contractors. Nothing herein shall be construed to waive any rights or defenses available to

Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq.

3.2.3 Costs caused by delays or by improperly timed activities or defective construction by Owner's Other Contractors shall be borne by the party responsible therefore.

4. ARTICLE 4—SUBCONTRACTORS

4.1 Subcontractor's Communication with Owner.

Archistructor shall be responsible for the management, scheduling and coordinating of Subcontractors in the performance of the Work. Except in an emergency event, Owner shall instruct or direct Subcontractors only through Archistructor unless Owner and Archistructor agree otherwise.

4.2 Assignment of Subcontracts.

Archistructor shall provide for the assignment of Subcontracts if Owner terminates the Agreement for default of Archistructor or terminates the Agreement for convenience as provided in Paragraphs 10.3 and 10.4 hereof. Following such termination, Owner shall notify in writing those Subcontractors whose assignments shall be accepted, subject to the rights of sureties.

5. ARTICLE 5—TIME

5.1 Commencement of the Work.

5.1.1 Archistructor shall not be obligated to commence Work at the Site until applicable permits have been obtained and Owner has signed Archistructor's Proposal evidencing its acceptance thereof. Archistructor's performance of the services set forth in Subparagraphs 2.1.1 through 2.1.6 shall be deemed to have commenced on the later of the Effective Date or execution of the Agreement by both parties. Work performed prior to the Effective Date, through a limited notice to proceed, an interim agreement, or through any other arrangement between Owner and Archistructor, shall be deemed to have been performed pursuant to this Agreement.

5.1.2 Archistructor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Work in order to comply with the periods and deadlines specified in the Project Schedule.

5.2 Substantial and Final Completion.

5.2.1 "Substantial Completion" is the stage in the progress of the Work when the Work, or designated portion thereof, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Work for its intended purpose

and when the Work, or designated portion thereof, has received a Temporary Certificate of Occupancy or a Certificate of Occupancy.

5.2.2 Archistructor shall achieve Substantial Completion on or before the Scheduled Substantial Completion Date in the Archistructor's Proposal, as such date may be extended in accordance with this Agreement ("Scheduled Substantial Completion Date").

5.2.3 "Final Completion" of the Work shall occur when Archistructor has completed all Punch List (defined below) items in conformance with the Contract Documents, and has submitted to Owner the record drawings pursuant to Subparagraph 2.1.9.5 and the operations and maintenance manual pursuant to Subparagraph 8.2.3. Final Completion of the Work shall be accomplished as expeditiously as practical after Substantial Completion.

5.3 Punch List and Certificate of Substantial Completion.

5.3.1 When Archistructor considers that the Work, or a designated portion thereof, is Substantially Complete as defined in Subparagraph 5.2.1, Archistructor shall notify Owner. Upon receipt of written notice from Archistructor that the Work is Substantially Complete, Owner and Archistructor shall, within five (5) days of Owner's receipt of the notice, review the Work. Based upon this review Owner and Archistructor shall, within five (5) days after the review, compile a list of items to be completed or corrected (the "Punch List"). The failure to include any items on such list does not alter the responsibility of Archistructor to complete all Work in accordance with the Contract Documents. The Punch List shall include the actual cost to complete or correct each item contained therein. If the actual cost is not known for an item, then Owner and Archistructor shall reasonably agree upon the cost to complete or correct the item.

5.3.2 If Owner, on the basis of its review of the Work with Archistructor, concurs that the Work, or designated portion thereof, is Substantially Complete in accordance with the Contract Documents, Archistructor shall prepare for Owner's signature a Certificate of Substantial Completion which shall fix the date of Substantial Completion, state the responsibilities of Owner and Archistructor for the completed Work, and fix the time within which Archistructor shall complete the items listed on the Punch List attached thereto. As Punch List items are completed, Archistructor shall notify Owner that the completed Punch List items are ready for Owner's inspection. Owner shall inspect the completed Punch List items and either accept the completed Punch List items or state its reason for rejection of those items. This process shall continue until all the Punch List items are completed in conformance with the Contract Documents. If additional items that need to be completed or corrected are discovered after Final Settlement, such items shall be considered to be warranty items and shall be corrected in accordance with Subparagraph 8.2.5.

5.3.3 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof.

5.3.4 Owner may occupy or use completed or partially completed portions of the Work at any stage when such portion is designated by separate agreement with Archistructor, provided such use is consented to by insurers and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided Owner and Archistructor have accepted in writing the responsibilities assigned to each of them for payments, security, maintenance, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for completion or correction of the Work and commencement of warranties for such Work. Immediately prior to such partial occupancy or use, Owner and Archistructor shall jointly inspect the area to be occupied, or portion of the Work to be used, to determine and record the condition of the Work, including the development of the Punch List for such Work in the manner set forth in Subparagraphs 5.3.1 and 5.3.2 hereof. Notwithstanding this Subparagraph, if Owner occupies or uses portions of the Work and if Owner and Archistructor have not accepted in writing the responsibilities assigned to each, all Owner's furniture, fixtures, and equipment installed within partially occupied or used portions of the Work shall be stored or installed at Owner's sole risk and Archistructor shall not be liable in any way for any injury, loss or damage which may occur to any of such Owner's furniture, fixtures, and equipment.

5.3.5 If the Project or any portion of the Project for which Archistructor is responsible for obtaining a Certificate of Occupancy or temporary Certificate of Occupancy does not receive such certificate due to issues outside the scope of Work of Archistructor, including any equipment procurement or installation not the responsibility of Archistructor, then Archistructor shall be deemed to have Substantially Completed the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that Owner could otherwise occupy and use the Work for its intended purpose and shall be deemed to have achieved Final Completion when the Punch List has been completed and the record drawings and operations and maintenance manual have been submitted.

5.3.6 If any governmental, quasi-governmental, or other entity has the power and authority to require Archistructor or Owner to post security in the form of a bond, letter of credit, or cash in escrow, for the guaranteed performance of post Final Completion obligations, such security shall either be posted by Owner or Owner shall cause Archistructor to be released from such obligation at Final Completion. Failing Owner's cooperation in gaining such release or posting the security in lieu of Archistructor's security, Owner shall immediately pay over to Archistructor an amount of cash equal to such security posted by Archistructor.

5.4 Delays in the Work.

If Archistructor is delayed at any time in the progress of the Work by an act or neglect of Owner, Owner's agents, Owner's Consultants or Owner's Other Contractors (which act or neglect shall include the failure of Owner to respond within the times required by the Owner Review Periods), or by changes ordered in the Work by Owner, or, without negligence by Archistructor in accordance with Subparagraph 2.2.5.2, by failure to obtain any necessary approvals, permits or licenses by or from regulatory agencies, or by labor disputes, fire, unusual delay in deliveries, acts of God, Adverse Weather Days (defined below) in excess of the number of Adverse

Weather Days set forth in Archistructor's Proposal, casualties or other causes beyond Archistructor's control, or by any other causes which Owner and Archistructor agree may justify delay ("Excusable Delays"), then the Scheduled Substantial Completion Date shall be extended by Change Order to the extent that the critical path of the Project has been impacted, if any, arising out of such delay; and the Contract Price shall be equitably adjusted to reflect the costs to Archistructor, if any, arising out of such delay. All claims for delays shall be made in accordance with Paragraph 7.9. Adverse Weather Days shall mean the occurrence of snow, ice, wind, rain, cold or heat which in the reasonable and prudent exercise of Archistructor's professional opinion make it unreasonable to execute the Work as scheduled for any specific day. Notwithstanding the foregoing, Archistructor shall not be entitled to any extension of the Scheduled Substantial Completion date or any adjustment in the Contract Price for a delay if it fails to notify Owner in writing of the delay within ten (10) days after the beginning of such delay and Archistructor shall not be entitled to an extension of the Scheduled Substantial Completion date or an adjustment in the Contract Price for a delay to the extent the delay is caused by or results from negligent acts or omissions by Archistructor, Archistructor's Consultant, or Subcontractors or anyone employed by any of them.

5.5 Liquidated Damages.

Owner and Archistructor shall perform their respective obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. Owner and Archistructor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential, which Owner might suffer if Archistructor fails to achieve Substantial Completion of a Portion of the Project within ten (10) days following the Scheduled Substantial Completion Date expressed in Archistructor's Proposal for the Portion of the Project, as such date may be modified pursuant to this Agreement. Therefore, Owner and Archistructor have determined and fully agree that fair and reasonable compensation for the damages Owner may suffer if Archistructor fails to achieve Substantial Completion of a Portion of the Project within ten (10) days following the Scheduled Substantial Completion Date for that Portion of the Project, as such date may be modified pursuant to this Agreement, is \$500.00 per day, subject to an absolute maximum of \$10,000.00 in the aggregate for that Portion of the Project, for each additional day until such time as the Work is Substantially Completed for that Portion of the Project or the \$10,000.00 is exhausted. Such amounts ("Liquidated Damages") shall be Owner's sole and exclusive remedy, and not as a penalty, for Archistructor's failure to achieve Substantial Completion of a Portion of the Project on the Scheduled Substantial Completion Date for that Portion of the Project, as such date may be modified pursuant to this Agreement.

6. ARTICLE 6—CONTRACT PRICE AND PAYMENT

6.1 Contract Price.

The Contract Price shall consist of the fees set forth in **Exhibit F**; plus any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F** as set forth in the Archistructor's Proposal; plus the GMP set forth in the Archistructor's Proposal. The Contract Price is to be adjusted in accordance with Article 7

hereof. At Final Completion if the total of the actual Cost of the Work plus Archistructor's Fee plus the Archistructor's Warranty Fee is less than the GMP, the unspent Archistructor's Contingency shall be returned to the Owner.

6.2 Schedule of Values.

Archistructor's Proposal shall include a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as Owner may reasonably require ("Schedule of Values"). This Schedule of Values, as well as the Design and Pre-Construction fees set forth in **Exhibit F** and such additional fees set forth in the Archistructor's Proposal, shall be the basis for reviewing Archistructor's Applications for Payment.

6.3 Progress Payments.

6.3.1 Archistructor shall deliver to Owner, on or before the twenty-fifth day of each month after the Effective Date, an itemized application for payment ("Application for Payment") describing the Work performed in the prior month, which Application for Payment shall constitute a certification by Archistructor that the design and/or construction, as applicable, have progressed to the point indicated, that the quality of the Work covered by the Application is in accordance with the Contract Documents, and that Archistructor is entitled to payment in the amount requested. Archistructor shall also deliver lien waivers covering all payments made pursuant to the prior Application for Payment to Subcontractors providing more than \$10,000 of labor or materials to the Project. Archistructor's first Application for Payment shall include a completed Federal Form W-9.

6.3.2 If Owner requires any specific data as part of its review of Applications for Payment, such requirement shall be identified prior to, or during, the regularly scheduled meetings, with the understanding that Archistructor shall comply with Owner's reasonable requirements.

6.3.3 Applications for Payment shall reflect retainage as follows:

6.3.3.1 no retainage shall be withheld from amounts due Archistructor for Pre-Construction and Design services, fees paid to governmental entities, and the Archistructor's Fee;

6.3.3.2 for line items for all other Work, ten percent (10%) until the Work is fifty percent (50%) complete; and,

6.3.3.3 once the Work is fifty percent (50%) complete, Owner shall thereafter retain zero percent (0%) from subsequent payments for the Work unless the Owner elects to reinstitute retainage for the reasons set forth in CRS §24-91-103 et seq. Retainage shall not be released to the Archistructor until the date of Final Settlement, as set forth in CRS §24-91-103 et seq., and retained funds may continue to be held by the Owner to satisfy verified statements of claims as provided in CRS §24-91-103 et seq.

6.3.4 Archistructor has been advised that the Project is being funded by a State of Colorado ("State") BEST grant, and that progress payments will be made by the State directly to Archistructor. Accordingly, after receipt of a complete and accurate Application for Payment that is accepted by Owner, Owner shall work diligently to complete the process for payment by the State, and will use its best efforts to have the State make payment to Archistructor of any amounts not validly in dispute for each Application for Payment. Owner and Archistructor shall meet within seven (7) days after Owner's receipt of a complete and accurate Application for Payment to resolve any differences about the amount due. Notwithstanding anything herein to the contrary, Owner ultimately shall be responsible for payment to Archistructor if the State fails to make payment of any amount due and owing which is not the subject of a valid dispute.

6.3.5 Neither progress payments nor partial or entire use or occupancy of the Project by Owner will constitute acceptance of Work not in accordance with the Contract Documents.

6.4 Intentionally Not Used.

6.5 Final Settlement.

6.5.1 Subject to Subparagraph 6.5.2 below, final payment of the unpaid balance of the Contract Price ("Final Settlement") for each of the Portions of the Project shall be due on the date of Final Settlement as established by Law and Owner agrees to perform its responsibilities for achieving Final Settlement in a prompt and efficient manner. Notwithstanding the foregoing, Final Settlement shall not occur until Archistructor has achieved Final Completion pursuant to Subparagraph 5.2.3 and Owner hereby acknowledges that receipt of any required LEED certification for the Portions of the Project from the United States Green Building Council will require a substantial period of time following Substantial Completion of the Portions of the Project due to circumstances beyond Archistructor's reasonable control, and hereby accepts that receipt of any such certification shall not be a requirement for Final Settlement for the Portions of the Project. Archistructor shall submit with its application for Final Settlement for each Portion of the Project the following items:

6.5.1.1 an affidavit and final lien waivers indicating that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner or Owner's property might be encumbered have been paid or otherwise satisfied; and,

6.5.1.2 consent of surety, if any, to final payment.

6.5.2 At the time of Final Settlement for each of the Portions of the Project Owner shall pay Archistructor the unpaid balance of the Contract Price, including all retainage, less 150% of the reasonable cost mutually agreed upon by the parties of completing any unfinished items of Work on the Punch List discussed in Subparagraph 5.4.2 hereof, less such amounts to be retained for verified statements of claim received by the Owner, and less an amount not-to-exceed \$2,500.00 for delivering any required LEED certification for the Portion of the

Project. Payment of the withheld sum for Punch List items shall be made monthly, through Applications for Payment, as the Punch List is completed. Payments of amounts retained for verified statements of claims shall be promptly made as the claims are released by the claimants or as required by Law, whichever is earlier. Payment of the amount retained for delivering any required LEED certification for each Portion of the Project shall be promptly when that certification is delivered.

6.5.3 Owner's making of Final Settlement payment shall constitute a waiver of all claims by Owner except for:

6.5.3.1 liens, claims, security interests or encumbrances arising out of the Agreement and unsettled;

6.5.3.2 any claims by the Owner timely made in accordance with the Warranty provisions of this Agreement for failure of the Work to comply with the requirements of the Contract Documents; and,

6.5.3.3 Archistructor's defense, hold harmless, and indemnity obligations expressly stated in this Agreement.

6.5.4 Acceptance of Final Settlement payment shall constitute a waiver of all claims by Archistructor except those previously made in writing and remaining unsettled at the time of the application for Final Settlement payment; and Owner's indemnity, hold harmless, and defense obligations expressly stated in this Agreement.

6.6 Interest Payments.

Payments due either Archistructor or Owner pursuant to the terms of this Agreement which are not paid when due shall accrue interest from the date due at the rate of one percent (1.0%) per month until paid.

6.7 Title Passage.

Archistructor warrants that title to all Work covered by an Application for Payment shall pass to Owner no later than the time of payment for such Work. Archistructor further warrants that upon submittal of an Application for Payment all Work for which payments have been received from Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of Archistructor or any other person or entity performing work at the Site or furnishing materials or equipment relating to the Work.

6.8 Liens.

To the extent Owner makes all payments to Archistructor in accordance with this Agreement, Archistructor shall fully defend, hold harmless and indemnify Owner from any and all mechanics' liens and/or claims of non-payment made by any employees, Subcontractors, Archistructor's Consultants, or any second tier Subcontractors or consultants. If any such lien or claim is filed, Archistructor shall cause such lien or claim to be canceled and discharged of

record, or shall place a bond against such lien or claim, and if Archistructor fails to take such action Owner can cause such lien or claim to be so canceled or discharged at Archistructor's expense.

6.9 Cost of the Work.

6.9.1 The term "Cost of the Work" shall mean costs reasonably incurred by Archistructor in the proper performance of the Work. The Cost of the Work shall include the following:

6.9.1.1 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal for employees of Archistructor performing Work at the Site, plus periodic salary adjustments, if any.

6.9.1.2 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal, plus periodic salary adjustments, if any, for Archistructor's supervisory and administrative personnel engaged in the performance of the Work or support activities and who are located at the Site; and for Archistructor's supervisory and administrative personnel working off-Site to assist in the production or transportation of material and equipment necessary for the Work or accounting for the Cost of the Work.

6.9.1.3 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal, plus periodic salary adjustments, if any, for Archistructor's personnel stationed at Archistructor's offices other than the job Site to the extent they are performing the following functions for the Project:

- 6.9.1.3.1 Senior Project Manager
- 6.9.1.3.2 Project Manager
- 6.9.1.3.3 Assistant Project Manager
- 6.9.1.3.4 Project Engineer
- 6.9.1.3.5 Clerical
- 6.9.1.3.6 Safety Officer
- 6.9.1.3.7 Pre-Construction Manager
- 6.9.1.3.8 Construction Manager
- 6.9.1.3.9 Project Accountant

6.9.1.4 The reasonable portion of the cost of travel, accommodations and meals for Archistructor's personnel necessarily and directly incurred in connection with the performance of the Work.

6.9.1.5 Payments properly made by Archistructor to Subcontractors and Archistructor's Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Archistructor's Consultants.

6.9.1.6 Costs of repairing or correcting damaged or nonconforming Work executed by Archistructor or Subcontractors, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Archistructor and only to the extent that the cost of repair or correction is not recoverable by the Archistructor from insurance, Archistructor's Consultants, and Subcontractors.

6.9.1.7 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

6.9.1.8 Costs, less salvage value, of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Archistructor, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.9.1.9 Costs of removal of debris and waste from the Site.

6.9.1.10 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including, but not limited to, the cost of facsimile transmissions, long distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

6.9.1.11 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Archistructor at the Site, whether rented from Archistructor or others, and incurred in the performance of the Work.

6.9.1.12 Premiums for insurance and bonds required by this Agreement for the performance of the Work.

6.9.1.13 All fuel and utility costs incurred in the performance of the Work.

Specifications. 6.9.1.14 Costs of printing and copying Drawings and

6.9.1.15 Intentionally not used.

6.9.1.16 Sales, use or similar taxes, tariffs or duties
incurred in the performance of the Work.

6.9.1.17 Legal costs, court costs and costs of mediation
or arbitration, including attorneys' fees, reasonably arising from Archistructor's performance of
the Work, provided such costs do not arise from disputes between Owner and Archistructor.

6.9.1.18 Costs for permits and fees, royalties, licenses,
tests and inspections incurred by Archistructor as a requirement of the Contract Documents.

6.9.1.19 The cost of defending suits or claims for
infringement of patent rights arising from the use of a particular design, process, or product
required by Owner, paying legal judgments against Archistructor resulting from such suits or
claims, and paying settlements made with Owner's consent.

6.9.1.20 Deposits or pre-payments which are lost, except
to the extent caused by Archistructor's negligence.

6.9.1.21 Costs incurred in preventing damage, injury or
loss in case of an emergency affecting the safety of persons and property.

6.9.1.22 Other costs reasonably and properly incurred in
the performance of the Work to the extent approved in writing by Owner.

6.9.1.23 The amount of any deductibles on the Builder's
Risk Insurance policy, except those claims arising out of Archistructor's negligence, or on
policies of insurance held by Archistructor pursuant to this Agreement.

6.10 Non-Reimbursable Costs.

The following shall be excluded from the Cost of the Work:

6.10.1 overhead and general expenses, except as provided for in this
Agreement or in the Archistructor's Proposal, or which may be recoverable for changes to the
Work; and,

6.10.2 the cost of Archistructor's capital used in the performance of
the Work.

6.11 Archistructor's Fee.

Archistructor shall be paid a fee for overhead and profit ("Archistructor's Fee"). The Archistructor's Fee shall be four percent (4%) of the Cost of the Work plus the Archistructor's Warranty Fee. The Archistructor's Fee shall be subject to Subparagraph 7.2.3.

6.12 Intentionally Not Used

6.13 Archistructor's Warranty Fee.

In lieu of Owner paying the actual costs for Archistructor to manage the warranty work pursuant to Article 8, Archistructor shall be paid a fee for managing the warranty work ("Archistructor's Warranty Fee"). The Archistructor's Warranty Fee shall be four tenths of one percent (0.4%) of the Cost of the Work. The Archistructor's Warranty Fee shall be subject to Subparagraph 7.2.3.

7. ARTICLE 7—CHANGES AND CLAIMS

7.1 Changes.

7.1.1 Changes in the Work may be accomplished after the Effective Date without invalidating the Agreement, by Change Order, work change directive, or a minor change in the Work.

7.1.2 A Change Order shall be based upon agreement between Owner and Archistructor. A work change directive may be issued by Owner without the agreement of Archistructor. A minor change in the Work may be issued by Archistructor alone.

7.1.3 If unit prices are indicated in the Contract Documents or are subsequently agreed to by the parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order or work change directive that application of the original unit prices will cause substantial inequity to Owner or Archistructor, such unit prices shall be equitably adjusted.

7.2 Change Order.

7.2.1 A Change Order is a written instrument prepared by Archistructor and signed by Owner and Archistructor, stating their agreement upon all of the following:

- 7.2.1.1 the scope of the change in the Work;
- 7.2.1.2 the amount of the adjustment, if any, in the Contract Price; and
- 7.2.1.3 the extent of the adjustment, if any, in the Scheduled Substantial Completion Date.

7.2.2 If Owner requests a Proposal for a material and substantial change in the Work from Archistructor and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Archistructor for the costs of estimating services, design services or preparation of proposed revisions to the Contract Documents for that Proposal.

7.2.3 The amount of credit to be allowed by Archistructor to Owner for a deletion or change which results in a decrease in the Contract Price shall be actual cost of the deletion or change, with no credit being given for a decrease in Archistructor's Fee and Archistructor's Warranty Fee. For an add or change which results in an increase in the Contract Price, the amount allowed for Archistructor's Fee, design services, use tax (if applicable), and bond and insurance shall be calculated on the actual net cost at the rates as stated in the Archistructor's Proposal.

7.3 Work Change Directive.

7.3.1 A work change directive is a written order prepared and signed by Owner, directing a change in the scope of the Work prior to agreement on the adjustment of the Contract Price and/or Scheduled Substantial Completion Date.

7.3.2 Owner and Archistructor shall negotiate in good faith for appropriate adjustments to the Contract Price and Scheduled Substantial Completion Date arising out of work change directives and shall conclude these negotiations as expeditiously as possible. Pending final determination of cost to Owner, amounts not in dispute may be included by Archistructor in Applications for Payment and shall be paid by Owner.

7.3.3 When Owner and Archistructor agree upon the adjustments in the Contract Price and Scheduled Substantial Completion Date, such agreement shall be effective immediately and shall be recorded by preparation and execution of a Change Order.

7.4 Minor Changes in the Work.

7.4.1 Archistructor may make minor changes in the design and construction of the Project consistent with the intent of the Contract Documents so long as such changes do not (a) involve adjustments in the Contract Price and/or the Scheduled Substantial Completion Date or (b) materially and adversely affect the design of the Project, the quality of any of the materials or equipment specified in the Contract Documents, the performance or longevity of any materials, equipment or systems specified in the Contract Documents, or the quality of workmanship required by the Contract Documents.

7.4.2 Archistructor shall promptly inform Owner in writing of any minor changes and shall record such changes on the documents maintained by Archistructor.

7.5 Differing Site Conditions.

If Archistructor encounters conditions at the Site which are (a) subsurface or otherwise concealed physical conditions differing materially from those indicated in the Contract Documents; or, (b) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and such conditions increase Archistructor's cost and/or time to perform the Work, then the Contract Price and/or Scheduled Substantial Completion Date shall be equitably adjusted by Change Order. Archistructor shall give notice to Owner of any such conditions in accordance with Paragraph 7.9 hereof.

7.6 Changes in Taxes, Laws or Regulations.

The Contract Price and/or Scheduled Substantial Completion Date shall be equitably adjusted if the Work is materially and adversely affected by the enactment, adoption, promulgation, modification, reinterpretation, or repeal, of any taxes (exclusive of taxes based on Archistructor's net income) or Laws or Regulations after the Proposal Acceptance Date, but only if such taxes are applicable to the Work itself.

7.7 Intentionally Not Used.

7.8 Determination of Cost.

7.8.1 An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

7.8.1.1 unit prices set forth in the Contract Documents
or as subsequently agreed;

7.8.1.2 a mutually agreed upon lump sum;

7.8.1.3 cost to be determined in a manner agreed upon by the parties, including costs for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance, all calculated pursuant to Subparagraph 7.2.3; or,

7.8.1.4 if an increase or decrease cannot be agreed to as set forth in Subparagraphs 7.8.1.1 to 7.8.1.3, and Owner issues a work change directive, the cost of the change in the Work shall be determined by the reasonable expense or savings of the performance of the Work resulting from the change, including costs for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance, all calculated pursuant to Subparagraph 7.2.3. Archistructor shall maintain a documented, itemized accounting evidencing the expenses and savings.

7.8.2 If Owner and Archistructor disagree upon whether Archistructor is entitled to be paid for Work required by Owner, or in the event of any other

disagreements over the scope of Work or proposed changes to the Work, Owner and Archistructor agree to negotiate in good faith to resolve the issue amicably. As part of the negotiation process, Archistructor shall furnish Owner with a good faith estimate of the costs to perform the disputed Work. If the parties are unable to agree, and Owner wants Archistructor to perform the disputed Work in accordance with Owner's interpretations, Archistructor shall perform the disputed Work, conditioned upon Owner's issuing a written order to Archistructor directing Archistructor to proceed and specifying Owner's interpretation of the Work that is to be performed. In such event, Archistructor shall be entitled to submit an Application for Payment for an amount equal to fifty percent (50%) of Archistructor's estimated cost to perform the Work, and Owner agrees to pay such amount, with the express understanding that; (a) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such Work; and, (b) receipt of such payment by Archistructor does not prejudice Archistructor's right to seek full payment, including interest, for the disputed Work in the event Owner's order is deemed to be a change to the Work when Archistructor makes a claim pursuant to the dispute resolution process as set forth in Article 12 below.

7.9 Claims for Damages.

7.9.1 If either Owner or Archistructor has a claim against the other, including but not limited to adjustments in the Contract Price, Scheduled Substantial Completion Date, or any injury or damage to person or property because of an act or omission of the other party or the other party's employees, agents or those for whom such party is legally liable, written notice of such claim, injury or damage, whether or not insured, shall be given to the other party within a reasonable time after the occurrence giving rise to the claim, injury or damage or after the party first recognizes the condition giving rise to the claim, injury or damage. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq.

7.10 Waiver of Consequential and Punitive Damages.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, OWNER OR ARCHISTRUCTOR SHALL NOT BE LIABLE TO THE OTHER, AND EACH PARTY HEREBY WAIVES ALL CLAIMS AGAINST THE OTHER, FOR ANY PUNITIVE, CONSEQUENTIAL, LIQUIDATED, SPECIAL, INCIDENTAL, OR INDIRECT LOSSES OR DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF USE AND LOSS OF PROFITS), WHETHER ARISING IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHERWISE AND WHETHER ASSERTED DIRECTLY OR BY WAY OF CLAIM FOR CONTRIBUTION OR INDEMNITY, EXCEPT AS SPECIFICALLY PERMITTED OTHERWISE ELSEWHERE IN THIS AGREEMENT, INCLUDING LIQUIDATED DAMAGES PURSUANT TO PARAGRAPH 5.5. THIS MUTUAL WAIVER INCLUDES BUT IS NOT LIMITED TO (1) CONSEQUENTIAL DAMAGES INCURRED BY OWNER FOR DELAY, FOR LOSSES OF USE, PROFIT, FINANCING, BUSINESS REPUTATION, AND FOR LOSS OF MANAGEMENT OR EMPLOYEE PRODUCTIVITY OR OF THE SERVICES OF SUCH PERSONS; AND (2) CONSEQUENTIAL DAMAGES INCURRED BY ARCHISTRUCTOR FOR PRINCIPAL

OFFICES EXPENSE AND THE COMPENSATION OF PERSONNEL STATIONED THERE (EXCEPT TO THE EXTENT INCLUDED IN THE COST OF THE WORK, IF ANY), FOR LOSSES OF FINANCING, BUSINESS AND REPUTATION, AND FOR LOSS OF PROFIT, EXCEPT ANTICIPATED PROFIT ARISING DIRECTLY FROM THE WORK.

7.11 Continuing Performance.

7.11.1 Pending final resolution of a claim, except as otherwise agreed in writing or as provided in Article 10, Archistructor shall proceed diligently with performance of the Work and Owner shall continue to make payments in accordance with the Agreement.

8. ARTICLE 8—CORRECTION OF WORK AND WARRANTY

8.1 Rework.

8.1.1 Archistructor shall promptly correct Work properly rejected by Owner prior to Final Settlement or known by Archistructor prior to Final Settlement to be defective or failing to conform to the requirements of the Contract Documents. Archistructor shall bear the costs of correcting such rejected Work, including additional testing and inspection. If Archistructor defaults or neglects to do so and fails, within seven (7) days after receipt of written notice from Owner, to commence and continue correction of such default or neglect with diligence and promptness, Owner may:

8.1.1.1 correct such deficiencies with Archistructor paying to Owner all reasonable costs therefore; or,

8.1.1.2 order Archistructor to stop the Work, or any portion thereof, until the cause for such order has been eliminated provided, however, Owner's right to stop the Work shall not give rise to a duty on the part of Owner to exercise the right for benefit of Archistructor or other persons or entities.

8.2 Warranty.

8.2.1 Archistructor warrants that materials and equipment furnished under this Agreement shall be of good quality and new unless otherwise required or permitted by the Contract Documents and the Work shall be free from defective workmanship and materials, performed in a good and workmanlike manner, and in accordance with the Contract Documents.

8.2.2 The following are excluded from the warranty provided pursuant to Subparagraph 8.2.1:

8.2.2.1 cracking or movement of patios, pavements, parking lots, curbs, gutters, retaining walls, foundations, sidewalks, on-grade concrete floors, or building components resulting from soil movement and settlement or water conditions, unless

the cracking or movement results from Archistructor's failure to complete the Work in accordance with the structural engineer's or the Owner's geotechnical consultant's recommendations, or from a defect in Archistructor's workmanship, materials, or design;

8.2.2.2 loss or damage resulting from workmanship, defective materials, or defective design, engineering or information supplied or performed by or on behalf of any person other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.3 normal wear and tear and normal deterioration;

8.2.2.4 loss or damage resulting from acts of God;

8.2.2.5 loss or damage resulting from use of the Work for a purpose for which the Work was not intended;

8.2.2.6 loss or damage resulting from negligence, abuse, improper or insufficient maintenance (including, but not limited to, failure of Owner to purchase a maintenance service agreement from the elevator Subcontractor), failure to comply with manufacturer's or supplier's warranty and/or maintenance requirements or improper operation of the Work by anyone other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.7 loss or damage resulting from modifications, alterations, or additions to the Work or changes in the grading of the ground around the Work by anyone other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.8 loss or damage caused by seepage of water unless such loss is the direct result of a construction or design defect;

8.2.2.9 loss or damage directly or indirectly arising out of, caused by, contributed to, resulting from or relating to mold, mildew, fungus, spores, wet or dry rot, microbial volatile organic compounds, or other micro-organisms of any type, nature or description, or their scent or by-products or any materials containing them, whether airborne or surface, unless such loss or damage is the result of a construction or design defect;

8.2.2.10 any damage that the Owner has not taken reasonably timely action to minimize; and,

8.2.2.11 any defect not reported to Archistructor by Owner within six (6) months after the defect is discovered, or in the exercise of reasonable diligence should have been discovered, by Owner.

8.2.3 Upon Substantial Completion, Archistructor shall conduct a commissioning meeting with the Owner and Archistructor shall provide Owner with an operations and maintenance manual for the Project which shall include all written warranties and

manuals and shall set forth a specific recommended maintenance protocol for all relevant equipment, components and materials in the Project. Archistructor shall, and does hereby assign to Owner the benefits of warranties Archistructor receives from Archistructor's Subcontractors, equipment or material suppliers and manufacturers.

8.2.4 THE WARRANTY PROVIDED IN THIS PARAGRAPH 8.2 IS ARCHISTRUCTOR'S SOLE WARRANTY WITH RESPECT TO THE WORK. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN WARRANTIES PROVIDED BY ARCHISTRUCTOR'S SUBCONTRACTORS ASSIGNED TO OWNER IN ACCORDANCE WITH SUBPARAGRAPH 8.2.3, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, ANY AND ALL WARRANTIES UNDER THE UNIFORM COMMERCIAL CODE, INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED.

8.2.5 If, within four (4) years after the date of Substantial Completion of the Work, or after the date for commencement of the warranty period established in a written agreement between Owner and Archistructor for partial occupancy or use by Owner, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be defective, Archistructor shall correct it promptly after receipt of a written notice from Owner to do so unless Owner has previously given Archistructor a written acceptance of such condition. If within the four (4) year correction period the Owner discovers and does not promptly notify the Archistructor pursuant to the limitations of Subparagraph 8.2.2 or give Archistructor an opportunity to test and/or correct defective Work as reasonably requested by the Archistructor, the Owner waives the Archistructor's obligation to correct that defective Work as well as the Owner's right to claim a breach of the warranty with respect to that defective Work.

8.2.6 During the above four (4) year correction period, Archistructor shall assign a qualified and experienced representative to work directly with the Owner's representative to address and commence work to correct defective Work pursuant to Paragraph 8.2.5. One (1) year after Substantial Completion, two (2) years after Substantial Completion, and prior to the expiration of the four (4) year correction period, Archistructor's representative shall schedule and attend with Owner an inspection of the Project to determine whether any defective Work pursuant to Paragraph 8.2.5 exists. Archistructor's representative and Owner will prepare a list of such defective Work and, upon correction, Archistructor shall notify Owner. If Archistructor fails to promptly correct such defective Work and fails, within seven (7) days after receipt of written notice from Owner, to commence and continue correction of such defective Work with diligence and promptness, Owner may do so and Owner shall be entitled to collect from Archistructor all reasonable costs and expenses incurred in correcting such defective Work.

8.2.7 The above four (4) year correction period notwithstanding, Archistructor may, in its sole discretion, in consideration of fostering goodwill and an on-going working relationship with Owner, replace, rework, or correct Work for which the four (4) year correction period has expired. If Archistructor does perform such Work following expiration of

Archistructor's contractual obligation to do so, Archistructor does not waive its right to refuse to perform additional or similar Work at a subsequent time unless Archistructor is compensated therefore. Owner acknowledges that Archistructor's performance of such Work following expiration of Archistructor's contractual obligation to do so shall not operate to extend, reopen or modify the above four (4) year correction period, and shall not operate to equitably toll the limitations periods for any claim related to this Agreement.

8.2.8 Neither Owner's approval of the final request for payment nor payment of any request for payment or of any sum previously withheld from Archistructor shall relieve Archistructor of responsibility for its warranty hereunder or for faulty materials and workmanship.

8.3 Limitation on Claims.

After Substantial Completion, Archistructor shall not have any liability or responsibility with respect to defective Work except as provided in this Article 8. No suit, action, or proceeding against Archistructor with respect to defective Work may be commenced in any court or forum after the later of (i) six (6) years after Substantial Completion or (ii) ninety (90) days after Archistructor completes corrective work or disclaims responsibility for corrective work in response to a claim asserted by Owner within four years after Substantial Completion. Any claim not brought within this time frame shall be forever barred.

9. ARTICLE 9—DOCUMENTS AND ADVERTISING

9.1 Ownership and Use of Documents.

All Drawings, Specifications and other documents, including those in electronic form, prepared pursuant to this Agreement by Archistructor or its agents, its Subcontractors, or its Consultants (collectively known as "Design Documents") are instruments of service through which the Work to be executed by Archistructor is described. The Design Documents become the property of Owner for the purpose of information and reference in connection with Owner's use and occupancy of the Project when this Agreement is fully performed or sooner terminated and full payment for the Design Documents has been received by Archistructor. Owner shall not own or claim a copyright in the Design Documents and Owner hereby grants Archistructor, its Subcontractors, and Consultants an exclusive license to use the Design Documents without limitation or restriction. If for any reason this Agreement is terminated prior to completion of the Work and Owner chooses to go forward with the construction of the Project using its own forces or those of another contractor, Owner shall (1) have the Design Documents stamped by another licensed design professional with Archistructor paying all costs therefore solely if this Agreement was terminated for Archistructor default; and, (2) to the extent permitted by Law, indemnify, defend and hold harmless Archistructor, Archistructor's Consultants and Subcontractors, and directors, officers, and agents of any of them, from any claims, losses or expenses of any kind arising out of the use of the Design Documents. Additionally, if Owner desires to use Design Documents to build a substantially identical project at another site, it must obtain Archistructor's permission and pay a mutually agreed to re-use fee. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon

liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

9.2 Advertising.

Archistructor shall have the right to include photographic or artistic representations of the design of the Project among Archistructor's promotional and professional materials. Archistructor shall be given reasonable access to the completed Project to make such representations. However, Archistructor's materials shall not include, without Owner's prior permission, the following: (a) any of Owner's material that is protected by trade mark or copyright; (b) Owner's confidential or proprietary information if Owner has previously advised Archistructor in writing of the specific information considered by Owner to be confidential or proprietary; and (c) images of or other personally identifiable information concerning Owner's staff, students, clients, or visitors. Owner shall provide professional credit for Archistructor in Owner's promotional materials for the Project.

10. ARTICLE 10—SUSPENSION AND TERMINATION

10.1 Owner's Right to Suspend Work.

Owner may in writing, without cause and either before or after construction commences at the Site, order Archistructor to suspend, delay or interrupt the performance of all or a portion of the Work for such period of time as Owner may determine subject to Subparagraph 10.5.1.1. In such event, the Contract Price and Scheduled Substantial Completion Date shall be equitably adjusted, which adjustment shall include the reasonable costs of shut-down, delay and remobilization, including overhead and profit thereon.

10.2 Archistructor's Right to Stop Work.

10.2.1 Archistructor, upon seven (7) days written notice to Owner, may stop performing Work if one of the following events occur:

10.2.1.1 If Archistructor acquires and discloses to Owner information that causes it to form a reasonable belief that Owner may not have the ability to continue satisfactory payment for the Work or to satisfy the requirements and obligations imposed by the Contract Documents, Archistructor may demand adequate assurance from Owner, in a form reasonably acceptable to Archistructor that future payment for the Work will be paid in accordance with the Contract Documents. Owner's failure to comply with such demand within ten (10) days of receipt will entitle Archistructor to terminate this Agreement for cause.

10.2.1.2 Owner fails to pay Archistructor within seven (7) days after the date a payment is due, however, Archistructor acknowledges the payment process identified at Subparagraph 6.3.4.

10.2.2 If Archistructor does stop the Work, and the Work is later resumed, the Contract Price and Scheduled Substantial Completion Date will be equitably adjusted, such adjustment will include the reasonable costs of shut-down, delay and remobilization, including overhead and profit percentage as stated in Archistructor's Proposal.

10.3 Termination by Owner for Archistructor Default.

10.3.1 If Archistructor:

10.3.1.1 utilizes improper materials and/or unqualified workers, including as identified at Subparagraph 13.9.6;

10.3.1.2 fails to make payments due and owing to Archistructor's Consultants, laborers, material suppliers or Subcontractors;

10.3.1.3 fails to Substantially Complete the Work within thirty (30) days after the Scheduled Substantial Completion Date as it may be extended by Change Order;

10.3.1.4 fails to achieve Final Completion within sixty (60) days after the Scheduled Substantial Completion Date as it may be extended by Change Order;

10.3.1.5 fails to abide by applicable Laws and Regulations; or,

10.3.1.6 otherwise materially breaches the Agreement; then Owner may give written notice to Archistructor and Archistructor's surety, if any, that it intends to terminate the Agreement unless the deficiency is cured within seven (7) days of Archistructor's receipt of the notice (or if such deficiency cannot be reasonably cured within such seven (7) day period, if Archistructor fails to commence and diligently proceed with a cure for the deficiency within the seven (7) day period). If Archistructor fails to cure the deficiency (or, if applicable, fails to commence and diligently proceed with a cure), Owner may then declare the Agreement terminated by providing written notice to Archistructor of such declaration. Upon providing such written notice of termination, Owner shall have the right to proceed in accordance with Subparagraph 10.3.3 hereof and Archistructor shall not have a right to further payment until the Work is completed.

10.3.2 If Archistructor files a petition under the Bankruptcy Code, the Agreement will terminate if Archistructor or Archistructor's trustee rejects the Agreement or, if there has been a default, Archistructor is unable to give adequate assurance that Archistructor shall perform as required by the Agreement or otherwise is unable to comply with the requirements for assuming the Agreement under the applicable provisions of the Bankruptcy Code.

10.3.3 If the Agreement is terminated under Subparagraphs 10.3.1 or 10.3.2 hereof, Owner shall have the right to:

10.3.3.1 take possession of the Site and of all materials and equipment to be incorporated into the Project thereon;

10.3.3.2 provide written notice to Archistructor of those Subcontracts which it intends to accept assignment pursuant to Paragraph 4.2 hereof;

10.3.3.3 exercise its rights to use the Contract Documents as set forth in Paragraph 9.1 hereof;

10.3.3.4 finish the Work by whatever reasonable method Owner may deem appropriate; and

10.3.3.5 offset the actual costs and expenses incurred by Owner in finishing the Work, including costs to have the Design Documents stamped by another licensed design professional pursuant to Paragraph 9.1, against the unpaid balance of the Contract Price.

10.3.4 If the actual costs and expenses incurred and paid by Owner in finishing the Work exceed the unpaid balance of the Contract Price, Archistructor shall pay the difference to Owner within thirty (30) days of Owner's written demand. Upon request of Archistructor, Owner shall provide a detailed accounting of the costs incurred by Owner.

10.3.5 If a court determines that Owner erroneously terminated the Agreement for cause, the termination for cause will be converted to a termination for convenience pursuant to Paragraph 10.4 below.

10.4 Termination by Owner for Convenience.

10.4.1 If Owner abandons or cancels the Project, or any part thereof either before or after Archistructor has physically commenced construction on the Site, Owner may terminate the Work by written notice to Archistructor stating the extent and effective date of such termination. Upon receipt of such notice, Archistructor shall:

10.4.1.1 stop all Work and place no further orders or Subcontracts for materials, services, equipment or supplies;

10.4.1.2 terminate outstanding purchase orders and Subcontracts to the extent that they relate to the terminated portion of the Work;

10.4.1.3 for thirty (30) days following receipt of the termination notice, take reasonable actions to preserve and protect Work completed and in progress and to protect materials, supplies, plant and equipment at the Site, stored off-site or in transit; and,

10.4.1.4 deliver to Owner any other information reasonably available and take any reasonable action which Owner directs toward termination of the Work.

10.4.2 If Owner terminates the Agreement pursuant to Subparagraph 10.4.1 hereof Owner shall pay Archistructor for all Work performed based on a percentage of completion, plus the following:

10.4.2.1 all reasonable costs incurred by Archistructor in order to withdraw and demobilize from the Site, including reasonable wind-down expenses;

10.4.2.2 all reasonable costs (including cancellation fees) incurred by Archistructor in order to terminate Subcontractors or other contracts with any person or entity with whom Archistructor has Subcontracted for the Project;

10.4.2.3 a payment for overhead, general and administrative expenses, including those of all Subcontractors, of four percent (4%) of the sums set forth in Subparagraphs 10.4.2.1 to 10.4.2.2 above; and,

10.4.2.4 solely if Owner terminates the Work after Archistructor has physically commenced construction on the Site, a termination fee equal to Two Hundred Thousand Dollars (\$200,000.00).

10.4.3 Any amount due to Archistructor pursuant to this Paragraph 10.4 shall be paid within thirty (30) days following Owner's receipt of an Application for Payment for such amount, together with the accompanying supporting documentation.

10.5 Termination by Archistructor for Owner Default.

10.5.1 Archistructor may terminate this Agreement pursuant to this Paragraph 10.5, if:

10.5.1.1 the Work is suspended by Owner for sixty (60) days;

10.5.1.2 the Work has been stopped for a sixty (60) day period (a) under court order or order of other governmental authorities having jurisdiction or (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Archistructor, materials are not available; or

10.5.1.3 the Work has been stopped for a seven (7) day period in accordance with Subparagraph 10.2.1.

10.5.2 If Owner files a petition under the Bankruptcy Code, the Agreement shall terminate if Owner or Owner's trustee rejects the Agreement or, if there has

been a default, Owner is unable to give adequate assurance that Owner will perform as required by the Agreement or otherwise is unable to comply with the requirements for assuming the Agreement under the applicable provisions of the Bankruptcy Code.

10.5.3 If the Agreement is terminated under Subparagraphs 10.5.1 or 10.5.2 hereof, Owner shall pay Archistructor those amounts set forth in Subparagraph 10.4.2.

10.5.4 Any amount due to Archistructor pursuant to this Paragraph 10.5 shall be paid within thirty (30) days following Owner's receipt of an Application for Payment for such amount, together with the accompanying supporting documentation.

10.6 Exclusive Remedies.

The respective rights and remedies specified in this Article 10 shall be Owner's and Archistructor's sole recourse for any termination of the Agreement. THE PARTIES REAFFIRM HEREIN THEIR RESPECTIVE WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES AS SET FORTH IN PARAGRAPH 7.10 HEREOF.

11. ARTICLE 11—INSURANCE, INDEMNIFICATION, AND BONDS

11.1 Archistructor's Insurance.

11.1.1 Archistructor shall, at its expense, obtain and maintain during the term of the Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to transact business in the State of Colorado and with a minimum AM Best rating of A-XI. The insurance required by this Subparagraph 11.1.1 shall be for the following amounts and coverage:

11.1.1.1 Commercial general liability insurance in Archistructor's name which shall include coverage for bodily injury, property damage, personal injury and contractual liability, broad form property damage, and completed operations, with combined single limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Limits will apply per Project. Commercial general liability insurance shall be furnished on an occurrence basis.

11.1.1.2 Business automobile liability insurance including owned, non-owned and hired vehicle coverage with combined single limit of not less than \$1,000,000 bodily injury and property damage. Business automobile liability insurance shall be furnished on an occurrence basis.

11.1.1.3 Statutory amounts of workers' compensation with employer's liability limits of \$1,000,000/\$1,000,000/\$1,000,000.

11.1.1.4 Umbrella/excess liability insurance for coverage identified at Subparagraphs 11.1.1.1 and 11.1.1.2 with a limit of \$9,000,000. Umbrella/excess liability insurance shall be furnished on an occurrence basis.

11.1.1.5 Professional liability insurance, with limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate. Professional liability insurance shall be furnished on a claims made basis.

11.1.1.6 Property insurance upon the Work at the Site (Builder's Risk Insurance) to the full replacement value of such Work. The property insurance shall include the interests of Owner, Archistructor and Subcontractors of every tier in the Work. It shall be issued on an all risks of direct physical loss or special form policy. Archistructor shall bear the expense of losses within the deductible that are caused by its negligence or those for whom it is responsible. Otherwise, such deductible expenses shall be treated as a Cost of the Work and the GMP shall be increased by Change Order for the deductible expense. The deductibles shall be: for flood \$25,000, earthquake \$25,000, for rust or corrosion \$10,000, for property of others \$10,000, and for all other perils \$1,000. To the extent that the Project suffers property damage that is not covered by the Builder's Risk Insurance provided by Archistructor, any costs of replacing or repairing such property damage are to be borne by Owner.

11.1.1.7 Archistructor's Builder's Risk Insurance coverage pursuant to Subparagraph 11.1.1.6 shall be endorsed to provide "Soft Cost" coverage to protect Owner, with a limit equal to fifteen percent (15%) of the amount of that Builder's Risk Insurance. "Soft Cost" coverage typically includes loss of income, rents, additional construction loan interest and other fees, all as is specified in the Archistructor's Builder's Risk Insurance policy. The deductible for "Soft Cost" coverage shall be the amount of the Soft Costs incurred during the first three (3) days and the deductible shall be borne by the Owner.

11.1.2 Insurance policies obtained by Archistructor pursuant to Subparagraphs 11.1.1.1, 11.1.1.2, and 11.1.1.6 hereof shall, to the extent permitted by Law, name Owner, State of Colorado, and Zions First National Bank as Trustee ("Trustee") each as an "additional insured," which additional insured endorsement shall not include coverage to the extent of or for their own negligence.

11.1.3 Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work through the period of all contractual obligations for this Agreement. At Substantial Completion, Owner's permanent property insurance shall replace the property insurance provided by Archistructor.

11.1.4 Certificates of Insurance reasonably acceptable to Owner shall be delivered to Owner, State, and Trustee immediately after execution of this Agreement. Those Certificates shall contain a provision that coverage afforded under the policies shall not be altered, canceled non-renewed, or terminated until at least 30 days prior written notice by certified mail has been given to Owner, State, and Trustee.

11.2 Owner's Insurance.

Owner shall be responsible for purchasing and maintaining Owner's liability and property insurance, including that required for all Owner's property or installations pursuant to

Subparagraph 5.3.5, and statutory amounts of workers' compensation insurance with employer's liability. Unless otherwise specified in writing in accordance with Subparagraph 5.3.5, Owner waives any claims against Archistructor, Subcontractors and Archistructor's Consultants for any damage to Owner's furniture, fixtures, and equipment installed within partially occupied or used portions of the Work pursuant to Subparagraph 5.3.5 and Owner shall look solely to its insurance for payment of such claims. Owner hereby declares that the total value of any existing property owned by Owner contiguous to the Site is \$35,689,528.00. Owner's declaration of values is for information purposes only and shall not serve to limit any of Owner's rights under this Agreement.

11.3 Waiver of Subrogation [Intentionally omitted].

11.4 Indemnification.

11.4.1 To the extent permitted by Law, Archistructor shall defend, indemnify, and hold Owner harmless from all claims of bodily injury or property damage (other than to Owner's property pursuant to Subparagraph 5.3.5) that may arise from the performance of the Work, but only to the extent of the negligence of Archistructor, Archistructor's Subcontractors or anyone employed by any of them. Archistructor shall not be required to defend, indemnify or hold harmless Owner for any negligent acts, omissions or errors of Owner, Owner's Other Contractors, or their employees.

11.4.2 To the extent permitted by Law, Owner shall defend, indemnify and hold Archistructor harmless from all claims of bodily injury and property damage (other than to the Work itself), that may arise from performance of the Work or completion of the Project, but only to the extent of the negligence of Owner or Owner's Other Contractors or anyone employed by any of them. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. Owner shall not be required to defend, indemnify or hold harmless Archistructor for any negligent acts, omissions or errors of Archistructor, Archistructor's Subcontractors, or their employees.

11.4.3 During the course of the Work, Archistructor may install posts at the roof of the building for horizontal lifelines to protect its workers from hazards associated with steel erection and roofing installation. Archistructor shall remove such posts prior to final completion of the Work unless Owner directs Archistructor in writing to leave the posts in place. If Owner directs Archistructor in writing to leave the posts in place, Archistructor assumes no responsibility for the structural integrity of the posts and specifically disclaims any responsibility for the design, engineering, maintenance, and fitness for any purpose or use by Owner after Substantial Completion of the Work. If Owner directs Archistructor in writing to leave the posts in place, Owner shall indemnify, defend and hold harmless Archistructor, Archistructor's Consultants and Subcontractors, and directors, officers, and agents of any of them, from any claims, losses or expenses of any kind arising out of the use of the posts. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado

Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

11.4.4 In claims against any person or entity indemnified under Subparagraphs 11.4.1, 11.4.2, or 11.4.3 hereof by an employee of Archistructor or Owner, or anyone engaged by Archistructor or Owner, the indemnification obligation under Subparagraphs 11.4.1, 11.4.2, or 11.4.3 hereof shall not be limited by a limitation on amount or type of damages, compensation of benefits payable by or for Archistructor or Owner under workers compensation acts, disability benefit acts or other employee benefit acts.

11.5 Special Insurance.

If Owner requires Archistructor to maintain any other insurance coverage, policy, amendment, or endorsement not described above, Owner shall pay the additional cost thereof.

11.6 Payment and Performance Bonds.

Archistructor shall purchase and maintain 100% payment and performance bonds for the construction portion of the Contract Price as identified at Subparagraph 2.1.7.1.1 for each Portion of the Project covering (1) the faithful performance of the Agreement, and (2) the payment of all obligations arising thereunder. The bonds shall be on form AIA Document A312, December 1984 edition. Archistructor shall deliver the required bonds to the Owner not later than fourteen (14) days prior to commencement of construction. The premium for all bonds shall be paid by Archistructor and shall be included in the Contract Price. Owner will accept and approve bonds written by sureties legally authorized to write such bonds in the State of Colorado, provided such surety companies are rated in Best's Insurance Guide (latest edition) not lower than A+ or have a Best's Financial Rating of at least XV. If at any time a surety on such a bond becomes irresponsible or loses its right to do business in the State of Colorado, Owner may require substitution of another surety acceptable to Owner, which Archistructor shall furnish within ten (10) days after receipt of written notice to do so. Notwithstanding the foregoing, the payment and performance bonds shall only cover a one (1) year correction period if a four (4) year correction period is provided pursuant to Subparagraph 8.2.5.

12. ARTICLE 12—DISPUTE RESOLUTION

12.1 Resolution of Disputes.

Any and all claims, disputes or controversies between Owner and Archistructor arising out of or relating to the Agreement or the breach thereof (hereinafter "Dispute") shall be resolved in accordance with this Article 12. Pending final resolution of a Dispute between the parties except as otherwise agreed in writing or as provided in Article 10, Archistructor shall proceed diligently with performance of the Work.

12.2 Negotiation.

12.2.1 If a Dispute arises which Owner's and Archistructor's Representatives are unable to resolve, either party may, by notice to the other party, advise the other party that it would like to resolve the Dispute pursuant to this Paragraph 12.2.

12.2.2 Within ten (10) days after the other party's receipt of such notice, each party will nominate a senior officer of its management (other than its representative) to meet at a mutually agreed time and attempt to resolve such Dispute. To aid the negotiation by the parties' senior management, each party shall promptly prepare and exchange memoranda stating the issues in dispute and their positions.

12.3 Mediation.

All Disputes which are not resolved as a result of direct discussions referred to above, shall be submitted for mediation. The selection of the mediator, as well as the date, time, and location of the mediation shall be by mutual agreement of the parties.

12.4 Judicial Proceedings.

In the event that any dispute is not resolved by Negotiation or Mediation as provided herein, either party may elect to have the dispute resolved by the judicial process and either party may demand, within such period set forth in the applicable court rules or rules of civil procedure, that the dispute be resolved by a jury.

12.5 Prevailing Party.

The substantially prevailing party in any proceeding brought under Paragraph 12.4 hereof shall be entitled to recover from the other party all costs, expenses, and reasonable attorney and expert fees, costs, and expenses incurred by such substantially prevailing party in connection with any such proceeding.

13. ARTICLE 13 – MISCELLANEOUS PROVISIONS

13.1 Choice of Law.

The Agreement shall be governed by the laws of the State of Colorado.

13.2 Hazardous Materials.

13.2.1 Notwithstanding anything to the contrary in the Agreement, the obligations of Archistructor and Owner to each other with respect to Hazardous Materials shall be as set forth in this Paragraph 13.2. The terms of Paragraph 13.2 hereof shall survive the completion of the Work under the Agreement and/or any termination of the Agreement.

13.2.2 Archistructor and Owner acknowledge that Hazardous Materials may exist in areas where Work is to be performed. Prior to commencing Work in any area where Work is to be performed, Owner's representative and Archistructor shall meet to identify, to the fullest extent possible, all Hazardous Materials in that area to review the Owner's Asbestos Management Plan and any other Owner plans for management of Hazardous Material. Owner and Archistructor will agree upon a plan for remediation or removal of Hazardous Materials in that area where Work is to be performed, including the party or parties responsible for such remediation or removal. Archistructor shall not be obligated to commence Work in any area of the Work until such meeting has occurred and until the items in such plan for remediation or removal have been completed.

13.2.3 Intentionally not used.

13.2.4 If after the commencement of the Work, Hazardous Material is discovered at the Site or if Archistructor reasonably believes Hazardous Material exists at the Site, Archistructor shall be entitled to immediately stop Work in the affected area. Archistructor shall report the condition to Owner and, if required, the government agency with jurisdiction. Archistructor shall not be required to perform any Work relating to, or in the area of, the Hazardous Material without its consent. Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures and/or remedial action. Such measures and actions shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effects upon the other Work of Archistructor. Archistructor shall resume Work in the area affected by any Hazardous Material only upon written agreement between the parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of any governmental agency with jurisdiction. The obligations of Owner herein shall not apply to Hazardous Materials first brought to the Site by Archistructor, Subcontractors, or anyone else for whom Archistructor is responsible.

13.2.5 If Archistructor incurs additional costs and/or is delayed due to the presence or remediation of Hazardous Material, Archistructor shall be entitled to an equitable adjustment in the Contract Price and the Scheduled Substantial Completion Date.

13.2.6 To the extent not caused by the negligent acts or omissions of Archistructor, its Subcontractors, and the agents, officers, directors and employees of each of them, Owner shall, to the extent permitted by Law, defend, indemnify and hold harmless Archistructor, Subcontractors, and the agents, officers, directors and employees of each of them, from and against any and all claims, damages, losses, costs and expenses, including but not limited to attorney's fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material. To the fullest extent permitted by Law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of Owner. Notwithstanding the foregoing, nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. The obligations of Owner

herein shall not apply to Hazardous Materials first brought to the Site by Archistructor, Subcontractors, or anyone else for whom Archistructor is responsible.

13.2.7 Material Safety Data (MSD) sheets as required by Law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Archistructor, Subcontractors, Owner or Owner's Other Contractors, shall be maintained at the Project by Archistructor and made available to Owner.

13.2.8 During Archistructor's performance of the Work, Archistructor shall be responsible for the proper handling of all materials brought to the Site by Archistructor. Owner shall be responsible under this Paragraph 13.2 for materials and substances brought to the Site by Owner's Other Contractors or by Owner after Substantial Completion.

13.3 Successors and Assigns.

Owner and Archistructor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the Agreement and to the partners, successors and assigns of such other party with respect to all covenants of the Agreement. Neither Owner nor Archistructor shall assign the Agreement or the benefits therein without the written consent of the other, and such consent shall not be unreasonably withheld. Notwithstanding the first two sentences of this Paragraph, Archistructor acknowledges that in order to secure financing for the Work, Owner has assigned to the State and Trustee, the right to enforce this Agreement against Archistructor (a) following termination of the State of Colorado Building Excellent Schools Today Sublease dated December 16, 2010 between the State and Owner ("Sublease"), and (b) in any case where, in the reasonable judgment of the State or the Trustee, Owner has failed to enforce the terms of this Agreement in a manner consistent with the obligations of the Owner under the Sublease; and Archistructor hereby consents to said assignment but shall not be required to assume obligations under that assignment that expands Archistructor's existing obligations pursuant to this Agreement. If either Owner or Archistructor makes an assignment of the Agreement, or if State or Trustee assumes enforcement of the Agreement, the assigned party or assuming party shall remain legally responsible for all obligations under the Agreement.

13.4 Notices.

All notices, demands or other communications required or permitted to be given under the Agreement shall be in writing and deemed to have been duly delivered: (a) upon personal delivery; or (b) as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed to the proper party at the appropriate address set forth below; or (c) as of 12:00 noon on the business day immediately after the day it is deposited with and accepted by Federal Express, or a similar overnight courier service, addressed to the proper party at the appropriate address set forth below; or (d) two hours after facsimile transmission between the hours of 8:00 a.m. and 3:00 p.m. (prevailing local time at the address of the recipient) on any business day to the proper party at the appropriate fax number set forth below, provided that receipt of such facsimile is confirmed by the recipient. For the purposes of the Agreement, a business day means any day Monday through Friday that is not a holiday recognized by the federal government or the State of Colorado.

If to Owner:

Adams County School District No. 1
Attention: Don Herman, COO
591 East 80th Avenue
Denver, Colorado 80229
Phone: 303-853-1000
Fax: 303-853-1087

With a copy to:

Caplan and Earnest LLC
Attention: Jim Branum
2595 Canyon Boulevard, Suite 400
Boulder, Colorado 80302-6737
Phone: 303-443-8010
Fax: 303-440-3967

If to Neenan:

The Neenan Company LLLP
Attention: James R. Hayes
2620 East Prospect Road, Suite 100
Fort Collins, Colorado 80525
Phone: 970-493-8747
Fax: 970-494-4411

13.5 Relationship of Parties.

Nothing contained in the Agreement nor any acts of the parties hereto shall be deemed or construed by any party hereto or by any other person to create the relationship of principal agent, or of limited or general partner, or of joint venture of any association between or among the parties hereto, except that of Owner and independent contractor.

13.6 Counterparts.

The Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which, when taken together, shall constitute one and the same instrument.

13.7 Entire Agreement.

The Agreement represents the entire and integrated agreement between Owner and Archistructor and supersedes all prior negotiations, representations or agreements, whether written or oral, between Owner and Archistructor related to the Project or the Work.

13.8 Severability and Waiver.

If any provision of the Agreement conflicts with any applicable Law and is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement. Furthermore, if the application of any provision of the Agreement to particular circumstances conflicts with any Laws and Regulations and is held to be invalid or unenforceable as so applied, such invalidity or unenforceability shall not affect the application of such provision to other circumstances for which it is valid and enforceable. To these ends, the provisions of the Agreement are severable. Where the effect of such severability would deprive a party of a material benefit of its bargain under the Agreement, the invalid or unenforceable provision shall not be severed, and such party may instead terminate the Agreement. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or rights in connection with that occurrence or with respect to future or further performance.

13.9 Additional Provisions.

13.9.1 Preference for Colorado Labor, Materials and Resident Bidders. In compliance with C.R.S. §§ 8-17-101 & -102, preference shall be given to Colorado labor in the several classifications of skilled and common labor, and not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed shall be Colorado labor. The term "Colorado labor" means any person who is a resident of the State of Colorado at the time of employment, without discrimination as to race, creed, color, sex, age, religion, national origin, veteran status, marital status, or disability. Additionally, in compliance with C.R.S. § 8-18-101, if any of the Work includes a contract for commodities or services, preference shall be given to a resident bidder (The term "resident bidder" means a person, partnership, corporation, or joint venture that is (a) authorized to transact business in Colorado and maintains its principal place of business in Colorado; or (b) authorized to transact business in Colorado, maintains a place of business in Colorado, and has paid Colorado unemployment compensation taxes in at least seventy-five percent (75%) of the eight (8) quarters immediately prior to bidding on the Work) against a nonresident bidder equal to the preference given or required by the state in which the nonresident bidder is a resident.

13.9.2 Nondiscrimination. During the performance of this Agreement, the Archistructor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, disability or age. The Archistructor will take action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, creed, color, sex, national origin, disability or age. Such action shall include, but not be limited to employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Archistructor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Archistructor shall state, in all solicitations or advertisements for employees placed by or on

behalf of the Architect, that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, national origin, disability or age.

13.9.3 Alcohol, Tobacco, Drugs, and Fraternization. Architect shall ensure that its employees, agents, and subcontractors comply with all Laws and all Owner's policies, regulations, and/or procedures prohibiting the use, possession, sale, or distribution of alcohol, drugs or tobacco on any site or property owned by Owner. Architect shall keep its employees and those of its Subcontractors from socializing upon the Site after normal working hours and from fraternizing at any time with Owner's staff, students, parents, and other persons who are at the Owner's building or the Site.

13.9.4 Architect shall install a permanent sign in a prominent location within the Project that includes the following: "Funding for this school was provided through the Building Excellent Schools Today program from Public School Lands." If a temporary Project jobsite sign with name of Project, Architect, etc. is provided, it shall include the same language.

13.9.5 Intentionally not used.

13.9.6 Architect and its Subcontractors shall pay all laborers and mechanics employed on the Project by Architect or any of its Subcontractors at wage rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40 of the United States Code. The Wage Determination for each Portion of the Project shall be identified in the Architect's Proposal.

13.9.7 Illegal Aliens. Architect shall not knowingly employ or contract with an illegal alien to perform Work under this Agreement, or enter into a contract with a Subcontractor that fails to certify to Architect that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform Work under this Agreement.

13.9.7.1 Architect has verified or attempted to verify through participation in the United States Citizenship and Immigration Services' Basic Pilot Employment Verification Program (hereinafter referred to as the "Basic Pilot Program") that Architect does not employ any illegal aliens. If Architect has not been accepted into the Basic Pilot Program prior to entering into this Agreement, Architect shall apply to participate in the Basic Pilot Program every three months until Architect is accepted or the Agreement has been completed, whichever is earlier. Architect shall not use the Basic Pilot Program to undertake pre-employment screening of job applicants while the Agreement is being performed.

13.9.7.2 If Architect obtains actual knowledge that a Subcontractor performing Work under this Agreement knowingly employs or contracts with an illegal alien, Architect shall:

13.9.7.2.1 Notify the Subcontractor and Owner within three days that Architect has actual knowledge that the Subcontractor is employing or contracting with an illegal alien; and,

13.9.7.2.2 Terminate the Subcontract if within three (3) days of receiving actual notice the Subcontractor does not stop employing or contracting with the illegal alien, except that Archistructor shall not terminate the Subcontractor if during such three (3) days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.

13.9.7.3 Archistructor shall comply with any reasonable request by the Department of Labor and Employment (hereinafter referred to as the "Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. § 8-17.5-102(5).

13.9.7.4 If Archistructor violates the provisions of this Subparagraph 13.9.7, Owner may terminate the Agreement for Archistructor Default and Archistructor shall be liable for actual and, subject to Paragraph 7.10, consequential damages.

13.9.7.5 The Owner will notify the Office of the Secretary of State if Archistructor violates the provisions of this Subparagraph 13.9.7 concerning illegal aliens and the Owner terminates the Agreement for such breach.

13.9.7.6 Archistructor shall execute the Owner furnished "Certification Statement Regarding Illegal Aliens" attached hereto as Exhibit G.

13.9.7.7 Archistructor shall obtain certifications from Subcontractors regarding the prohibition against use of illegal aliens on this Project on the form attached hereto as Exhibit H before allowing the Subcontractor to perform any Work.

13.10 Exhibits.

The following Exhibits are attached hereto, or shall be attached hereto, and are specifically made a part hereof by this reference:

- Exhibit A: Preliminary Project Schedule
- Exhibit B: Pre-Construction Services
- Exhibit C: Additional Services
- Exhibit D: Interior Design Services
- Exhibit E: Landscape Design Services
- Exhibit F: Design and Pre-Construction Fees and Schedule of Rates
- Exhibit G: Certification Statement Regarding Illegal Aliens

- Exhibit H: Subcontractor Certification Statement Regarding Illegal Aliens
- Exhibit I: Options for Moisture Sensitive Flooring
- Exhibit J: Options for Expansive Soils
- Exhibit K: Options for Floor Vibration

This Agreement must be accepted by Owner by February 1, 2011, to prevent delay in commencing Work, and thus the Project Schedule, and to prevent impact upon the Contract Price.

THIS AGREEMENT is entered into as of the effective date.

ARCHITRUCTOR:

The Neenan Company LLLP
a Colorado limited liability limited partnership
By: Neenan Management Company
a Colorado corporation
Its: General Partner

By: _____
Name: Randolph P. Myers
Its: President
Date: _____

OWNER:

Adams County School District No. 1

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A - PRELIMINARY PROJECT SCHEDULE

See the attached "Preliminary Project Schedule" dated January 17, 2011.

Exhibit A Preliminary Project Schedule January 17, 2011

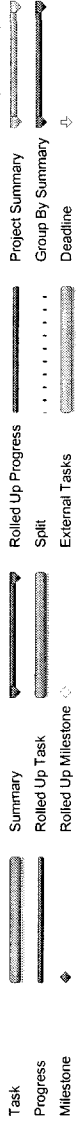
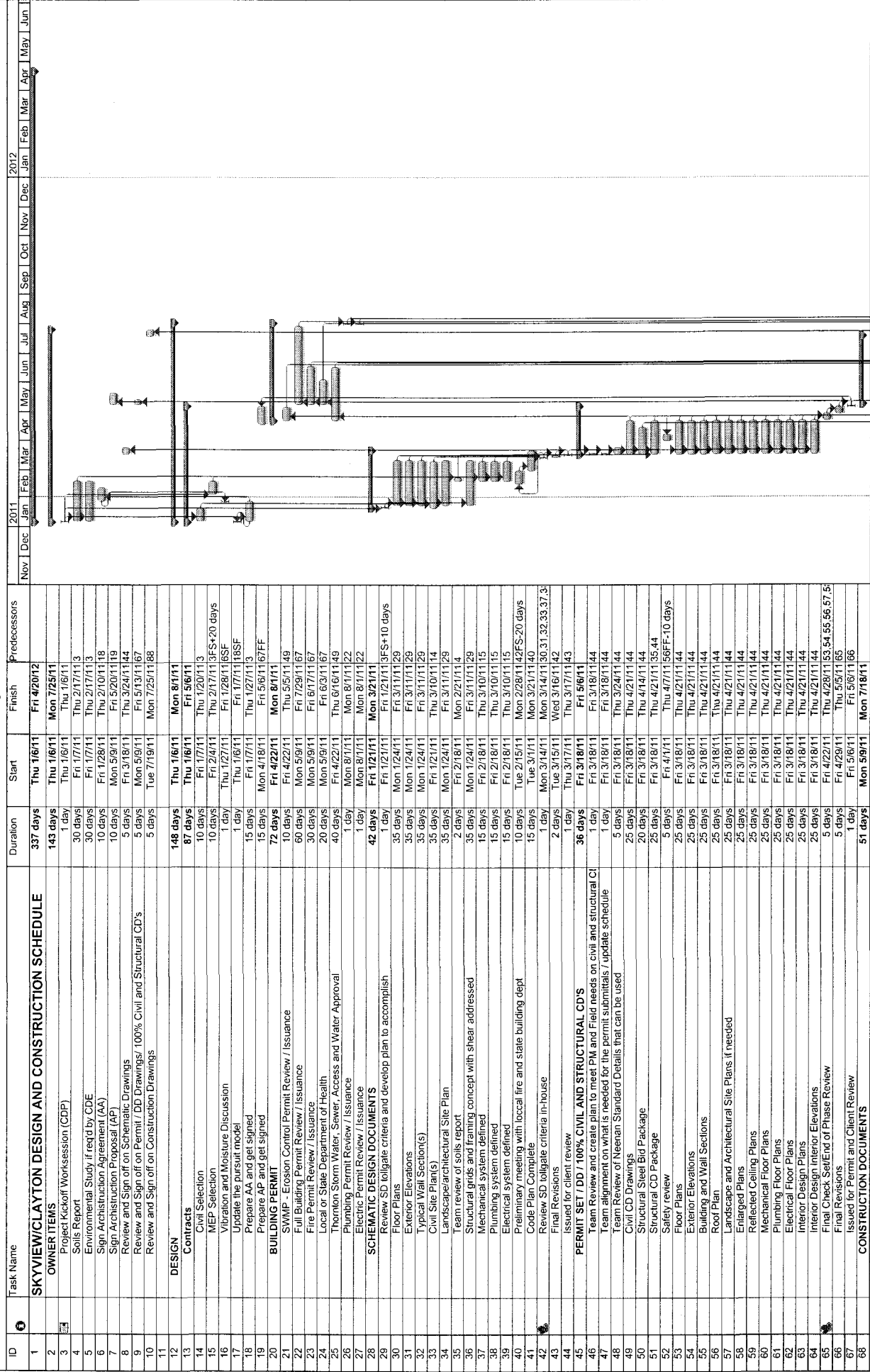


Exhibit A Preliminary Project Schedule January 17, 2011

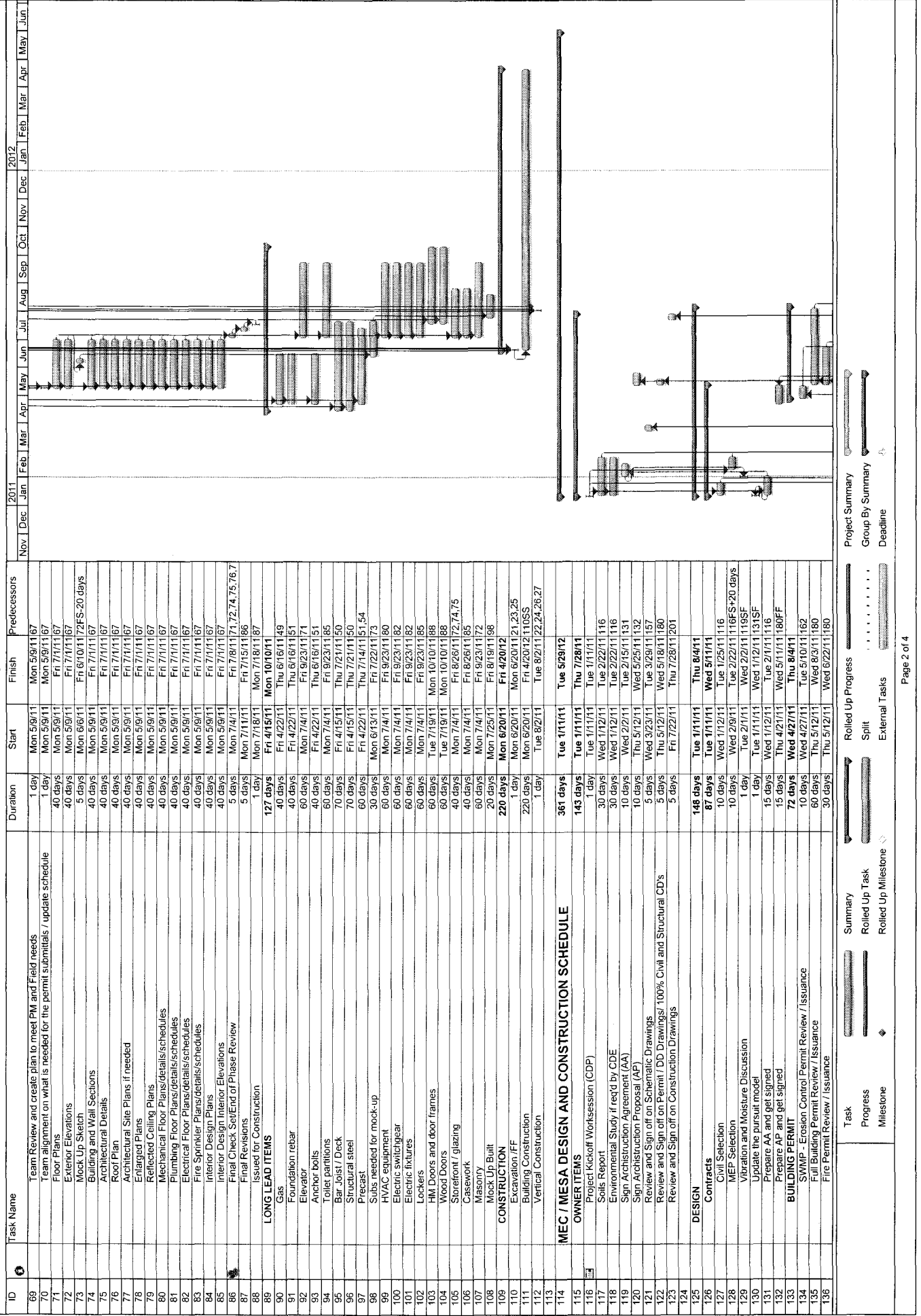


Exhibit A Preliminary Project Schedule January 17, 2011

ID	Task Name	Duration	Start	Finish	Predecessors	2011	2012
137	Local or State Department of Health	20 days	Thu 5/12/11	Wed 6/8/11	180	Jan	Dec
138	Thornion Storm Water, Sewer, Access and Water Approval	40 days	Wed 4/27/11	Thu 6/16/11	180	Jan	Dec
139	Plumbing Permit Review / Issuance	1 day	Thu 8/4/11	Thu 8/4/11	135	Jan	Dec
140	Electric Permit Review / Issuance	1 day	Thu 8/4/11	Thu 8/4/11	135	Jan	Dec
141	SCHEMATIC DESIGN DOCUMENTS	42 days	Wed 1/26/11	Thu 3/24/11		Jan	Dec
142	Review SD tolgate criteria and develop plan to accomplish	1 day	Wed 1/26/11	Wed 1/26/11	16FS+10 days	Jan	Dec
143	Exterior Elevations	35 days	Thu 1/27/11	Wed 3/16/11	142	Jan	Dec
144	Typical Wall Section(s)	35 days	Thu 1/27/11	Wed 3/16/11	142	Jan	Dec
145	Civil Site Plan(s)	35 days	Thu 1/27/11	Wed 3/16/11	142	Jan	Dec
146	Landscaping/architectural Site Plan	35 days	Thu 1/27/11	Wed 3/16/11	142	Jan	Dec
147	Team review of soils report	2 days	Wed 2/23/11	Thu 2/24/11	117	Jan	Dec
148	Structural grids and framing concept with shear addressed	35 days	Thu 1/27/11	Wed 3/16/11	142	Jan	Dec
149	Mechanical system defined	15 days	Wed 2/23/11	Tue 3/15/11	128	Jan	Dec
150	Plumbing system defined	15 days	Wed 2/23/11	Tue 3/15/11	128	Jan	Dec
151	Electrical system defined	15 days	Wed 2/23/11	Tue 3/15/11	128	Jan	Dec
152	Preliminary meeting with local fire and state building dept	10 days	Fri 2/18/11	Thu 3/3/11	155FS-20 days	Jan	Dec
153	Code Plan Complete	15 days	Fri 3/4/11	Thu 3/24/11	153	Jan	Dec
154	Review SD tolgate criteria in-house	1 day	Thu 3/17/11	Thu 3/17/11	143,144,145,146	Jan	Dec
155	Final Revisions	2 days	Fri 3/18/11	Mon 3/21/11	155	Jan	Dec
156	Issued for client review	1 day	Tue 3/22/11	Tue 3/22/11	155	Jan	Dec
157	PERMIT SET / DD / 100% CIVIL AND STRUCTURAL CDS	36 days	Wed 3/23/11	Wed 5/11/11		Jan	Dec
158	Team Review and create plan to meet PM and Field needs on civil and structural CDS	1 day	Wed 3/23/11	Wed 3/23/11	157	Jan	Dec
159	Team alignment on what is needed for the permit submittals / update schedule	1 day	Wed 3/23/11	Wed 3/23/11	157	Jan	Dec
160	Team Review of Neenan Standard Details that can be used	5 days	Wed 3/23/11	Tue 3/29/11	157	Jan	Dec
161	Civil CD Drawings	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
162	Structural Steel Bid Package	20 days	Wed 3/23/11	Tue 4/19/11	157	Jan	Dec
163	Structural CD Package	25 days	Wed 3/23/11	Tue 4/26/11	148,157	Jan	Dec
164	Safety review	5 days	Wed 4/6/11	Tue 4/12/11	169FF-10 days	Jan	Dec
165	Floor Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
166	Exterior Elevations	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
167	Building and Wall Sections	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
168	Roof Plan	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
169	Landscaping and Architectural Site Plans if needed	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
170	Enlarged Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
171	Reflected Ceiling Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
172	Mechanical Floor Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
173	Plumbing Floor Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
174	Electrical Floor Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
175	Interior Design Plans	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
176	Interior Design Interior Elevations	25 days	Wed 3/23/11	Tue 4/26/11	157	Jan	Dec
177	Final Check Set/End of Phase Review	5 days	Wed 4/27/11	Tue 5/3/11	166,167,168,169	Jan	Dec
178	Final Revisions	5 days	Wed 4/27/11	Tue 5/3/11	166,167,168,169	Jan	Dec
179	Issued for Permit and Client Review	1 day	Wed 5/4/11	Tue 5/10/11	178	Jan	Dec
180	CONSTRUCTION DOCUMENTS	51 days	Thu 5/12/11	Thu 7/21/11		Jan	Dec
181	Team Review and create plan to meet PM and Field needs	1 day	Thu 5/12/11	Thu 5/12/11	180	Jan	Dec
182	Team alignment on what is needed for the permit submittals / update schedule	1 day	Thu 5/12/11	Thu 5/12/11	180	Jan	Dec
183	Floor Plans	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
184	Exterior Elevations	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
185	Mock Up Sketch	5 days	Thu 6/9/11	Wed 6/15/11	185FS-20 days	Jan	Dec
186	Building and Wall Sections	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
187	Architectural Details	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
188	Roof Plan	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
189	Architectural Site Plans if needed	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
190	Enlarged Plans	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
191	Reflected Ceiling Plans	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
192	Mechanical Floor Plans/details/schedules	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
193	Plumbing Floor Plans/details/schedules	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
194	Electrical Floor Plans/details/schedules	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
195	Fire Sprinkler Plans/details/schedules	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
196	Interior Design Plans	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
197	Interior Design Interior Elevations	40 days	Thu 5/12/11	Wed 7/6/11	180	Jan	Dec
198	Final Check Set/End of Phase Review	5 days	Thu 7/7/11	Wed 7/13/11	184,185,187,188	Jan	Dec
199	Final Revisions	5 days	Thu 7/14/11	Wed 7/20/11	199	Jan	Dec
200	Issued for Construction	1 day	Thu 7/21/11	Thu 7/21/11	200	Jan	Dec
201	LONG LEAD ITEMS	127 days	Wed 4/27/11	Thu 10/13/11		Jan	Dec
202	Gas	40 days	Wed 4/27/11	Tue 6/21/11	162	Jan	Dec
203	Foundation rebar	40 days	Wed 4/27/11	Tue 6/21/11	164	Jan	Dec
204						Jan	Dec

Task

Progress

Milestone

Summary

Rolled Up Task

Rolled Up Milestone

Rolled Up Progress

Split

External Tasks

Project Summary

Group By Summary

Deadline

Exhibit A Preliminary Project Schedule January 17, 2011

ID	Task Name	Duration	Start	Finish	Predecessors	2011						2012															
						Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun		
205	Elevator	60 days	Thu 7/7/11	Wed 9/28/11 184																							
206	Anchor bolts	40 days	Wed 4/27/11	Tue 6/21/11 164																							
207	Toilet partitions	60 days	Thu 7/7/11	Wed 9/28/11 198																							
208	Bar Joist / Deck	70 days	Wed 4/20/11	Tue 7/26/11 163																							
209	Structural steel	70 days	Wed 4/20/11	Tue 7/26/11 163																							
210	Precast	60 days	Wed 4/27/11	Tue 7/19/11 164,167																							
211	Subs needed for mock-up	30 days	Thu 6/16/11	Wed 7/27/11 186																							
212	HVAC equipment	60 days	Thu 7/7/11	Wed 9/28/11 193																							
213	Electric switchgear	60 days	Thu 7/7/11	Wed 9/28/11 195																							
214	Electric fixtures	60 days	Thu 7/7/11	Wed 9/28/11 198																							
215	Lockers	60 days	Thu 7/7/11	Wed 9/28/11 198																							
216	HM Doors and door frames	60 days	Fri 7/22/11	Thu 10/13/11 201																							
217	Wood Doors	60 days	Thu 7/7/11	Wed 8/31/11 185,187,188																							
218	Storefront / glazing	40 days	Thu 7/7/11	Wed 8/31/11 198																							
219	Casework	40 days	Thu 7/7/11	Wed 8/31/11 198																							
220	Masonry	60 days	Thu 7/7/11	Wed 9/28/11 185																							
221	Mock Up Built	20 days	Thu 7/28/11	Wed 8/24/11 211																							
222	CONSTRUCTION	244 days	Thu 6/23/11	Tue 5/29/12																							
223	Excavation /FF	1 day	Thu 6/23/11	Thu 6/23/11 134,136,138																							
224	Building Construction	244 days	Thu 6/23/11	Tue 5/29/12 223SS																							
225	Vertical Construction	1 day	Fri 8/5/11	Fri 8/5/11 135,137,139,140																							

Task

Progress

Milestone

Summary

Rolled Up Task

Rolled Up Milestone

Rolled Up Progress

Split

External Tasks

Project Summary

Group By Summary

Deadline

EXHIBIT B - PRE-CONSTRUCTION SERVICES

The following Pre-Construction services are concurrent and interactive with the Design services described in the Agreement and **Exhibit F**, and generally include estimating, scheduling, value engineering and the incorporation of construction knowledge and expertise into the design process.

1. Attendance at meetings with the Owner and Archistructor's Architect, Subcontractors and Consultants.
2. Evaluation of the Owner's objectives and limitations, and schedule and budget requirements.
3. Review of the site and site-related data, including site conditions; land survey and geotechnical investigation furnished by Owner's Consultants; assessment of the adequacy of site utilities; and the need for off-site improvements.
4. Review of design documents at the conclusion of the phases identified in Article 2 and at other appropriate times during design.
5. Recommendations on site utilization and improvements, construction feasibility and methods, and building systems and materials.
6. Preparation of construction cost estimates at the conclusion of the phases identified in Article 2 and at other appropriate times during design. Estimates shall be appropriate to the level of available design information and shall include alternative systems and materials, where appropriate.
7. Preparation of a final construction estimate for Archistructor's Proposal that details the estimated costs for the Project.
8. Evaluation of present and future construction costs associated with expansion.
9. Preparation of Project Schedules at appropriate times during design and the final Project Schedule for the Archistructor's Proposal. Such schedules shall integrate Owner requirements, design activities, anticipated construction durations, approval processes of regulatory agencies, and other factors that may affect the Scheduled Substantial Completion Date.
10. Identification of actions designed to minimize adverse effects of labor shortages, material shortages, and long-lead items, including the need for expedited design and procurement.
11. Identification of pre-qualified Subcontractors and suppliers, including those required to furnish materials or equipment fabricated to a special design.

EXHIBIT C - ADDITIONAL SERVICES

The following services are Additional Services not included within the Contract Price, unless specifically included as a service elsewhere within this Agreement or within the Architect's Proposal, and are identified herein not by way of limitation, but by way of example of some of the services which Owner may elect to have Architect perform under the Agreement. If Owner desires Architect to furnish or perform any of the Additional Services set forth below, or any other service not included within the Work, Owner shall follow the process for implementing changes in the Work set forth in Article 7 hereof.

1. Permits, approvals, and licenses required by governmental, quasi-governmental or regulatory agencies which are required for facility certification, accreditation, or licensure; and researching regulations applicable to the Owner's business plan.
2. Detailed investigation of conditions in existing facilities.
3. Site development services, including site analysis and selection, comparative studies and evaluations of prospective sites, site development planning, detailed site utilization studies, and master planning services.
4. Design, selection, coordination, procurement or installation of furnishings, furniture, or artwork unless such services are specifically included at **Exhibit D**.
5. Programming, listing, design, planning, selection, coordination, procurement, installation, or certification of Owner's or Owner's tenant's equipment, except architectural, mechanical, electrical and fire protection coordination utilizing Owner's equipment cut sheets provided to Architect during the Project Analysis Phase.
6. Graphic design, renderings, animation, model construction, and still photography, unless specifically included as a service elsewhere within this Agreement.
7. Architectural, interior design, or engineering services other than those set forth in the Contract Documents or Article 2 and **Exhibit D** of this Agreement, including, but not limited to, such services for acoustics, security, communications, and audio/visual that are not required by applicable code.
8. Preparing in excess of one (1) iteration (set) of Schematic Design Documents for review and approval by Owner.
9. Revisions to the approved Schematic Design Documents, Design Development Documents or Construction Documents, or any other work product provided by or through Architect due to causes not within the control of Architect, including Owner-requested changes and adjustments in the Project scope, budget or schedule.
10. Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with replacement of such Work.

Exhibit C-1

EXHIBIT D – INTERIOR DESIGN SERVICES

The following Interior Design Services are concurrent and interactive with the Design Phase Services described in the Agreement, and the associated fees are included within the Design and Pre-Construction Fees shown at **Exhibit F** unless specifically excluded as a service elsewhere within this Agreement or within the Archistructor's Proposal.

Schematic Design Phase:

1. Preliminary selection of interior finishes at new schools, addition and areas of remodel.
2. Coordination with Architect for programming and space planning.
3. Coordination with Owner and Architect for preliminary lighting and casework.
4. Research of finish materials and their application.
5. Confirmation of budget allowances for finishes.

Design Development Phase:

1. Selection and specification of interior finishes at new schools, addition and areas of remodel.
2. Coordination of interior finish drawings with architectural drawing.
3. Coordination with Architect on casework and millwork design.
4. Coordination and specification of interior feature lighting and ceiling.
5. Generic layout and coordination of furniture locations in order to verify electrical and data needs with the appropriate subcontractors.

Construction Documents Phase:

1. Production of finish plan at new schools, addition and areas of remodel.
2. Production of schedules and legends.
3. Production of casework and millwork elevations and details.
4. Production of interior specialty details as required.
5. Production presentation boards for owner's use and construction boards for Owner's maintenance manuals.

Construction Administration:

1. Review of shop drawings for casework, millwork and finishes.
2. Participation in Project meetings and walk-through as required.
3. Site inspections for quality control.

Signage:

1. Selection of interior facility identification signage as required by applicable code.
2. Assist in coordination of installation of the signage.

Exclusions:

Except as such items are specifically included in Archistructor's Work elsewhere in this Agreement or the Contract Documents, the following services are excluded:

1. Costs for purchase and installation of the following products: appliances, signage, furniture, accessories, art, plants, specialty educational equipment and specialty appliances.
2. Coordination of any existing equipment (e.g. refrigerators, vending machines and copiers).
3. Move coordination and all moving costs.

EXHIBIT E – LANDSCAPE DESIGN SERVICES

The following **LANDSCAPE DESIGN** services are concurrent and interactive with the Design Phase Services described in the Agreement, and the associated fees are included within the Design and Pre-Construction Fees shown at **Exhibit F** unless the services are specifically excluded elsewhere in the Agreement.

Schematic Design Phase:

1. Coordination of landscape design with site planning, including with the site lighting and the sidewalk layout

Design Development Phase:

1. Selection and specification of plant materials and hardscape
2. Coordination of landscape drawings with civil and architectural drawings
3. Establish conceptual irrigation plan
4. Coordination of landscape design with, and specification of, site lighting with the electrical Subcontractor
5. Layout and specification of site furnishings (e.g. benches, trash receptacles and bike racks) for coordination with the Owner and/or local municipal requirements
6. One meeting with Owner to review the landscape Design Development Documents

Construction Documents Phase:

1. Production of the landscape and irrigation plan, including schedules, legends, details and specifications

Construction Administration:

1. Review landscape and irrigation submittals
2. Production of a record set of drawings
3. Participation in the commissioning of the landscape and irrigation system

Exclusions:

1. Water feature design
2. Costs for site furnishings and site lighting unless they are included in Archistructor's Proposal

**EXHIBIT F – DESIGN AND PRE-CONSTRUCTION FEES
AND SCHEDULE OF RATES**

Owner agrees to pay Architect the following fees for the specified services:

The following fees are based upon the sizes of each of the Portions of the Project shown at the Background section of this Agreement.

New Mapleton Early College / Mapleton Expeditionary School of the Arts (“MEC / MESA”)

Total Fee for Design (Architectural, Interior, and Landscape;
and for Structural, Civil, Mechanical, Electrical, Plumbing,
and Fire Protection Engineering): \$893,128.00

Schematic Design Phase:	\$223,282.00
Design Development Phase:	\$133,969.00
Construction Documents Phase:	\$357,251.00
Construction Administration Phase:	\$178,626.00

Fee for Pre-Construction Services: \$ 81,193.00

Total Fees for MEC / MESA: **\$974,321.00**

New Skyview Academy / Clayton Partnership School

Total Fee for Design (Architectural, Interior, and Landscape;
and for Structural, Civil, Mechanical, Electrical, Plumbing,
and Fire Protection Engineering): \$827,190.00

Schematic Design Phase:	\$206,798.00
Design Development Phase:	\$124,079.00
Construction Documents Phase:	\$330,875.00
Construction Administration Phase:	\$165,438.00

Fee for Pre-Construction Services: \$ 75,199.00

Total Fees for Skyview Academy / Clayton: **\$902,389.00**

North Valley Young Adults Center (“NVYAC”) School Addition

Total Fee for Design (Architectural, Interior, and Landscape;
and for Structural, Civil, Mechanical, Electrical, Plumbing,
and Fire Protection Engineering): \$279,538.00

Schematic Design Phase:	\$ 69,885.00
Design Development Phase:	\$ 41,930.00

Construction Documents Phase:	\$111,815.00
Construction Administration Phase:	\$ 55,908.00

Fee for Pre-Construction Services:	<u>\$ 25,413.00</u>
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Total Fees for NVYAC School Addition:	\$304,951.00
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Student Center Renovation ("SCR")

Total Fee for Design (Architectural, Interior, and Landscape; and for Structural, Civil, Mechanical, Electrical, Plumbing, and Fire Protection Engineering):	\$534,332.00
--	--------------

Schematic Design Phase:	\$133,583.00
Design Development Phase:	\$ 80,150.00
Construction Documents Phase:	\$213,733.00
Construction Administration Phase:	\$106,866.00

Fee for Pre-Construction Services:	<u>\$ 71,244.00</u>
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Total Fees for SCR:	\$605,576.00
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TOTAL FEES FOR THIS AGREEMENT:	\$2,787,237.00
---------------------------------------	-----------------------

For Change Orders, the Archistructor's Fee for design will be the following percent of the direct costs for the change:

- | | |
|---|-----------------------------------|
| • MEC / MESA: | Six percent (6%) |
| • Skyview Academy / Clayton Partnership School: | Six percent (6%) |
| • NVYAC School Addition: | Six percent (6%) |
| • SCR: | Eight and one-half percent (8.5%) |

The Cost of the Work for Subparagraphs 6.9.1.1 through 6.9.1.3 shall be calculated using the following hourly billing rates that do not include vehicles. Fees for Additional Services by Archistructor or for changes in the Work will be mutually agreed fixed amounts or based on the following hourly billing rates that do not include vehicles:

Principal Architect	\$190.00	VP Operations	\$160.00
Senior Architect	\$140.00	Risk Manager	\$100.00
Sr. Project Architect	\$125.00	Sr. Project Manager	\$105.00
Project Architect	\$105.00	Project Manager	\$ 85.00
Designer	\$105.00	Asst. Project Manager	\$ 75.00
Job Captain	\$ 80.00	Project Engineer	\$ 55.00
CAD Manager	\$ 80.00	Field Engineer	\$ 55.00

Drafter	\$ 60.00	Quality Assurance Manager	\$ 75.00
Animation Manager	\$130.00	Clerical	\$ 45.00
Animation Drafter	\$ 80.00	Sr. Pre-Construction Mgr	\$105.00
Sr. Interior Designer	\$ 90.00	Pre-Construction Manager	\$ 90.00
Interior Designer	\$ 75.00	Assistant Pre-Con Manager	\$ 70.00
Landscape Architect	\$ 90.00	Safety Manager	\$ 85.00
Structural Engineer	\$140.00	Gen. Superintendent	\$115.00
Structural Coordinator	\$ 80.00	Sr. Superintendent	\$105.00
Structural Drafter	\$ 60.00	Superintendent	\$ 85.00
Accounting Manager	\$ 95.00	Asst. Superintendent	\$ 75.00
Accountant	\$ 65.00	Carpenter Foreman	\$ 60.00
IT Manager	\$110.00	Carpenter	\$ 50.00
IT Technician	\$ 85.00	Laborer	\$ 35.00

Fees for Additional Services by Archistructor's Consultants and Subcontractors will be mutually agreed fixed amounts.

**EXHIBIT G – CERTIFICATION STATEMENT REGARDING ILLEGAL ALIENS
FOR THE MAPLETON SKYVIEW CAMPUS PROJECT #2413**

Archistructor, whose name and signature appear below, certifies and agrees as follows:

1. Archistructor shall comply with the provisions of CRS 8-17.5-101 et seq.
2. Archistructor does not and shall not knowingly employ or contract with an illegal alien to perform work under this project or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien on this project.
3. Archistructor represents, warrants, and agrees that it has participated or will attempt to participate in the Basic Pilot Program in order to verify that it does not employ any illegal aliens.
4. Archistructor shall comply with all reasonable requests made in the course of any investigation by the Colorado Department of Labor and Employment.
5. Archistructor will obtain a certification from its subcontractors that they shall not knowingly employ or contract with an illegal alien to perform work arising out of this Project.

CERTIFIED and AGREED to this _____ day of _____, 2011.

ARCHISTRUCTOR:

THE NEENAN COMPANY LLLP
A Colorado limited liability limited partnership
By: Neenan Management Company
A Colorado corporation
Its: General Partner

By: _____
Name: Randolph P. Myers
Its: President
Date: _____

The foregoing document was acknowledged before me this _____ day of _____, 2011.

(Signature)

My commission expires _____.

**EXHIBIT H - SUBCONTRACTOR'S CERTIFICATE REGARDING NOT EMPLOYING
OR CONTRACTING WITH AN ILLEGAL ALIEN
FOR THE MAPLETON SKYVIEW CAMPUS PROJECT #2413**

FROM: _____
(Subcontractor)

TO: The Neenan Company LLLP (Contractor)

Project Name: Mapleton Skyview Campus

As Subcontractor for the above-identified Project, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with any illegal alien and that I (we) shall not knowingly employ or contract with any illegal alien to perform work under this public project.

Executed this _____ day of _____, 2011.

Subcontractor _____

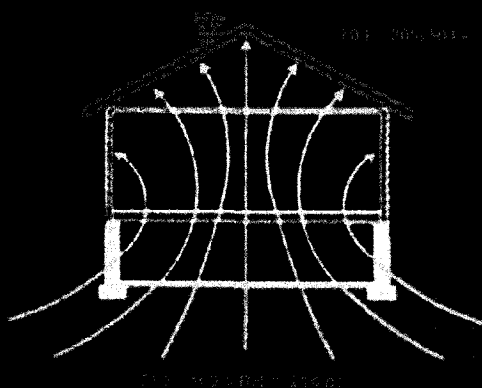
By: _____

Its: _____
(Title)

(Insert the Individual, Corporate or Partnership Certificate as appropriate)

Moisture Sensitive Flooring

Water can be found somewhere beneath most building sites. Through capillary action it rises as moisture vapor upward through the soil to the underside of concrete slabs. That moisture, together with the water contained in the concrete, reaches the surface of the slab as moisture vapor through the process of diffusion.



With the advent of laws eliminating asbestos as a flooring ingredient and eliminating solvents from adhesive and coating systems, the moisture vapor, if not controlled or mitigated, can result in devastating damage to building environments and modern floor coverings, adhesives, and coatings collectively known as "moisture sensitive flooring."

As a partner with building owners, The Neenan Company takes this issue very seriously and wants to help owners make educated risk/reward decisions concerning moisture sensitive flooring.

bubbling

calcifying

blistering

curling

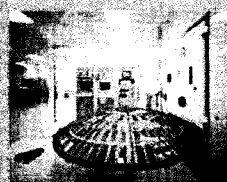
mold

What are the risks?

- Floor covering damage
- Mold growth under floor coverings
- Loss of production due to rework
- Financial costs of replacement

Moisture issues affect all industries

Commercial office, medical, education, warehouse, high-tech,



What can an owner do?

- **Investigate the issues**
The Neenan Company will investigate your site to help determine which issues could affect your building.
- **Educate yourself**
We'll provide you with information on the issues, explain the potential problems on your site, and how the issues could affect your warranty. As an owner, you need to be confident that you understand the information. If something is unclear, ask questions!
- **Understand your options**
Once you understand the issues, understand the options and associated warranties as well. Neenan will provide you with a list of options to address the conditions at your site. It is important that you understand how the options will affect your warranty, budget, and schedule, as well as the facility's aesthetics and longevity.
- **Make a decision**
The decision you make will affect your project for years to come. With a clear understanding of the issues and potential solutions, you can make an educated, considered choice. It is important that you consider all of the factors and weigh the costs and benefits carefully so that you will be confident in your decision.
- **Maintain your investment**
The Neenan Company will provide you with information on how to maintain your facility. Diligent attention to maintenance concerns over the life of your building will protect your investment.



What you should know about

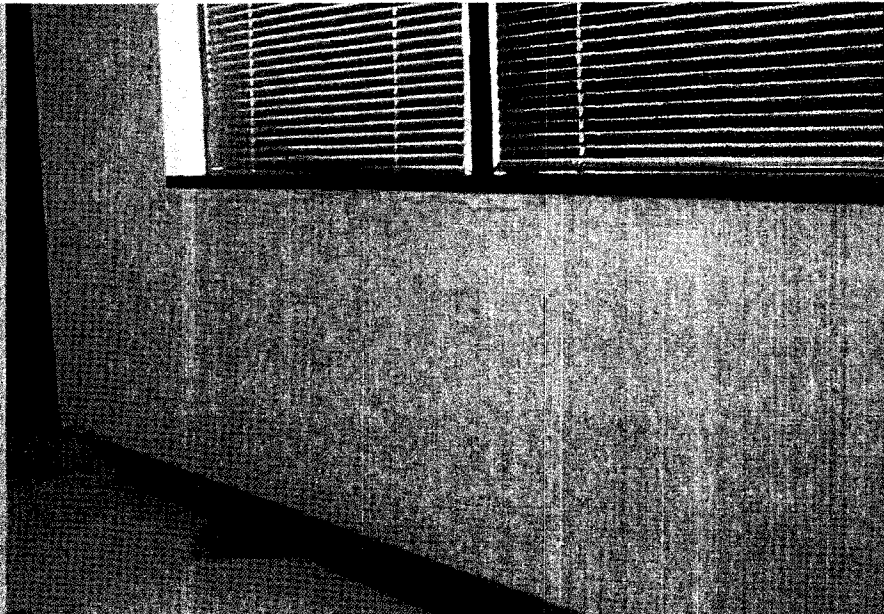
Expansive Soils

Expansive Soils contain, or are substantially composed of, clay. When the undisturbed clay soils are exposed to water, they expand. This expansion, or swell, can be significant in volume and force, and can result in heaving and movement of structures.

The information provided by your Geotechnical Engineer in his report ("Soils Report") is the key to understanding the soils at your building site. Your Engineer will test and study the soil from sample borings across your site. The tests will provide information about the soil composition, the bearing pressure, how much the soil will swell when water is introduced, and where stable bedrock exists below the surface.

Based on this data, the Soils Report will provide you with recommendations for building systems. It will provide options for the design of foundations and slabs, and any special considerations for the building design due to the soil conditions. The Soils Report will also provide the amount of building movement that may be expected for each design option.

The options have varying schedule and cost implications for your project. The Neenan Company, with your Geotechnical Engineer, will help you understand the options and their associated costs in order that you may make an informed decision.



What are the risks?

- Structural damage
- Loss of floor levelness
- Cosmetic damage to finishes
- Equipment not functioning properly
- Loss of production if remediation is required

Expansive soils issues affect all industries

Commercial office, medical, education, warehouse, high-tech, manufacturing, retail

What can an owner do?

Investigate the issues

The Neenan Company will work with you to identify any potential expansive soils issues for you to consider in the design of your building.

Educate yourself

We'll provide you with information on the issue, explain the potential problems for your building, and help you understand how this issue may affect you and your new facility.

Understand your options

Once you understand the issues, understand the options as well. Neenan will provide you with a list of options to address possible soils concerns on your site. It is important that you understand how the options will affect your warranty, budget, and schedule, as well as the facility's performance and longevity.

Make a decision

The decision you make will affect your project for years to come. With a clear understanding of the issues and potential solutions, you can make an educated choice. It is important that you consider all of the factors and weigh the costs and benefits carefully so that you will be confident in your decision.



What you should know about

Floor Vibration

Most often occurring in facilities constructed with structural slabs on decks, the amount of floor vibration experienced is a function of the structural system used and the loading of that system. Movable office systems furniture and electronic office environments that result in lighter floor loads than in the past cause more floor movement (vibration).

Floor vibration is not only annoying to building occupants but potentially damaging to sensitive equipment. While no reasonably affordable structural system can guarantee the complete elimination of vibration, building owners have many options available for minimizing the effects.

The first step in addressing potential floor vibration issues is to understand the specific situation. In 1997 the American Institute of Steel Construction (AISC) published "Design Guide 11, Floor Vibrations Due to Human Activities," to address the issue.

Identifying the optimal structural solution begins with the owner's assessment of three key issues: 1) sensitivity of their equipment, 2) type of office furniture to be used, and 3) vibration tolerance of the building's users or occupants. This information, in conjunction with the AISC guidelines, will help designers and contractors develop information on structural options and associated costs that will allow building owners to make educated decisions concerning floor vibration in their facilities.



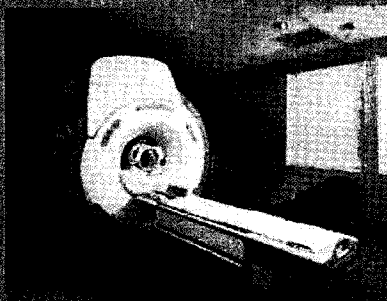
Lighter floor loads, movable office systems furniture, and electronic office environments cause more floor vibration than in the past.

What are the risks?

- Equipment not functioning properly
- Adverse effect on employees
- Loss of production or production delays
- Loss of customer confidence and sales

Floor vibration issues affect all industries

Commercial facilities include government buildings, schools, manufacturing, retail, etc.



What can an owner do?

Investigate the issue

The Neenan Company will work with you to identify the cause of floor vibration issues so you can consider the most effective solution.

Educate yourself

We'll provide you with information on the AISC Design Guide 11, Floor Vibrations Due to Human Activities, and help you understand the guidelines.

Understand your options

Once you understand the issue, we'll help you explore the various options available to you. We'll provide you with information on the AISC Design Guide 11, Floor Vibrations Due to Human Activities, and help you understand the guidelines.

Make a decision

We'll help you make the most informed decision possible. We'll provide you with information on the AISC Design Guide 11, Floor Vibrations Due to Human Activities, and help you understand the guidelines.



ARCHISTRUCTION SERVICES AGREEMENT

BETWEEN

ADAMS COUNTY SCHOOL DISTRICT NO. 1

AND

THE NEENAN COMPANY LLLP

DATE: FEBRUARY 1, 2011

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AGREEMENT FOR ARCHISTRUCTION SERVICES

THIS AGREEMENT FOR ARCHISTRUCTION SERVICES, made as of this 1st day of February, 2011 ("Effective Date"), by and between **ADAMS COUNTY SCHOOL DISTRICT NO. 1**, a School District and political subdivision of the State, organized and existing under the laws of the State of Colorado, with offices at 591 East 80th Avenue, Denver, Colorado 80229 ("Owner") and **THE NEENAN COMPANY LLLP**, a limited liability limited partnership organized and existing under the laws of the State of Colorado, with offices at 2620 East Prospect Road, Suite 100, Fort Collins, Colorado, 80525 ("Archistructor").

BACKGROUND

A. Owner desires to design and construct the following renovations and addition at the Owner's York Campus located at 9200 York Street in Thornton, Colorado ("Project"):

1. New approximately 14,000 square feet addition to the existing high school building, targeted to include:
 - Seven (7) standard classrooms
 - Two (2) resource rooms
 - Two (2) science classrooms
 - One (1) science prep room
 - One (1) restroom group
 - Support spaces, which include custodial storage and a tele / data room
2. Renovation of approximately 68,100 square feet of the existing building, targeted to include:
 - Two (2) science classrooms, with casework replacement, VCT flooring and ACT ceiling replacement
 - Fire sprinkler system installation
 - Replacement of acoustical ceiling tiles in hallways to facilitate fire sprinkler installation
 - Biometric locks at main building entry and security system installation
3. Site renovations, targeted to include:
 - One (1) bus loop / staff parking lot
 - One (1) parent drop off loop and visitor parking area
 - One (1) event parking area
 - One (1) secondary playground
 - Pedestrian paving

The Project Work excludes any LEED certification

B. Archistructor is a design/build organization that is willing and able to design and construct the Project.

C. The Work, and Owner's approval to proceed with the Work, is broken into a two-step process. By executing this Agreement, Owner is only authorizing Archistructor to proceed with the services described in Subparagraphs 2.1.1 through 2.1.6 in exchange for the payments specified in **Exhibit F**. Any further work by Archistructor requires Owner's acceptance of Archistructor's Proposal pursuant to Subparagraph 2.1.7.

D. Except as otherwise provided herein, Owner hereby represents that it has followed all appropriate procedures and has obtained all necessary approvals and authorizations to incur and perform all obligations of Owner set forth in this Agreement.

E. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Archistructor agree as follows:

AGREEMENT

1. ARTICLE 1—GENERAL PROVISIONS

1.1 Definitions.

Capitalized terms used herein shall have the meanings ascribed to them where first used or, if not defined where first used, in the following list of definitions.

1.1.1 "Agreement"

shall mean this Agreement for Archistruction Services, including the Exhibits and subsequent written Modifications, which Exhibits and Modifications are specifically made a part of the Agreement by this reference.

1.1.2 "Allowances"

shall mean dollar amounts allocated to certain categories of the Work for which the actual cost is not ascertainable at the time of the submittal of Archistructor's Proposal. The dollar amounts for all Allowance items (without any fees for Archistructor's Fee, Archistructor's Warranty Fee, insurance and bonds, and costs for any regulatory agencies) shall be identified in the open items at Subparagraph 2.1.7.1.4 and shall be included in the costs for Divisions 1 through 16 within the Schedule of Values set forth in Subparagraph 2.1.7.1.2. Subject to Subparagraph 7.2.3, Allowance items shall be adjusted by Change Order as the actual costs become known and the Work is more specifically defined.

1.1.3 "Archistructor's Consultants"

shall mean those design professionals hired by Archistructor to perform Work for the Project.

1.1.4 "Archistructor's Contingency"

shall mean the dollar amount identified within the Schedule of Values for the proposed GMP pursuant to Subparagraph 2.1.7.1.2, allocated for defraying unanticipated costs and expenses for the Cost of the Work due to errors in design and in estimating both time and money, but not for costs and expenses associated with Weather Conditions; differing site conditions; Excusable Delays; Additional Services; changes or delay due to any governmental, quasi-governmental or regulatory permitting, approval or licensing process; and Owner requested changes in the scope, kind, and quality for the Work. Archistructor's Contingency shall be for Archistructor's sole use and benefit and such use shall not require notice to or approval of Owner. All spending for Archistructor's Contingency shall be reported to Owner on a monthly basis and, at Final Completion, the unspent portion of the Contingency, if any, shall be returned to the Owner.

1.1.5 Intentionally Not Used

1.1.6 "Archistructor's Proposal"

shall mean that Proposal furnished by Archistructor to Owner pursuant to Subparagraph 2.1.7 hereof setting forth, among other things, the Scheduled Substantial Completion Date, the GMP, and any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**.

1.1.7 Intentionally Not Used

1.1.8 "Architect"

shall refer to **Michael J. Daley at The Neenan Company LLLP** who is a licensed professional Architect in the state of Colorado and shall be the Architect of Record.

1.1.9 "Construction Documents"

shall mean those documents produced pursuant to Subparagraph 2.1.8 hereof.

1.1.10 "Contract Documents"

shall mean those documents referred to in Paragraph 1.2, including written Modifications thereto.

1.1.11 "Cost of the Work"

shall mean the cost of all labor, materials, third party fees, equipment, and services incurred to perform the Work as defined in Paragraph 6.9.

1.1.12 "Drawings"

shall mean the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams, but in accordance with Paragraph

1.2 specifically excluding all computer animation and all perspective sketches prepared by Archistructor.

1.1.13 "Exhibits"

shall mean those Exhibits which are identified in Paragraph 13.10 hereof, which Exhibits are attached hereto, or shall be attached hereto, when complete information becomes available.

1.1.14 "General Conditions"

shall mean those items and the associated costs identified at Division 1 within the Schedule of Values set forth in Subparagraph 2.1.7.1.2 (and elsewhere within the Schedule of Values for specific items as follows), including, but not limited to, Archistructor's supervisory and administrative personnel engaged in the Work and their transportation; travel, accommodations and meals in the performance of the Work; establishing, operating and demobilizing the Site office, including, but not limited to, temporary office and storage facilities, office equipment, telephone service, postage and express delivery, and copying documents; and insurance and bonds, permits, fees, and licenses required by this Agreement for the performance of the Work.

1.1.15 "Guaranteed Maximum Price or GMP"

shall mean the maximum amount payable by Owner, not including any Change Orders or other increases provided for under this Agreement and not including the fees for design and pre-construction as set forth in **Exhibit F** and in the Archistructor's Proposal, but including Cost of the Work pursuant to Paragraphs 6.9 and 6.10, the Archistructor's Fee pursuant to Paragraph 6.11, and the Archistructor's Warranty Fee pursuant to Paragraph 6.13. The fees for design and pre-construction set forth in **Exhibit F** and in the Archistructor's Proposal are fixed amounts and are not subject to change except by Change Order.

1.1.16 "Hazardous Material"

shall mean any substance or material identified now or in the future as hazardous under any Law or Regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up.

1.1.17 "Laws" or "Laws and Regulations" or "Laws or Regulations"

shall mean any applicable laws, statutes, rules, regulations, ordinances, codes and orders of any governmental bodies, agencies, authorities and courts having jurisdiction over the design and construction of the Project or the parties.

1.1.18 "Modification"

shall mean Change Orders issued by Owner pursuant to Paragraphs 7.2 and 7.3 hereof, and any written amendments to the Agreement or Exhibits signed by both Owner and Archistructor.

1.1.19 “Owner’s Other Contractors”

shall mean contractors, design professionals and any person or entity, other than Archistructor, Archistructor’s Consultants or Subcontractors, retained by Owner to perform work pursuant to Paragraph 3.2 hereof.

1.1.20 “Preliminary Project Schedule”

shall mean that preliminary schedule for performance of the Work set forth in **Exhibit A**. This schedule shall be modified based on final development of the Project Scope Definition, the governmental approval process and the timing of Owner’s acceptance of Archistructor’s Proposal.

1.1.21 “Project Schedule”

shall mean that schedule for performance of the Work set forth in Archistructor’s Proposal, as such schedule may be updated from time to time pursuant to Subparagraph 2.2.3 hereof. This schedule shall be modified based on the timing of Owner’s acceptance of Archistructor’s Proposal and the issuance of a building permit.

1.1.22 “Project Scope Definition”

shall mean the initial definition of Owner’s objectives relative to the Project, including budgetary criteria, scheduling criteria, Site requirements and limitations (including zoning issues and topographical constraints) and preliminary facility requirements (including approximate area requirements and spatial relationships), all developed pursuant to this Agreement or interim agreements preceding this Agreement, if applicable.

1.1.23 “Proposal Acceptance Date”

shall mean the date when Owner has accepted Archistructor’s Proposal pursuant to Subparagraphs 2.1.7.4 or 2.1.7.5 hereof.

1.1.24 “Site”

shall mean the geographical location where the Work is to be performed bounded by the legal description of the Project.

1.1.25 “Specifications”

shall mean that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, and performance of related services , all in outline format.

1.1.26 Intentionally Not Used

1.1.27 "Subcontractor"

shall mean a person or entity retained by Archistructor as an independent contractor or supplier to provide labor, materials, equipment and/or services necessary to complete a specific portion of the Work, provided, however, that "Subcontractor" shall not include the Architect, Archistructor's Consultants or any of Owner's Other Contractors. "Subcontract" shall mean any agreement between a Subcontractor and Archistructor relating to the Work or the Project.

1.1.28 "Weather Conditions Allowance"

shall mean an Allowance amount, if any, identified within the Archistructor's Proposal for costs and expenses that are incurred by Archistructor in order to facilitate the Work when the Work is affected by inclement weather. Inclement weather may include, but is not limited to, the occurrence of snow, ice, frost, rain, drought, heat, cold, and high winds. Costs and expenses incurred may include, but are not limited to, those resulting from snow, ice, frost, and water removal; temporary heat or cooling equipment and consumption expense; temporary enclosures; temporary protection; mud removal and replacement with clean fill material; and repairing of construction access roads. Archistructor shall notify the Owner of all spending for this Allowance amount prior to expending the costs. This Allowance shall not be for costs incurred by Archistructor for Excusable Delays pursuant to Paragraph 5.4, including Adverse Weather Days in excess of the number of Adverse Weather Days set forth in Archistructor's Proposal.

1.1.29 "Work"

shall mean all design, construction, and other services required by the Contract Documents, and includes all other labor, materials, equipment and services provided or to be provided by Archistructor to fulfill Archistructor's obligations to complete the Project in accordance with the Contract Documents.

1.2 Contract Documents.

1.2.1 The following documents shall be the Contract Documents:

1.2.1.1 this Agreement, including its Exhibits;

1.2.1.2 Drawings included in the executed Archistructor's Proposal referenced at Subparagraph 2.1.7.1.3 together with Construction Documents developed in accordance with Subparagraph 2.1.8 hereof, but only to the extent accepted by Owner in writing pursuant to Subparagraph 2.1.7.2;

1.2.1.3 Archistructor's Proposal as accepted by Owner in writing as provided in Subparagraph 2.1.7.4; and,

1.2.1.4 written Modifications and Exhibits to any of documents referenced above.

1.2.2 Notwithstanding the foregoing Subparagraph 1.2.1, Contract Documents specifically exclude all computer animation and all perspective sketches prepared by Archistructor, which documents are furnished by Archistructor solely to assist Owner in understanding the conceptual design for the Project and not to fully represent all components of the design for the Project.

1.3 Correlation and Intent.

1.3.1 The Archistructor represents and warrants that the Contract Documents include all items necessary for proper execution and completion of the Work. Performance by Archistructor shall be required only to the extent consistent with and reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3.2 In case either party believes there is any inconsistency, conflict or ambiguity among the Contract Documents, such party shall bring it to the other party's attention promptly. In the event of such inconsistency, conflict or ambiguity, the higher standard or greater requirement shall prevail, unless the parties agree otherwise in writing.

1.4 Architectural and Engineering Services.

1.4.1 Architectural and engineering services required under the Contract Documents shall be performed by qualified and duly licensed architects, engineers and other design professionals. Owner shall communicate with the Architect and Archistructor's Consultants only through Archistructor, unless Owner and Archistructor agree otherwise.

1.4.2 The standard of care for all architectural and engineering services performed or furnished pursuant to this Agreement shall be the standard of care and skill ordinarily used by members of the architectural or engineering professions practicing under similar conditions in the area where the Project is located at the same time as the services performed hereunder.

1.4.3 The Architect and Archistructor's Consultants shall review codes and Laws and Regulations applicable to the Project. The Architect and Archistructor's Consultants shall respond in the design of the Project to requirements imposed by regulatory agencies having jurisdiction over the Project.

1.4.4 Any other provisions of this Agreement notwithstanding, as to Archistructor's compliance with the American with Disabilities Act of 1990, as modified ("ADA"), Archistructor shall use diligent efforts to prepare design documents and Construction Documents to conform to the requirements of the ADA and the regulations thereunder, including the Fair Housing reference as well as other applicable Laws and Regulations protecting the

disabled. However, standards for design practice under the ADA and Fair Housing legislation are newly evolving, and may in fact, sometimes be in conflict with existing building codes and/or the interpretation thereof. Therefore, Archistructor shall not be responsible if any aspect of its design does not conform to the ADA or Fair Housing requirements if the claim of non-conformance arises by virtue of a binding interpretation made by an entity with jurisdiction after the date of receipt of the construction permit.

1.4.5 Any other provisions of this Agreement notwithstanding, Archistructor shall not be responsible for additional costs and delay created by any exercise by a life safety official in his or her authority under the "General Authority and Responsibilities" section of the version of the International Fire Code applicable to the Project, (or the exercise by any other inspector of similar rights under other applicable code provisions) to order changes in fire plans (or other applicable portions of the Drawings and Specifications) after issuance of the construction permit, but only if such fire plans or other Drawings or Specifications were in fact, at the time of their submittal to the applicable governmental entity issuing the permit, in compliance with all applicable Laws and Regulations and only if such changes in fire plans (or other applicable portions of the Drawings and Specifications) does not result from errors and omissions by Archistructor.

1.5 Responsibility of the Parties.

1.5.1 To the extent permitted by Law, Owner shall be responsible to Archistructor for acts and omissions of: (a) Owner's agents and employees; (b) Owner's Other Contractors and their respective agents and employees; and, (c) any other person or entity performing work on the project for, or on behalf, of Owner, or Owner's Other Contractors. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

1.5.2 To the extent permitted by Law, Archistructor shall be responsible to Owner for acts and omissions of: (a) Archistructor's agents and employees; (b) Archistructor's Consultants and Subcontractors, and their respective agents and employees; and, (c) any other person or entity performing portions of the Work for or on behalf of Archistructor, Archistructor's Consultants, or Subcontractors.

1.5.3 Nothing in the Agreement shall create a contractual relationship between Owner and any person or entity other than Archistructor.

1.6 Archistructor's Representative.

Archistructor's representative for the Project shall be **Mark Christensen**, who is the primary point of contact with Owner regarding all matters relating to the Project and is authorized to act on Archistructor's behalf with respect to the Project.

2. ARTICLE 2—ARCHISTRUCTOR'S RESPONSIBILITIES

2.1 Design Phase Services.

2.1.1 Intentionally Not Used

2.1.2 Schematic Design Phase

2.1.2.1 Based on the Project Scope Definition created during the project analysis phase and based on Owner-furnished information described in Subparagraph 3.1.3, Archistructor shall prepare for Owner's review and approval conceptual design documents, consisting of drawings and other documents which describe the scope and character of the Project and which establish the scale and relationship of the Project components ("Schematic Design Documents"). The Schematic Design Documents shall include the following:

2.1.2.1.1 a Site plan, indicating building location, parking and landscaped area, grading and drainage concepts, and major Site improvements;

2.1.2.1.2 floor plans, including interior layouts, structural bay sizes, and overall dimensions;

2.1.2.1.3 building elevations and sections;

2.1.2.1.4 preliminary identification of building systems and materials;

2.1.2.1.5 preliminary outline specifications; and,

2.1.2.1.6 design or perspective sketch.

2.1.2.2 On or about the time of the scheduled submittal for the deliverables under this Subparagraph 2.1.2, Archistructor and Owner shall meet to approve and confer about the submittals, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from work product delivered during the project analysis phase, as well as any changes to the Project budget or Preliminary Project Schedule. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents. The Schematic Design Documents shall be approved in writing by Owner before Archistructor proceeds to the Design Development phase.

2.1.3 Design Development Phase

2.1.3.1 Based on the approved Schematic Design Documents, Archistructor shall prepare for Owner review and approval design development documents, consisting of Drawings and other documents required to fix and to describe the size, quality and character of the Project ("Design Development Documents"). The Design Development Documents shall include:

2.1.3.1.1 architectural components including, without limitation, wall and roof systems, interior features and finishes, vertical transportation, and special construction;

2.1.3.1.2 structural systems including foundations and superstructure;

2.1.3.1.3 on-site civil engineering;

2.1.3.1.4 mechanical and plumbing systems;

2.1.3.1.5 electrical systems, including data cabling and data infrastructure;

2.1.3.1.6 fire and life safety systems; and,

2.1.3.1.7 landscaping, irrigation and drainage.

2.1.3.2 On or about the time of the scheduled submittal for the deliverables under Subparagraph 2.1.3.1 above, Archistructor and Owner shall meet to approve and confer about the submittals, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from work product delivered during the schematic design phase, as well as any changes to the Project budget or Preliminary Project Schedule. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents. The Design Development Documents shall be approved in writing by Owner before Archistructor proceeds to the Archistructor's Proposal phase.

2.1.4 Governmental Approval Process Services

2.1.4.1 To the extent that Owner is subject to one or more of the following requirements regarding the Project under C.R.S. § 22-32-124, Archistructor shall assist Owner as requested and as necessary to ensure satisfactory compliance with such requirements:

2.1.4.1.1 Advise the appropriate planning commission or other governmental body performing similar functions (hereinafter the "Planning

Authority") regarding Owner's plans to acquire land within the planning authority's jurisdiction, and consult with said planning authority on issues regarding conformance, insofar as is feasible, of said land to any adopted zoning or development plans.

2.1.4.1.2 Prepare and submit a site development plan to the appropriate Planning Authority for review and comment prior to construction of any structure or building.

2.1.4.1.3 Assist Owner with respect to any hearing requested by a Planning Authority relating to the proposed Site location or Site development plan.

2.1.4.1.4 Provide necessary services and consultation to ensure that all buildings and structures comprising the Project are constructed in conformity with the standards of the Colorado Department of Public Safety, Division of Fire Safety ("Department"), and to obtain any necessary approvals and/or certificates of occupancy.

2.1.5 Pre-Construction Services

2.1.5.1 Pre-construction services shall be performed by qualified professionals, cost estimators, or contractors, with such services being performed concurrently with Archistructor's performance of the design services.

2.1.5.2 Pre-construction services shall include developing a program for the active involvement of subcontractors in the pre-construction phase in order to generate interest among the subcontractor community in the Adams County School District No. 1, as well as in Adams County and surrounding counties, and to ensure competitive bidding of the Work. The program shall include developing opportunities for these subcontractors to perform work on the Project and also providing the Owner with an opportunity to participate in determining "Best Value" for the Project in the selection of those Subcontracts in excess of \$10,000.00, but not including Subcontracts that are being performed on a design-build basis, including those for mechanical, electrical, and plumbing ("MEP"). Best Value may include, but not be limited to, safety record, financial ability to perform, insurance coverage, ability to meet quality and scope requirements, total cost, percentage fees for all markups of direct costs for change orders, management qualifications, past history of project difficulties, timeliness of performance, bonding qualifications, innovative design, and value engineering approaches. The cost of bonding shall be included in the total cost to be evaluated in the determination of the Subcontractors to be selected to perform the Work as the Best Value. Archistructor shall only be required to solicit a minimum of 3 bids for any particular scope of work and the actual requirement that a Subcontractor furnish a bond shall be at Archistructor's sole discretion. If, in the course of selection of Subcontractors, Owner requires Archistructor to utilize a Subcontractor not recommended by Archistructor and such selection increases Archistructor's costs for the Work, the Contract Price shall be equitably adjusted.

2.1.5.3 The scope of the remaining pre-construction services is set forth in **Exhibit B**.

2.1.6 Additional Services.

Additional Services, if any, are set forth in **Exhibit C** and are not part of the Work provided by Archistructor pursuant to the Agreement. Additional Services shall not include any items necessary for proper execution and completion of the Work as provided in Subparagraph 1.3.1. Such services, and any other services not specifically identified in Paragraph 2.1 hereof, are optional and shall be provided by Archistructor and paid for by Owner if requested in writing by Owner, and incorporated into the Work by Change Order. Such services shall be performed in accordance with the terms of the Contract Documents.

2.1.7 Archistructor's Proposal Phase

2.1.7.1 Archistructor shall submit a Proposal ("Archistructor's Proposal") for the Project which shall include, unless the parties mutually agree otherwise, the following:

2.1.7.1.1 proposed GMP and any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**;

2.1.7.1.2 Schedule of Values showing an ASI 16 Division breakdown of the GMP together with any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**;

2.1.7.1.3 list of the Drawings and Specifications, including all addenda, which were used in preparation of Archistructor's Proposal;

2.1.7.1.4 list of Allowances and a list of open items and a statement of their basis;

2.1.7.1.5 list of options and Allowances for mitigation of concrete slab moisture vapor emissions and pH made by Archistructor in preparation of Archistructor's Proposal and Owner's Acknowledgement and Acceptance;

2.1.7.1.6 list of assumptions and clarifications made by Archistructor in the preparation of Archistructor's Proposal to supplement the information contained in the Drawings and Specifications;

2.1.7.1.7 Scheduled Substantial Completion Date upon which the proposed GMP is based, and the Project Schedule;

2.1.7.1.8 number of Adverse Weather Days included in the Project Schedule per Paragraph 5.4;

2.1.7.1.9 schedule of applicable alternate prices;

2.1.7.1.10 schedule of applicable unit prices;

2.1.7.1.11 fees for Archistructor for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance for changes in the Work;

2.1.7.1.12 time limit for acceptance of Archistructor's Proposal; and,

2.1.7.1.13 list of permits and identification of who is responsible for obtaining and paying for them.

2.1.7.2 The date for the submittal of Archistructor's Proposal shall be agreed upon between the Owner and Archistructor.

2.1.7.3 Upon submittal of Archistructor's Proposal, Archistructor and Owner shall meet to review Archistructor's Proposal. If Owner finds any inconsistencies or inaccuracies in the information presented, it shall promptly give notice to Archistructor of such findings. Archistructor shall, upon receipt of Owner's notice, make appropriate adjustments to Archistructor's Proposal if such adjustments are necessary to make Archistructor's Proposal consistent with the Project Scope Definition. Notwithstanding anything to the contrary in this Agreement, once Archistructor has submitted Archistructor's Proposal, Archistructor shall have no obligation or right to proceed with or perform any Work in addition to the Work described in Subparagraphs 2.1.1 through 2.1.6 unless and until Owner accepts such Proposal as set forth in Subparagraph 2.1.7.4 below, provided that Archistructor shall not rescind the Archistructor's Proposal before the conclusion of the period set forth in Archistructor's Proposal. Owner may direct the Archistructor in writing to perform additional work pending action by Owner to approve or reject the Proposal, but only if Owner provides written assurances that it will pay for all such additional work in the event that Owner rejects the Proposal.

2.1.7.4 If Owner accepts Archistructor's Proposal, as may be amended by Archistructor pursuant to Subparagraph 2.1.7.3, Owner shall sign such Proposal, the date such signing occurs being referred to as the "Proposal Acceptance Date." Archistructor and Owner shall execute a Change Order to modify the Contract Price by the GMP, plus any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F**, both as set forth in the Archistructor's Proposal, and to incorporate the Archistructor's Proposal as accepted as a Contract Document. The Contract Price as modified, and Scheduled Substantial Completion Date, shall be subject to modification by changes in the Work as provided in Article 7 and Paragraph 5.4 hereof. Upon such acceptance by Owner, Archistructor shall proceed with the completion of the Construction Documents and the balance of the Work.

2.1.7.5 Unless Owner accepts Archistructor's Proposal in writing on or before the date specified in Archistructor's Proposal for such acceptance,

Archistructor's Proposal shall not be effective and is deemed to be withdrawn. If Owner fails to so accept Archistructor's Proposal, or rejects Archistructor's Proposal, then:

2.1.7.5.1 either Party shall have the right to suggest modifications to Archistructor's Proposal that are acceptable to Owner and Archistructor; whereupon, if such modifications are accepted in writing by Archistructor and Owner, Archistructor's Proposal shall be deemed accepted in accordance with Subparagraph 2.1.7.4 hereof and Owner shall sign such Proposal; or,

2.1.7.5.2 Owner may terminate this Agreement for its convenience in accordance with Paragraph 10.4.

2.1.7.6 As Allowances and open items are resolved from time to time, Archistructor shall modify the list presented with the Proposal and submit the modified list to Owner in accordance with Article 7.

2.1.8 Construction Documents Phase

2.1.8.1 Based on the approved Archistructor's Proposal and pursuant to the Preliminary Project Schedule and Project Schedule, Archistructor shall prepare, and furnish to Owner, Drawings, Specifications, and other documents and electronic data which set forth in detail the requirements for construction of the Work ("Construction Documents"). The Construction Documents shall:

2.1.8.1.1 be consistent with the intent of those documents identified in Archistructor's Proposal;

2.1.8.1.2 include updates as required by the Department from its review of documents submitted to the Department;

2.1.8.1.3 provide information for the use of those in the building trades;

2.1.8.1.4 include documents customarily required for regulatory agency approvals; and,

2.1.8.1.5 comply with all applicable Laws and Regulations.

2.1.8.2 On or about the time of the scheduled submittal for the deliverables under Subparagraph 2.1.8.1 above, Archistructor and Owner shall meet to approve and confer about the submittal, with Archistructor identifying, among other things, the evolution of the design and any significant changes or deviations that have taken place from the documents identified in Archistructor's Proposal. Minutes of the meeting shall be maintained by Archistructor and provided to all attendees for review and comment. As the design progresses

each approved submittal package shall replace the prior approved submittal package and shall become part of the Contract Documents.

2.1.9 Construction Administration Services

The following services (collectively known as "Construction Administration") will be provided by Architect and Archistructor's Consultants during the construction of the Project by Archistructor:

2.1.9.1 assisting in obtaining necessary approvals from regulatory agencies for the construction of the project;

2.1.9.2 as a representative of the Owner, visiting the Site at intervals appropriate to the stage of construction, or as otherwise agreed by Owner and Archistructor (with a written report of the observations from such site visits transmitted to the Owner), to: (a) endeavor to guard Owner against defects and deficiencies in the construction; (b) become familiar with the progress of the construction; and, (c) determine in general if the construction is being performed in a manner indicating that the construction, when fully completed, will be in accordance with the Contract Documents;

2.1.9.3 reviewing shop drawings, product data, samples and other submittals;

2.1.9.4 clarifying and interpreting the Construction Documents; and,

2.1.9.5 preparing a record set of drawings for submittal to Owner in both electronic and print format indicating significant changes made during construction.

2.2 General Construction Services.

2.2.1 General Obligations of Archistructor

Unless otherwise provided in the Contract Documents, Archistructor shall furnish, or cause to be furnished, and shall pay for all design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, electricity, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

2.2.2 Supervision of Work

Archistructor shall supervise and direct the Work, using reasonable skill and attention. Archistructor shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

2.2.3 Project Schedule and Reporting

2.2.3.1 The Project Schedule shall show the critical path of the schedule, and shall integrate Owner requirements and indicate design activities; the planned date of commencement of Work at the Site; the Scheduled Substantial Completion Date; the dates for the start and completion of the various stages of the Work; the dates for submittal, review, and receipt of applicable permits and approvals from governmental authorities; and other factors that may affect the Scheduled Substantial Completion Date. Archistructor shall update the Project Schedule from time-to-time as required by the conditions and progress of the Work.

2.2.3.2 The Project Schedule will identify, among other things, the dates on which Owner is required to furnish information, review documents or render decisions (each an "Owner Review Date") and, when applicable, the period of time that Owner has to provide such information, perform such review or render such decisions (each, an "Owner Review Period"). If a time period for an Owner Review Period is not specified, it shall be seven (7) business days, unless an earlier review or decision is required to prevent delay for the Project Schedule or unless Owner reasonably requires a longer Owner Review Period for a specific issue provided such longer Owner Review Period does not create delay for the Project Schedule. Each Owner Review Period shall commence on the day after Archistructor delivers to Owner a written request, together with any documents for Owner's review, for Owner to provide information, review documents, or render a decision. If Archistructor does not deliver a complete request to Owner, or if Owner reasonably requires additional information, the Owner Review Period shall not commence until Archistructor delivers such request and information to Owner, and the respective Owner Review Date shall be extended on a day-for-day basis until Archistructor delivers such request and information to Owner.

2.2.3.3 Owner and Archistructor shall hold regularly scheduled meetings throughout the design and construction of the Project to thoroughly discuss the Project Schedule, progress of the Work, and status of planned Work.

2.2.3.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

2.2.4 Taxes

2.2.4.1 Owner hereby declares that it is exempt from paying any State use taxes or any State sales taxes on any materials, supplies, or equipment used or installed on the Project. Archistructor will rely on this declaration and the Contract Price shall not include costs for any State use taxes or State sales taxes. If any State use taxes or State sales taxes are applicable to, or assessed against, the Project, Owner shall pay them. To effectuate the exemption, Archistructor shall obtain a Certificate of Exemption from the Colorado Department of Revenue and file copies with Owner before making any purchases for, or commencing work for, the construction portion of the Work.

2.2.4.2 Owner and Archistructor shall work together to investigate whether any local use taxes or any local sales taxes are applicable to the Project.

Unless such investigation determines that they are applicable, the Contract Price shall not include costs for any local use taxes or any local sales taxes on any materials, supplies, or equipment used or installed on the Project. If such taxes are not included in the Contract Price and they are later assessed against the Project, Archistructor and Owner shall work together to mitigate or eliminate those taxes. If such taxes are then payable, Owner shall pay them.

2.2.5 Permits, Approvals, Licenses and Notices

2.2.5.1 Archistructor shall (a) obtain and pay for those permits, approvals and licenses identified in the permit list set forth in Archistructor's Proposal as being Archistructor's responsibility and (b) shall pay for those regulatory agencies' charges and inspection fees identified in the Archistructor's Proposal as being Archistructor's responsibility. As of the Effective Date of this Agreement the permits, approvals and licenses identified as being the Archistructor's responsibility are those for the electrical, plumbing, and storm water permits; all building permits; and the health department permit. Any governmental, quasi-governmental or regulatory fees or charges not identified on the permit list, but required to be obtained to complete the Work, shall be authorized by Change Order and shall increase the Contract Price by the amount of such fee or charge. Archistructor shall provide reasonable assistance and cooperation to Owner with respect to those permits, approvals and licenses identified as Owner's responsibility, including assistance in preparing applications and furnishing copies of previously developed drawings or data or slightly modified versions thereof.

2.2.5.2 Unless they are to be obtained by Owner, Archistructor shall prepare and submit all applications and supporting documents necessary for obtaining any required permits, approvals, and licenses for the Project. All such Work shall be in accordance with the Project Schedule, the applicable professional standards, and the reasonably known requirements of the applicable authority. Owner shall cooperate with Archistructor to comply with all requirements for applications and supporting documentation. If, without negligence by Archistructor, there is a change in the Scheduled Substantial Completion Date or Contract Price as a result of any governmental, quasi-governmental or regulatory permitting, approval or licensing process, such changes shall be made by Change Order in accordance with the procedures set forth in Article 7.

2.2.5.3 Archistructor shall give all notices and comply with all applicable Laws and Regulations relating to obtaining the permits, approvals and licenses set forth in the Archistructor's Proposal as Archistructor's responsibility.

2.2.6 Safety

2.2.6.1 Archistructor shall have overall responsibility for safety precautions and programs in the performance of the Work. Additionally, while the provisions of this Subparagraph 2.2.6 hereof establish the responsibility for safety between Owner and Archistructor, they do not relieve Subcontractors of their responsibility for the safety of persons or property in the performance for their work, nor for compliance with applicable Laws and Regulations.

2.2.6.2 Archistructor shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect:

2.2.6.2.1 employees, students, teachers, and other persons at the Site;

2.2.6.2.2 materials and equipment stored at on-site or off-site locations for use in performance of the Work; and,

2.2.6.2.3 the Project and all property located at the Site and adjacent to Work areas, whether or not said property or structures are part of the Project or involved in the Work.

2.2.6.3 Archistructor shall designate an individual at the Site in the employ of Archistructor who shall act as Archistructor's designated safety representative with a duty to prevent accidents. Unless otherwise identified by Archistructor in writing to Owner, the designated safety representative shall be Archistructor's project superintendent. Archistructor shall immediately notify Owner of all accidents and injuries occurring at the Site. When Archistructor is required to file an accident report with a public authority, Archistructor shall furnish a copy of the report to Owner.

2.2.6.4 Archistructor shall provide Owner with copies of all notices, licenses, permits and approvals required of Archistructor by applicable Laws or Regulations.

2.2.6.5 Archistructor shall comply with all applicable provisions of the Occupational Safety and Health Administration ("OSHA") and all laws, ordinances, rules, regulations and orders of all governmental agencies or authorities having jurisdiction to protect the safety of employees and/or other persons who may be affected by the Work. Archistructor shall erect and maintain all necessary safeguards to protect workers on the Project Site and the owners and users of adjacent property, and shall post danger signs and other warnings against hazards created by the Work, including but not limited to protruding nails, hoists, well holes, elevator shafts, hatchways, scaffolding, window openings, stairways, excavations and falling materials.

2.2.6.6 If Owner reasonably believes that any part of the Work or Site is unsafe, Owner may require Archistructor, without assuming responsibility for Archistructor's safety program, to stop performance of the Work and take reasonable corrective measures satisfactory to Owner.

2.2.7 Royalties and Patents

Archistructor shall pay royalties and license fees for patented or copyrighted designs, processes or products incorporated into the Work, and further agrees to defend, indemnify and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising there from. Notwithstanding the above, if a particular design, process or product is required by

Owner, Owner shall, to the extent permitted by Law, defend, indemnify and hold Archistructor harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any such patented or copyrighted design, process or product. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. If Archistructor has reason to believe the use of a specified design, process or product is an infringement of a patent or copyright, Archistructor shall promptly provide notice to Owner.

2.2.8 Cleaning of Site

Archistructor shall maintain the Site and regularly remove debris, rubbish and waste materials resulting from the Work. After completing Work in an area, Archistructor shall clean the area and remove all debris, rubbish and waste materials, and its construction equipment, tools, machinery, and surplus materials. Archistructor shall make reasonable provisions to minimize and confine dust and debris resulting from the Work. Archistructor shall not be required to clean areas or remove any materials, debris or waste materials left by Owner or Owner's Other Contractors.

2.2.9 Record Documents and Accounts

2.2.9.1 Archistructor shall maintain at the Site one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. Such record copies shall be delivered to the Owner upon completion of the Work and prior to final payment.

2.2.9.2 Archistructor shall keep such full and detailed accounts as may be necessary for proper financial management under the Agreement and preserve all such records for a period of six years after final payment.

3. ARTICLE 3—OWNER'S RESPONSIBILITIES

3.1 Owner's Services.

3.1.1 Owner's Representative

3.1.1.1 Owner's Representative for the Project, **Don Herman, COO**, or an alternative designated representative to the extent designated in writing, shall be the primary contact with Archistructor regarding all matters relating to the Project and authorized to act on Owner's behalf with respect to the Project.

3.1.1.2 Owner may obtain independent review of the Contract Documents by a separate architect, engineer, contractor, or cost estimator under contract to, or employed by, Owner. Such independent review shall be undertaken at Owner's expense in a timely manner and shall not delay the orderly progress of the Work.

3.1.2 Permits, Approvals, Licenses and Notices

3.1.2.1 Owner shall (a) obtain and pay for those permits, approvals and licenses identified in the permit list set forth in Archistructor's Proposal as being the Owner's responsibility; and, (b) pay for those regulatory agencies' charges and inspection fees identified in the permit list in Archistructor's Proposal as being Owner's responsibility. As of the Effective Date of this Agreement the permits, approvals and licenses identified as being the Owner's responsibility are those for removal/remediation of Hazardous Materials that are in the Owner's existing buildings. Owner shall provide reasonable assistance and cooperation to Archistructor with respect to those items identified as being Archistructor's responsibility.

3.1.2.2 Owner shall give all notices and comply with all applicable Laws and Regulations relating to the permits, approvals and licenses, if any, set forth in Archistructor's Proposal as Owner's responsibility.

3.1.3 Furnishing of Services and Information

3.1.3.1 When the services set forth in Subparagraphs 3.1.3.1.1 through 3.1.3.1.6 below are reasonably deemed necessary by Archistructor or Owner to properly carry out the Work, Owner shall furnish the services with reasonable promptness utilizing consultants under direct contract with Owner ("Owner's Consultants") and at the Owner's expense. Except to the extent Archistructor knows of any inaccuracy, Archistructor, Archistructor's Consultants, and Subcontractors shall be entitled to rely upon the accuracy of any such information, reports, surveys, drawings and tests described in Subparagraphs 3.1.3.1.1 through 3.1.3.1.6. Archistructor, Archistructor's Consultants, and Subcontractors shall not have any liability to Owner related to such services or work product and Owner shall indemnify, defend, and hold Archistructor, Archistructor's Consultants, and Subcontractors harmless from any cost, liability or damages related to, or arising from the performance of, such services or work product. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. If Archistructor believes it would be unreasonable to rely upon such services or work product, Archistructor shall bring its concerns to Owner's attention immediately.

3.1.3.1.1 Reports, surveys, drawings, and tests concerning the conditions of the Site that are required by Law.

3.1.3.1.2 Surveys describing physical characteristics, legal limitations and utility locations for the Site, 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; flood plains; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries; contours of the site at one foot intervals; 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 information on the survey shall be referenced to a project benchmark.

3.1.3.1.3 The services of a geotechnical engineer, including, but not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations and design options. Owner shall meet with the Architect, structural engineer, and geotechnical engineer to review all recommendations and design options presented by the geotechnical engineer, and Owner shall select the options to be included for the Archistructor's Work for the Project.

3.1.3.1.4 The services of independent testing laboratories to perform all inspections, including all "third party inspections," and tests required by the Contract Documents except costs incurred in connection with inspections or tests conducted for replacement of defective Work and except as otherwise specifically provided in the Contract Documents to be the Archistructor's responsibility. Notwithstanding the foregoing, Archistructor shall be responsible for arranging and obtaining, and shall pay all costs in connection with all materials, mix designs, or equipment submitted for approval prior to Archistructor's purchase thereof for incorporation in the Work.

3.1.3.1.5 Chemical, air and water pollution tests, tests for hazardous materials existing on the Site prior to the commencement of construction, and other laboratory and environmental tests, inspections and reports which are required by Law.

3.1.3.1.6 The services of other consultants when such services are reasonably required by the scope of the Project and reasonably requested by Archistructor.

3.1.3.2 Owner shall furnish and disclose to Archistructor, to the extent that Owner has knowledge thereof, all information, including the results and reports of prior tests, inspections or investigations conducted for the Project or the Site, involving (a) chemical, air and water pollution; (b) Hazardous Materials; (c) environmental or geotechnical conditions; (d) the presence of pollutants; or, (e) any other information related to the Project or Site relevant to Archistructor in performing the Work.

3.1.3.3 If Owner has knowledge of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, Owner shall give prompt written notice to Archistructor.

3.1.3.4 Owner shall furnish required information and services identified in this Agreement and shall promptly provide decisions and approvals pertaining thereto reasonably requested by Archistructor in a timely manner, consistent with the orderly progress of the services, but in no case in less than the Owner Review Period pursuant to Subparagraph 2.2.3.2.

3.1.4 Financial Information

3.1.4.1 If reasonably requested by Archistructor prior to Archistructor's commencing construction Work at the Site, Owner shall provide evidence reasonably satisfactory to Archistructor that sufficient funds are available and committed for the entire cost of the Project, including an amount for changes in the Work as may be approved in the course of the Work. Unless such reasonable evidence is provided, Archistructor shall not be required to commence or continue Work. The failure of Archistructor to insist upon Owner providing this evidence at any one time shall not be a waiver of Owner's obligation to make payments pursuant to this Agreement, nor shall it be a waiver of Archistructor's right to require that such evidence be provided at a later date.

3.2 Work by Owner or Owner's Other Contractors.

3.2.1 Owner reserves the right to perform construction or operations related to the Project outside the scope of Archistructor's Work with Owner's own forces, and to award separate contracts to Owner's Other Contractors in connection with portions of the Project or other construction or operations on the Site, provided, however, that such work shall be performed under conditions of insurance and waivers of subrogation identical to the provisions of this Agreement including, but not limited to, the requirement that each of Owner's Other Contractors shall provide Archistructor with evidence of insurance on an ACORD Form naming Archistructor as an "additional insured" prior to Owner's Other Contractors entering the Site. Owner's contracts with Owner's Other Contractors shall contain provisions requiring them to comply with Archistructor's safety protocol, requirements, and directions for the Project, including attending all required safety meetings, and requiring them to comply with all applicable Laws and Regulations concerning construction safety. If Owner's Other Contractors fail to comply, Archistructor may, after reasonable efforts in accordance with the circumstances to gain their compliance, remove them from the Site. If Archistructor claims that delay or additional cost is involved because of Owner's use of Owner's Other Contractors, Archistructor shall assert such claims as provided in Subparagraph 7.8.1 hereof.

3.2.2 To the extent practical, Archistructor shall afford Owner's Other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and Archistructor shall coordinate its Work with the work of Owner's Other Contractors. Archistructor shall not be required to incur delay caused by Owner's Other Contractors presence at the Site. All Owner's Other Contractors' materials and equipment shall be stored at Owner's or Owner's Other Contractors sole risk and Archistructor shall not be obligated to protect or care for such items. Archistructor shall not be liable in any way for any injury, loss or damage which may occur to any of Owner's or Owner's Other Contractors property or installations at the Site except to the extent caused by the negligence or other misconduct of Archistructor or its employees. Owner agrees to defend, indemnify and hold harmless Archistructor from all liability, costs, damages, fees, and expenses, arising out of, or connected with, the activities of Owner's Other Contractors at the Site, including damage to Archistructor's and Subcontractor's property or Work caused by Owner's Other Contractors. Nothing herein shall be construed to waive any rights or defenses available to

Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq.

3.2.3 Costs caused by delays or by improperly timed activities or defective construction by Owner's Other Contractors shall be borne by the party responsible therefore.

4. ARTICLE 4—SUBCONTRACTORS

4.1 Subcontractor's Communication with Owner.

Archistructor shall be responsible for the management, scheduling and coordinating of Subcontractors in the performance of the Work. Except in an emergency event, Owner shall instruct or direct Subcontractors only through Archistructor unless Owner and Archistructor agree otherwise.

4.2 Assignment of Subcontracts.

Archistructor shall provide for the assignment of Subcontracts if Owner terminates the Agreement for default of Archistructor or terminates the Agreement for convenience as provided in Paragraphs 10.3 and 10.4 hereof. Following such termination, Owner shall notify in writing those Subcontractors whose assignments shall be accepted, subject to the rights of sureties.

5. ARTICLE 5—TIME

5.1 Commencement of the Work.

5.1.1 Archistructor shall not be obligated to commence Work at the Site until applicable permits have been obtained and Owner has signed Archistructor's Proposal evidencing its acceptance thereof. Archistructor's performance of the services set forth in Subparagraphs 2.1.1 through 2.1.6 shall be deemed to have commenced on the later of the Effective Date or execution of the Agreement by both parties. Work performed prior to the Effective Date, through a limited notice to proceed, an interim agreement, or through any other arrangement between Owner and Archistructor, shall be deemed to have been performed pursuant to this Agreement.

5.1.2 Archistructor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Work in order to comply with the periods and deadlines specified in the Project Schedule.

5.2 Substantial and Final Completion.

5.2.1 "Substantial Completion" is the stage in the progress of the Work when the Work, or designated portion thereof, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Work for its intended purpose

and when the Work, or designated portion thereof, has received a Temporary Certificate of Occupancy or a Certificate of Occupancy.

5.2.2 Archistructor shall achieve Substantial Completion on or before the Scheduled Substantial Completion Date in the Archistructor's Proposal, as such date may be extended in accordance with this Agreement ("Scheduled Substantial Completion Date").

5.2.3 "Final Completion" of the Work shall occur when Archistructor has completed all Punch List (defined below) items in conformance with the Contract Documents, and has submitted to Owner the record drawings pursuant to Subparagraph 2.1.9.5 and the operations and maintenance manual pursuant to Subparagraph 8.2.3. Final Completion of the Work shall be accomplished as expeditiously as practical after Substantial Completion.

5.3 Punch List and Certificate of Substantial Completion.

5.3.1 When Archistructor considers that the Work, or a designated portion thereof, is Substantially Complete as defined in Subparagraph 5.2.1, Archistructor shall notify Owner. Upon receipt of written notice from Archistructor that the Work is Substantially Complete, Owner and Archistructor shall, within five (5) days of Owner's receipt of the notice, review the Work. Based upon this review Owner and Archistructor shall, within five (5) days after the review, compile a list of items to be completed or corrected (the "Punch List"). The failure to include any items on such list does not alter the responsibility of Archistructor to complete all Work in accordance with the Contract Documents. The Punch List shall include the actual cost to complete or correct each item contained therein. If the actual cost is not known for an item, then Owner and Archistructor shall reasonably agree upon the cost to complete or correct the item.

5.3.2 If Owner, on the basis of its review of the Work with Archistructor, concurs that the Work, or designated portion thereof, is Substantially Complete in accordance with the Contract Documents, Archistructor shall prepare for Owner's signature a Certificate of Substantial Completion which shall fix the date of Substantial Completion, state the responsibilities of Owner and Archistructor for the completed Work, and fix the time within which Archistructor shall complete the items listed on the Punch List attached thereto. As Punch List items are completed, Archistructor shall notify Owner that the completed Punch List items are ready for Owner's inspection. Owner shall inspect the completed Punch List items and either accept the completed Punch List items or state its reason for rejection of those items. This process shall continue until all the Punch List items are completed in conformance with the Contract Documents. If additional items that need to be completed or corrected are discovered after Final Settlement, such items shall be considered to be warranty items and shall be corrected in accordance with Subparagraph 8.2.5.

5.3.3 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof.

5.3.4 Owner may occupy or use completed or partially completed portions of the Work at any stage when such portion is designated by separate agreement with Archistructor, provided such use is consented to by insurers and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided Owner and Archistructor have accepted in writing the responsibilities assigned to each of them for payments, security, maintenance, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for completion or correction of the Work and commencement of warranties for such Work. Immediately prior to such partial occupancy or use, Owner and Archistructor shall jointly inspect the area to be occupied, or portion of the Work to be used, to determine and record the condition of the Work, including the development of the Punch List for such Work in the manner set forth in Subparagraphs 5.3.1 and 5.3.2 hereof. Notwithstanding this Subparagraph, if Owner occupies or uses portions of the Work and if Owner and Archistructor have not accepted in writing the responsibilities assigned to each, all Owner's furniture, fixtures, and equipment installed within partially occupied or used portions of the Work shall be stored or installed at Owner's sole risk and Archistructor shall not be liable in any way for any injury, loss or damage which may occur to any of such Owner's furniture, fixtures, and equipment.

5.3.5 If the Project or any portion of the Project for which Archistructor is responsible for obtaining a Certificate of Occupancy or temporary Certificate of Occupancy does not receive such certificate due to issues outside the scope of Work of Archistructor, including any equipment procurement or installation not the responsibility of Archistructor, then Archistructor shall be deemed to have Substantially Completed the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that Owner could otherwise occupy and use the Work for its intended purpose and shall be deemed to have achieved Final Completion when the Punch List has been completed and the record drawings and operations and maintenance manual have been submitted.

5.3.6 If any governmental, quasi-governmental, or other entity has the power and authority to require Archistructor or Owner to post security in the form of a bond, letter of credit, or cash in escrow, for the guaranteed performance of post Final Completion obligations, such security shall either be posted by Owner or Owner shall cause Archistructor to be released from such obligation at Final Completion. Failing Owner's cooperation in gaining such release or posting the security in lieu of Archistructor's security, Owner shall immediately pay over to Archistructor an amount of cash equal to such security posted by Archistructor.

5.4 Delays in the Work.

If Archistructor is delayed at any time in the progress of the Work by an act or neglect of Owner, Owner's agents, Owner's Consultants or Owner's Other Contractors (which act or neglect shall include the failure of Owner to respond within the times required by the Owner Review Periods), or by changes ordered in the Work by Owner, or, without negligence by Archistructor in accordance with Subparagraph 2.2.5.2, by failure to obtain any necessary approvals, permits or licenses by or from regulatory agencies, or by labor disputes, fire, unusual delay in deliveries, acts of God, Adverse Weather Days (defined below) in excess of the number of Adverse

Weather Days set forth in Archistructor's Proposal, casualties or other causes beyond Archistructor's control, or by any other causes which Owner and Archistructor agree may justify delay ("Excusable Delays"), then the Scheduled Substantial Completion Date shall be extended by Change Order to the extent that the critical path of the Project has been impacted, if any, arising out of such delay; and the Contract Price shall be equitably adjusted to reflect the costs to Archistructor, if any, arising out of such delay. All claims for delays shall be made in accordance with Paragraph 7.9. Adverse Weather Days shall mean the occurrence of snow, ice, wind, rain, cold or heat which in the reasonable and prudent exercise of Archistructor's professional opinion make it unreasonable to execute the Work as scheduled for any specific day. Notwithstanding the foregoing, Archistructor shall not be entitled to any extension of the Scheduled Substantial Completion date or any adjustment in the Contract Price for a delay if it fails to notify Owner in writing of the delay within ten (10) days after the beginning of such delay and Archistructor shall not be entitled to an extension of the Scheduled Substantial Completion date or an adjustment in the Contract Price for a delay to the extent the delay is caused by or results from negligent acts or omissions by Archistructor, Archistructor's Consultant, or Subcontractors or anyone employed by any of them.

5.5 Liquidated Damages.

Owner and Archistructor shall perform their respective obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. Owner and Archistructor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential, which Owner might suffer if Archistructor fails to achieve Substantial Completion within ten (10) days following the Scheduled Substantial Completion Date for the Project expressed in Archistructor's Proposal, as such date may be modified pursuant to this Agreement. Therefore, Owner and Archistructor have determined and fully agree that fair and reasonable compensation for the damages Owner may suffer if Archistructor fails to achieve Substantial Completion within ten (10) days following the Scheduled Substantial Completion Date for the Project, as such date may be modified pursuant to this Agreement, is \$500.00 per day, subject to an absolute maximum of \$10,000.00 in the aggregate for the Project, for each additional day until such time as the Work is Substantially Completed or the \$10,000.00 is exhausted. Such amounts ("Liquidated Damages") shall be Owner's sole and exclusive remedy, and not as a penalty, for Archistructor's failure to achieve Substantial Completion on the Scheduled Substantial Completion Date for the Project, as such date may be modified pursuant to this Agreement.

6. ARTICLE 6—CONTRACT PRICE AND PAYMENT

6.1 Contract Price.

The Contract Price shall consist of the fees set forth in **Exhibit F**; plus any Design and Pre-Construction fees for changes pursuant to Article 7 that are in addition to those set forth in **Exhibit F** as set forth in the Archistructor's Proposal; plus the GMP set forth in the Archistructor's Proposal. The Contract Price is to be adjusted in accordance with Article 7 hereof. At Final Completion if the total of the actual Cost of the Work plus Archistructor's Fee

plus the Archistructor's Warranty Fee is less than the GMP, the unspent Archistructor's Contingency shall be returned to the Owner.

6.2 Schedule of Values.

Archistructor's Proposal shall include a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as Owner may reasonably require ("Schedule of Values"). This Schedule of Values, as well as the Design and Pre-Construction fees set forth in **Exhibit F** and such additional fees set forth in the Archistructor's Proposal, shall be the basis for reviewing Archistructor's Applications for Payment.

6.3 Progress Payments.

6.3.1 Archistructor shall deliver to Owner, on or before the fifteenth day of each month after the Effective Date, an itemized application for payment ("Application for Payment") describing the Work performed in the prior month, which Application for Payment shall constitute a certification by Archistructor that the design and/or construction, as applicable, have progressed to the point indicated, that the quality of the Work covered by the Application is in accordance with the Contract Documents, and that Archistructor is entitled to payment in the amount requested. Archistructor shall also deliver lien waivers covering all payments made pursuant to the prior Application for Payment to Subcontractors providing more than \$10,000 of labor or materials to the Project.

6.3.2 If Owner requires any specific data as part of its review of Applications for Payment, such requirement shall be identified prior to, or during, the regularly scheduled meetings, with the understanding that Archistructor shall comply with Owner's reasonable requirements.

6.3.3 Applications for Payment shall reflect retainage as follows:

6.3.3.1 no retainage shall be withheld from amounts due Archistructor for Pre-Construction and Design services, fees paid to governmental entities, and the Archistructor's Fee;

6.3.3.2 for line items for all other Work, ten percent (10%) until the Work is fifty percent (50%) complete; and,

6.3.3.3 once the Work is fifty percent (50%) complete, Owner shall thereafter retain zero percent (0%) from subsequent payments for the Work unless the Owner elects to reinstitute retainage for the reasons set forth in CRS §24-91-103 et seq. Retainage shall not be released to the Archistructor until the date of Final Settlement, as set forth in CRS §24-91-103 et seq., and retained funds may continue to be held by the Owner to satisfy verified statements of claims as provided in CRS §24-91-103 et seq.

6.3.4 Within twenty (20) days of Owner's receipt of an Application for Payment, Owner shall make payment to Archistructor of any amounts not in dispute. If Owner's opinion of the amount due under the Application for Payment differs from the amount in the Application for Payment, Owner and Archistructor shall meet during the ten day period after Owner's receipt of the Application and resolve their differences. Amounts not in dispute shall be paid when due.

6.3.5 Neither progress payments nor partial or entire use or occupancy of the Project by Owner will constitute acceptance of Work not in accordance with the Contract Documents.

6.4 Intentionally Not Used.

6.5 Final Settlement.

6.5.1 Subject to Subparagraph 6.5.2 below, final payment of the unpaid balance of the Contract Price ("Final Settlement") for the Project shall be due on the date of Final Settlement as established by Law and Owner agrees to perform its responsibilities for achieving Final Settlement in a prompt and efficient manner. Notwithstanding the foregoing, Final Settlement shall not occur until Archistructor has achieved Final Completion pursuant to Subparagraph 5.2.3. Archistructor shall submit with its application for Final Settlement the following items:

6.5.1.1 an affidavit and final lien waivers indicating that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner or Owner's property might be encumbered have been paid or otherwise satisfied; and,

6.5.1.2 consent of surety, if any, to final payment.

6.5.2 At the time of Final Settlement Owner shall pay Archistructor the unpaid balance of the Contract Price, including all retainage, less 150% of the reasonable cost mutually agreed upon by the parties of completing any unfinished items of Work on the Punch List discussed in Subparagraph 5.4.2 hereof, and less such amounts to be retained for verified statements of claim received by the Owner. Payment of the withheld sum for Punch List items shall be made monthly, through Applications for Payment, as the Punch List is completed. Payments of amounts retained for verified statements of claims shall be promptly made as the claims are released by the claimants or as required by Law, whichever is earlier.

6.5.3 Owner's making of Final Settlement payment shall constitute a waiver of all claims by Owner except for:

6.5.3.1 liens, claims, security interests or encumbrances arising out of the Agreement and unsettled;

6.5.3.2 any claims by the Owner timely made in accordance with the Warranty provisions of this Agreement for failure of the Work to comply with the requirements of the Contract Documents; and,

6.5.3.3 Archistructor's defense, hold harmless, and indemnity obligations expressly stated in this Agreement.

6.5.4 Acceptance of Final Settlement payment shall constitute a waiver of all claims by Archistructor except those previously made in writing and remaining unsettled at the time of the application for Final Settlement payment; and Owner's indemnity, hold harmless, and defense obligations expressly stated in this Agreement.

6.6 Interest Payments.

Payments due either Archistructor or Owner pursuant to the terms of this Agreement which are not paid when due shall accrue interest from the date due at the rate of one percent (1.0%) per month until paid.

6.7 Title Passage.

Archistructor warrants that title to all Work covered by an Application for Payment shall pass to Owner no later than the time of payment for such Work. Archistructor further warrants that upon submittal of an Application for Payment all Work for which payments have been received from Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of Archistructor or any other person or entity performing work at the Site or furnishing materials or equipment relating to the Work.

6.8 Liens.

To the extent Owner makes all payments to Archistructor in accordance with this Agreement, Archistructor shall fully defend, hold harmless and indemnify Owner from any and all mechanics' liens and/or claims of non-payment made by any employees, Subcontractors, Archistructor's Consultants, or any second tier Subcontractors or consultants. If any such lien or claim is filed, Archistructor shall cause such lien or claim to be canceled and discharged of record, or shall place a bond against such lien or claim, and if Archistructor fails to take such action Owner can cause such lien or claim to be so canceled or discharged at Archistructor's expense.

6.9 Cost of the Work.

6.9.1 The term "Cost of the Work" shall mean costs reasonably incurred by Archistructor in the proper performance of the Work. The Cost of the Work shall include the following:

6.9.1.1 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal for employees of Archistructor performing Work at the Site, plus periodic salary adjustments, if any.

6.9.1.2 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal, plus periodic salary adjustments, if any, for Archistructor's supervisory and administrative personnel engaged in the performance of the Work or support activities and who are located at the Site; and for Archistructor's supervisory and administrative personnel working off-Site to assist in the production or transportation of material and equipment necessary for the Work or accounting for the Cost of the Work.

6.9.1.3 Hourly billing rates as set forth in **Exhibit F** and the Archistructor's Proposal, plus periodic salary adjustments, if any, for Archistructor's personnel stationed at Archistructor's offices other than the job Site to the extent they are performing the following functions for the Project:

- 6.9.1.3.1 Senior Project Manager
- 6.9.1.3.2 Project Manager
- 6.9.1.3.3 Assistant Project Manager
- 6.9.1.3.4 Project Engineer
- 6.9.1.3.5 Clerical
- 6.9.1.3.6 Safety Officer
- 6.9.1.3.7 Pre-Construction Manager
- 6.9.1.3.8 Construction Manager
- 6.9.1.3.9 Project Accountant

6.9.1.4 The reasonable portion of the cost of travel, accommodations and meals for Archistructor's personnel necessarily and directly incurred in connection with the performance of the Work.

6.9.1.5 Payments properly made by Archistructor to Subcontractors and Archistructor's Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Archistructor's Consultants.

6.9.1.6 Costs of repairing or correcting damaged or nonconforming Work executed by Archistructor or Subcontractors, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific

responsibility of the Archistructor and only to the extent that the cost of repair or correction is not recoverable by the Archistructor from insurance, Archistructor's Consultants, and Subcontractors.

6.9.1.7 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

6.9.1.8 Costs, less salvage value, of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Archistructor, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.9.1.9 Costs of removal of debris and waste from the Site.

6.9.1.10 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including, but not limited to, the cost of facsimile transmissions, long distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

6.9.1.11 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Archistructor at the Site, whether rented from Archistructor or others, and incurred in the performance of the Work.

6.9.1.12 Premiums for insurance and bonds required by this Agreement for the performance of the Work.

6.9.1.13 All fuel and utility costs incurred in the performance of the Work.

6.9.1.14 Costs of printing and copying Drawings and Specifications.

6.9.1.15 Intentionally not used.

6.9.1.16 Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

6.9.1.17 Legal costs, court costs and costs of mediation or arbitration, including attorneys' fees, reasonably arising from Archistructor's performance of the Work, provided such costs do not arise from disputes between Owner and Archistructor.

6.9.1.18 Costs for permits and fees, royalties, licenses, tests and inspections incurred by Archistructor as a requirement of the Contract Documents.

6.9.1.19 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Archistructor resulting from such suits or claims, and paying settlements made with Owner's consent.

6.9.1.20 Deposits or pre-payments which are lost, except to the extent caused by Archistructor's negligence.

6.9.1.21 Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

6.9.1.22 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

6.9.1.23 The amount of any deductibles on the Builder's Risk Insurance policy, except those claims arising out of Archistructor's negligence, or on policies of insurance held by Archistructor pursuant to this Agreement.

6.10 Non-Reimbursable Costs.

The following shall be excluded from the Cost of the Work:

6.10.1 overhead and general expenses, except as provided for in this Agreement or in the Archistructor's Proposal, or which may be recoverable for changes to the Work; and,

6.10.2 the cost of Archistructor's capital used in the performance of the Work.

6.11 Archistructor's Fee.

Archistructor shall be paid a fee for overhead and profit ("Archistructor's Fee"). The Archistructor's Fee shall be four percent (4%) of the Cost of the Work plus the Archistructor's Warranty Fee. The Archistructor's Fee shall be subject to Subparagraph 7.2.3.

6.12 Intentionally Not Used

6.13 Archistructor's Warranty Fee.

In lieu of Owner paying the actual costs for Archistructor to manage the warranty work pursuant to Article 8, Archistructor shall be paid a fee for managing the warranty work ("Archistructor's Warranty Fee"). The Archistructor's Warranty Fee shall be four tenths of one percent (0.4%) of the Cost of the Work. The Archistructor's Warranty Fee shall be subject to Subparagraph 7.2.3.

7. ARTICLE 7—CHANGES AND CLAIMS

7.1 Changes.

7.1.1 Changes in the Work may be accomplished after the Effective Date without invalidating the Agreement, by Change Order, work change directive, or a minor change in the Work.

7.1.2 A Change Order shall be based upon agreement between Owner and Archistructor. A work change directive may be issued by Owner without the agreement of Archistructor. A minor change in the Work may be issued by Archistructor alone.

7.1.3 If unit prices are indicated in the Contract Documents or are subsequently agreed to by the parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order or work change directive that application of the original unit prices will cause substantial inequity to Owner or Archistructor, such unit prices shall be equitably adjusted.

7.2 Change Order.

7.2.1 A Change Order is a written instrument prepared by Archistructor and signed by Owner and Archistructor, stating their agreement upon all of the following:

- 7.2.1.1 the scope of the change in the Work;
- 7.2.1.2 the amount of the adjustment, if any, in the Contract Price; and
- 7.2.1.3 the extent of the adjustment, if any, in the Scheduled Substantial Completion Date.

7.2.2 If Owner requests a Proposal for a material and substantial change in the Work from Archistructor and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Archistructor for the costs of estimating services, design services or preparation of proposed revisions to the Contract Documents for that Proposal.

7.2.3 The amount of credit to be allowed by Archistructor to Owner for a deletion or change which results in a decrease in the Contract Price shall be actual cost of the deletion or change, with no credit being given for a decrease in Archistructor's Fee and Archistructor's Warranty Fee. For an add or change which results in an increase in the Contract Price, the amount allowed for Archistructor's Fee, design services, use tax (if applicable), and bond and insurance shall be calculated on the actual net cost at the rates as stated in the Archistructor's Proposal.

7.3 Work Change Directive.

7.3.1 A work change directive is a written order prepared and signed by Owner, directing a change in the scope of the Work prior to agreement on the adjustment of the Contract Price and/or Scheduled Substantial Completion Date.

7.3.2 Owner and Archistructor shall negotiate in good faith for appropriate adjustments to the Contract Price and Scheduled Substantial Completion Date arising out of work change directives and shall conclude these negotiations as expeditiously as possible. Pending final determination of cost to Owner, amounts not in dispute may be included by Archistructor in Applications for Payment and shall be paid by Owner.

7.3.3 When Owner and Archistructor agree upon the adjustments in the Contract Price and Scheduled Substantial Completion Date, such agreement shall be effective immediately and shall be recorded by preparation and execution of a Change Order.

7.4 Minor Changes in the Work.

7.4.1 Archistructor may make minor changes in the design and construction of the Project consistent with the intent of the Contract Documents so long as such changes do not (a) involve adjustments in the Contract Price and/or the Scheduled Substantial Completion Date or (b) materially and adversely affect the design of the Project, the quality of any of the materials or equipment specified in the Contract Documents, the performance or longevity of any materials, equipment or systems specified in the Contract Documents, or the quality of workmanship required by the Contract Documents.

7.4.2 Archistructor shall promptly inform Owner in writing of any minor changes and shall record such changes on the documents maintained by Archistructor.

7.5 Differing Site Conditions.

If Archistructor encounters conditions at the Site which are (a) subsurface or otherwise concealed physical conditions differing materially from those indicated in the Contract Documents; or, (b) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and such conditions increase Archistructor's cost and/or time to perform the Work, then the Contract Price and/or Scheduled Substantial Completion Date shall be equitably adjusted by Change Order. Archistructor shall give notice to Owner of any such conditions in accordance with Paragraph 7.9 hereof.

7.6 Changes in Taxes, Laws or Regulations.

The Contract Price and/or Scheduled Substantial Completion Date shall be equitably adjusted if the Work is materially and adversely affected by the enactment, adoption, promulgation, modification, reinterpretation, or repeal, of any taxes (exclusive of taxes based on Archistructor's

net income) or Laws or Regulations after the Proposal Acceptance Date, but only if such taxes are applicable to the Work itself.

7.7 Intentionally Not Used.

7.8 Determination of Cost.

7.8.1 An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

7.8.1.1 unit prices set forth in the Contract Documents
or as subsequently agreed;

7.8.1.2 a mutually agreed upon lump sum;

7.8.1.3 cost to be determined in a manner agreed upon by the parties, including costs for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance, all calculated pursuant to Subparagraph 7.2.3; or,

7.8.1.4 if an increase or decrease cannot be agreed to as set forth in Subparagraphs 7.8.1.1 to 7.8.1.3, and Owner issues a work change directive, the cost of the change in the Work shall be determined by the reasonable expense or savings of the performance of the Work resulting from the change, including costs for Archistructor's Fee, Archistructor's Warranty Fee, design services, use tax (if applicable), and bond and insurance, all calculated pursuant to Subparagraph 7.2.3. Archistructor shall maintain a documented, itemized accounting evidencing the expenses and savings.

7.8.2 If Owner and Archistructor disagree upon whether Archistructor is entitled to be paid for Work required by Owner, or in the event of any other disagreements over the scope of Work or proposed changes to the Work, Owner and Archistructor agree to negotiate in good faith to resolve the issue amicably. As part of the negotiation process, Archistructor shall furnish Owner with a good faith estimate of the costs to perform the disputed Work. If the parties are unable to agree, and Owner wants Archistructor to perform the disputed Work in accordance with Owner's interpretations, Archistructor shall perform the disputed Work, conditioned upon Owner's issuing a written order to Archistructor directing Archistructor to proceed and specifying Owner's interpretation of the Work that is to be performed. In such event, Archistructor shall be entitled to submit an Application for Payment for an amount equal to fifty percent (50%) of Archistructor's estimated cost to perform the Work, and Owner agrees to pay such amount, with the express understanding that; (a) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such Work; and, (b) receipt of such payment by Archistructor does not prejudice Archistructor's right to seek full payment, including interest, for the disputed Work in the event Owner's order is deemed to be a change to the Work when Archistructor makes a claim pursuant to the dispute resolution process as set forth in Article 12 below.

7.9 Claims for Damages.

7.9.1 If either Owner or Archistructor has a claim against the other, including but not limited to adjustments in the Contract Price, Scheduled Substantial Completion Date, or any injury or damage to person or property because of an act or omission of the other party or the other party's employees, agents or those for whom such party is legally liable, written notice of such claim, injury or damage, whether or not insured, shall be given to the other party within a reasonable time after the occurrence giving rise to the claim, injury or damage or after the party first recognizes the condition giving rise to the claim, injury or damage. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq.

7.10 Waiver of Consequential and Punitive Damages.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, OWNER OR ARCHISTRUCTOR SHALL NOT BE LIABLE TO THE OTHER, AND EACH PARTY HEREBY WAIVES ALL CLAIMS AGAINST THE OTHER, FOR ANY PUNITIVE, CONSEQUENTIAL, LIQUIDATED, SPECIAL, INCIDENTAL, OR INDIRECT LOSSES OR DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF USE AND LOSS OF PROFITS), WHETHER ARISING IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHERWISE AND WHETHER ASSERTED DIRECTLY OR BY WAY OF CLAIM FOR CONTRIBUTION OR INDEMNITY, EXCEPT AS SPECIFICALLY PERMITTED OTHERWISE ELSEWHERE IN THIS AGREEMENT, INCLUDING LIQUIDATED DAMAGES PURSUANT TO PARAGRAPH 5.5. THIS MUTUAL WAIVER INCLUDES BUT IS NOT LIMITED TO (1) CONSEQUENTIAL DAMAGES INCURRED BY OWNER FOR DELAY, FOR LOSSES OF USE, PROFIT, FINANCING, BUSINESS REPUTATION, AND FOR LOSS OF MANAGEMENT OR EMPLOYEE PRODUCTIVITY OR OF THE SERVICES OF SUCH PERSONS; AND (2) CONSEQUENTIAL DAMAGES INCURRED BY ARCHISTRUCTOR FOR PRINCIPAL OFFICES EXPENSE AND THE COMPENSATION OF PERSONNEL STATIONED THERE (EXCEPT TO THE EXTENT INCLUDED IN THE COST OF THE WORK, IF ANY), FOR LOSSES OF FINANCING, BUSINESS AND REPUTATION, AND FOR LOSS OF PROFIT, EXCEPT ANTICIPATED PROFIT ARISING DIRECTLY FROM THE WORK.

7.11 Continuing Performance.

7.11.1 Pending final resolution of a claim, except as otherwise agreed in writing or as provided in Article 10, Archistructor shall proceed diligently with performance of the Work and Owner shall continue to make payments in accordance with the Agreement.

8. ARTICLE 8—CORRECTION OF WORK AND WARRANTY

8.1 Rework.

8.1.1 Archistructor shall promptly correct Work properly rejected by Owner prior to Final Settlement or known by Archistructor prior to Final Settlement to be defective or failing to conform to the requirements of the Contract Documents. Archistructor shall bear the costs of correcting such rejected Work, including additional testing and inspection. If Archistructor defaults or neglects to do so and fails, within seven (7) days after receipt of written notice from Owner, to commence and continue correction of such default or neglect with diligence and promptness, Owner may:

8.1.1.1 correct such deficiencies with Archistructor paying to Owner all reasonable costs therefore; or,

8.1.1.2 order Archistructor to stop the Work, or any portion thereof, until the cause for such order has been eliminated provided, however, Owner's right to stop the Work shall not give rise to a duty on the part of Owner to exercise the right for benefit of Archistructor or other persons or entities.

8.2 Warranty.

8.2.1 Archistructor warrants that materials and equipment furnished under this Agreement shall be of good quality and new unless otherwise required or permitted by the Contract Documents and the Work shall be free from defective workmanship and materials, performed in a good and workmanlike manner, and in accordance with the Contract Documents.

8.2.2 The following are excluded from the warranty provided pursuant to Subparagraph 8.2.1:

8.2.2.1 cracking or movement of patios, pavements, parking lots, curbs, gutters, retaining walls, foundations, sidewalks, on-grade concrete floors, or building components resulting from soil movement and settlement or water conditions, unless the cracking or movement results from Archistructor's failure to complete the Work in accordance with the structural engineer's or the Owner's geotechnical consultant's recommendations, or from a defect in Archistructor's workmanship, materials, or design;

8.2.2.2 loss or damage resulting from workmanship, defective materials, or defective design, engineering or information supplied or performed by or on behalf of any person other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.3 normal wear and tear and normal deterioration;

8.2.2.4 loss or damage resulting from acts of God;

8.2.2.5 loss or damage resulting from use of the Work for a purpose for which the Work was not intended;

8.2.2.6 loss or damage resulting from negligence, abuse, improper or insufficient maintenance (including, but not limited to, failure of Owner to purchase a maintenance service agreement from the elevator Subcontractor), failure to comply with manufacturer's or supplier's warranty and/or maintenance requirements or improper operation of the Work by anyone other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.7 loss or damage resulting from modifications, alterations, or additions to the Work or changes in the grading of the ground around the Work by anyone other than Archistructor or Archistructor's Consultants or Subcontractors;

8.2.2.8 loss or damage caused by seepage of water unless such loss is the direct result of a construction or design defect;

8.2.2.9 loss or damage directly or indirectly arising out of, caused by, contributed to, resulting from or relating to mold, mildew, fungus, spores, wet or dry rot, microbial volatile organic compounds, or other micro-organisms of any type, nature or description, or their scent or by-products or any materials containing them, whether airborne or surface, unless such loss or damage is the result of a construction or design defect;

8.2.2.10 any damage that the Owner has not taken reasonably timely action to minimize; and,

8.2.2.11 any defect not reported to Archistructor by Owner within six (6) months after the defect is discovered, or in the exercise of reasonable diligence should have been discovered, by Owner.

8.2.3 Upon Substantial Completion, Archistructor shall conduct a commissioning meeting with the Owner and Archistructor shall provide Owner with an operations and maintenance manual for the Project which shall include all written warranties and manuals and shall set forth a specific recommended maintenance protocol for all relevant equipment, components and materials in the Project. Archistructor shall, and does hereby assign to Owner the benefits of warranties Archistructor receives from Archistructor's Subcontractors, equipment or material suppliers and manufacturers.

8.2.4 THE WARRANTY PROVIDED IN THIS PARAGRAPH 8.2 IS ARCHISTRUCTOR'S SOLE WARRANTY WITH RESPECT TO THE WORK. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN WARRANTIES PROVIDED BY ARCHISTRUCTOR'S SUBCONTRACTORS ASSIGNED TO OWNER IN ACCORDANCE WITH SUBPARAGRAPH 8.2.3, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, ANY AND ALL WARRANTIES UNDER THE UNIFORM COMMERCIAL CODE, INCLUDING THE WARRANTY OF MERCHANTABILITY AND

THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED.

8.2.5 If, within four (4) years after the date of Substantial Completion of the Work, or after the date for commencement of the warranty period established in a written agreement between Owner and Archistructor for partial occupancy or use by Owner, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be defective, Archistructor shall correct it promptly after receipt of a written notice from Owner to do so unless Owner has previously given Archistructor a written acceptance of such condition. If within the four (4) year correction period the Owner discovers and does not promptly notify the Archistructor pursuant to the limitations of Subparagraph 8.2.2 or give Archistructor an opportunity to test and/or correct defective Work as reasonably requested by the Archistructor, the Owner waives the Archistructor's obligation to correct that defective Work as well as the Owner's right to claim a breach of the warranty with respect to that defective Work.

8.2.6 During the above four (4) year correction period, Archistructor shall assign a qualified and experienced representative to work directly with the Owner's representative to address and commence work to correct defective Work pursuant to Paragraph 8.2.5. One (1) year after Substantial Completion, two (2) years after Substantial Completion, and prior to the expiration of the four (4) year correction period, Archistructor's representative shall schedule and attend with Owner an inspection of the Project to determine whether any defective Work pursuant to Paragraph 8.2.5 exists. Archistructor's representative and Owner will prepare a list of such defective Work and, upon correction, Archistructor shall notify Owner. If Archistructor fails to promptly correct such defective Work and fails, within seven (7) days after receipt of written notice from Owner, to commence and continue correction of such defective Work with diligence and promptness, Owner may do so and Owner shall be entitled to collect from Archistructor all reasonable costs and expenses incurred in correcting such defective Work.

8.2.7 The above four (4) year correction period notwithstanding, Archistructor may, in its sole discretion, in consideration of fostering goodwill and an on-going working relationship with Owner, replace, rework, or correct Work for which the four (4) year correction period has expired. If Archistructor does perform such Work following expiration of Archistructor's contractual obligation to do so, Archistructor does not waive its right to refuse to perform additional or similar Work at a subsequent time unless Archistructor is compensated therefore. Owner acknowledges that Archistructor's performance of such Work following expiration of Archistructor's contractual obligation to do so shall not operate to extend, reopen or modify the above four (4) year correction period, and shall not operate to equitably toll the limitations periods for any claim related to this Agreement.

8.2.8 Neither Owner's approval of the final request for payment nor payment of any request for payment or of any sum previously withheld from Archistructor shall relieve Archistructor of responsibility for its warranty hereunder or for faulty materials and workmanship.

8.3 Limitation on Claims.

After Substantial Completion, Archistructor shall not have any liability or responsibility with respect to defective Work except as provided in this Article 8. No suit, action, or proceeding against Archistructor with respect to defective Work may be commenced in any court or forum after the later of (i) six (6) years after Substantial Completion or (ii) ninety (90) days after Archistructor completes corrective work or disclaims responsibility for corrective work in response to a claim asserted by Owner within four years after Substantial Completion. Any claim not brought within this time frame shall be forever barred.

9. ARTICLE 9—DOCUMENTS AND ADVERTISING

9.1 Ownership and Use of Documents.

All Drawings, Specifications and other documents, including those in electronic form, prepared pursuant to this Agreement by Archistructor or its agents, its Subcontractors, or its Consultants (collectively known as "Design Documents") are instruments of service through which the Work to be executed by Archistructor is described. The Design Documents become the property of Owner for the purpose of information and reference in connection with Owner's use and occupancy of the Project when this Agreement is fully performed or sooner terminated and full payment for the Design Documents has been received by Archistructor. Owner shall not own or claim a copyright in the Design Documents and Owner hereby grants Archistructor, its Subcontractors, and Consultants an exclusive license to use the Design Documents without limitation or restriction. If for any reason this Agreement is terminated prior to completion of the Work and Owner chooses to go forward with the construction of the Project using its own forces or those of another contractor, Owner shall (1) have the Design Documents stamped by another licensed design professional with Archistructor paying all costs therefore solely if this Agreement was terminated for Archistructor default; and, (2) to the extent permitted by Law, indemnify, defend and hold harmless Archistructor, Archistructor's Consultants and Subcontractors, and directors, officers, and agents of any of them, from any claims, losses or expenses of any kind arising out of the use of the Design Documents. Additionally, if Owner desires to use Design Documents to build a substantially identical project at another site, it must obtain Archistructor's permission and pay a mutually agreed to re-use fee. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

9.2 Advertising.

Archistructor shall have the right to include photographic or artistic representations of the design of the Project among Archistructor's promotional and professional materials. Archistructor shall be given reasonable access to the completed Project to make such representations. However, Archistructor's materials shall not include, without Owner's prior permission, the following: (a) any of Owner's material that is protected by trade mark or copyright; (b) Owner's confidential or proprietary information if Owner has previously advised Archistructor in writing of the specific

information considered by Owner to be confidential or proprietary; and (c) images of or other personally identifiable information concerning Owner's staff, students, clients, or visitors. Owner shall provide professional credit for Archistructor in Owner's promotional materials for the Project.

10. ARTICLE 10—SUSPENSION AND TERMINATION

10.1 Owner's Right to Suspend Work.

Owner may in writing, without cause and either before or after construction commences at the Site, order Archistructor to suspend, delay or interrupt the performance of all or a portion of the Work for such period of time as Owner may determine subject to Subparagraph 10.5.1.1. In such event, the Contract Price and Scheduled Substantial Completion Date shall be equitably adjusted, which adjustment shall include the reasonable costs of shut-down, delay and remobilization, including overhead and profit thereon.

10.2 Archistructor's Right to Stop Work.

10.2.1 Archistructor, upon seven (7) days written notice to Owner, may stop performing Work if one of the following events occur:

10.2.1.1 If Archistructor acquires and discloses to Owner information that causes it to form a reasonable belief that Owner may not have the ability to continue satisfactory payment for the Work or to satisfy the requirements and obligations imposed by the Contract Documents, Archistructor may demand adequate assurance from Owner, in a form reasonably acceptable to Archistructor that future payment for the Work will be paid in accordance with the Contract Documents. Owner's failure to comply with such demand within ten (10) days of receipt will entitle Archistructor to terminate this Agreement for cause.

10.2.1.2 Owner fails to pay Archistructor within seven (7) days after the date a payment is due.

10.2.2 If Archistructor does stop the Work, and the Work is later resumed, the Contract Price and Scheduled Substantial Completion Date will be equitably adjusted, such adjustment will include the reasonable costs of shut-down, delay and remobilization, including overhead and profit percentage as stated in Archistructor's Proposal.

10.3 Termination by Owner for Archistructor Default.

10.3.1 If Archistructor:

10.3.1.1 utilizes improper materials and/or unqualified workers, including as identified at Subparagraph 13.9.6;

10.3.1.2 fails to make payments due and owing to Archistructor's Consultants, laborers, material suppliers or Subcontractors;

10.3.1.3 fails to Substantially Complete the Work within thirty (30) days after the Scheduled Substantial Completion Date as it may be extended by Change Order;

10.3.1.4 fails to achieve Final Completion within sixty (60) days after the Scheduled Substantial Completion Date as it may be extended by Change Order;

10.3.1.5 fails to abide by applicable Laws and Regulations; or,

10.3.1.6 otherwise materially breaches the Agreement; then Owner may give written notice to Archistructor and Archistructor's surety, if any, that it intends to terminate the Agreement unless the deficiency is cured within seven (7) days of Archistructor's receipt of the notice (or if such deficiency cannot be reasonably cured within such seven (7) day period, if Archistructor fails to commence and diligently proceed with a cure for the deficiency within the seven (7) day period). If Archistructor fails to cure the deficiency (or, if applicable, fails to commence and diligently proceed with a cure), Owner may then declare the Agreement terminated by providing written notice to Archistructor of such declaration. Upon providing such written notice of termination, Owner shall have the right to proceed in accordance with Subparagraph 10.3.3 hereof and Archistructor shall not have a right to further payment until the Work is completed.

10.3.2 If Archistructor files a petition under the Bankruptcy Code, the Agreement will terminate if Archistructor or Archistructor's trustee rejects the Agreement or, if there has been a default, Archistructor is unable to give adequate assurance that Archistructor shall perform as required by the Agreement or otherwise is unable to comply with the requirements for assuming the Agreement under the applicable provisions of the Bankruptcy Code.

10.3.3 If the Agreement is terminated under Subparagraphs 10.3.1 or 10.3.2 hereof, Owner shall have the right to:

10.3.3.1 take possession of the Site and of all materials and equipment to be incorporated into the Project thereon;

10.3.3.2 provide written notice to Archistructor of those Subcontracts which it intends to accept assignment pursuant to Paragraph 4.2 hereof;

10.3.3.3 exercise its rights to use the Contract Documents as set forth in Paragraph 9.1 hereof;

10.3.3.4 finish the Work by whatever reasonable method
Owner may deem appropriate; and

10.3.3.5 offset the actual costs and expenses incurred by
Owner in finishing the Work, including costs to have the Design Documents stamped by another
licensed design professional pursuant to Paragraph 9.1, against the unpaid balance of the
Contract Price.

10.3.4 If the actual costs and expenses incurred and paid by Owner
in finishing the Work exceed the unpaid balance of the Contract Price, Archistructor shall pay
the difference to Owner within thirty (30) days of Owner's written demand. Upon request of
Archistructor, Owner shall provide a detailed accounting of the costs incurred by Owner.

10.3.5 If a court determines that Owner erroneously terminated the
Agreement for cause, the termination for cause will be converted to a termination for
convenience pursuant to Paragraph 10.4 below.

10.4 Termination by Owner for Convenience.

10.4.1 If Owner abandons or cancels the Project, or any part thereof
either before or after Archistructor has physically commenced construction on the Site, Owner
may terminate the Work by written notice to Archistructor stating the extent and effective date of
such termination. Upon receipt of such notice, Archistructor shall:

10.4.1.1 stop all Work and place no further orders or
Subcontracts for materials, services, equipment or supplies;

10.4.1.2 terminate outstanding purchase orders and
Subcontracts to the extent that they relate to the terminated portion of the Work;

10.4.1.3 for thirty (30) days following receipt of the
termination notice, take reasonable actions to preserve and protect Work completed and in
progress and to protect materials, supplies, plant and equipment at the Site, stored off-site or in
transit; and,

10.4.1.4 deliver to Owner any other information
reasonably available and take any reasonable action which Owner directs toward termination of
the Work.

10.4.2 If Owner terminates the Agreement pursuant to Subparagraph
10.4.1 hereof Owner shall pay Archistructor for all Work performed based on a percentage of
completion, plus the following:

10.4.2.1 all reasonable costs incurred by Archistructor in
order to withdraw and demobilize from the Site, including reasonable wind-down expenses;

10.4.2.2 all reasonable costs (including cancellation fees) incurred by Archistructor in order to terminate Subcontractors or other contracts with any person or entity with whom Archistructor has Subcontracted for the Project;

10.4.2.3 a payment for overhead, general and administrative expenses, including those of all Subcontractors, of four percent (4%) of the sums set forth in Subparagraphs 10.4.2.1 to 10.4.2.2 above; and,

10.4.2.4 solely if Owner terminates the Work after Archistructor has physically commenced construction on the Site, a termination fee equal to Two Hundred Thousand Dollars (\$200,000.00).

10.4.3 Any amount due to Archistructor pursuant to this Paragraph 10.4 shall be paid within thirty (30) days following Owner's receipt of an Application for Payment for such amount, together with the accompanying supporting documentation.

10.5 Termination by Archistructor for Owner Default.

10.5.1 Archistructor may terminate this Agreement pursuant to this Paragraph 10.5, if:

10.5.1.1 the Work is suspended by Owner for sixty (60) days;

10.5.1.2 the Work has been stopped for a sixty (60) day period (a) under court order or order of other governmental authorities having jurisdiction or (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Archistructor, materials are not available; or

10.5.1.3 the Work has been stopped for a seven (7) day period in accordance with Subparagraph 10.2.1.

10.5.2 If Owner files a petition under the Bankruptcy Code, the Agreement shall terminate if Owner or Owner's trustee rejects the Agreement or, if there has been a default, Owner is unable to give adequate assurance that Owner will perform as required by the Agreement or otherwise is unable to comply with the requirements for assuming the Agreement under the applicable provisions of the Bankruptcy Code.

10.5.3 If the Agreement is terminated under Subparagraphs 10.5.1 or 10.5.2 hereof, Owner shall pay Archistructor those amounts set forth in Subparagraph 10.4.2.

10.5.4 Any amount due to Archistructor pursuant to this Paragraph 10.5 shall be paid within thirty (30) days following Owner's receipt of an Application for Payment for such amount, together with the accompanying supporting documentation.

10.6 Exclusive Remedies.

The respective rights and remedies specified in this Article 10 shall be Owner's and Archistructor's sole recourse for any termination of the Agreement. THE PARTIES REAFFIRM HEREIN THEIR RESPECTIVE WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES AS SET FORTH IN PARAGRAPH 7.10 HEREOF.

11. ARTICLE 11—INSURANCE, INDEMNIFICATION, AND BONDS

11.1 Archistructor's Insurance.

11.1.1 Archistructor shall, at its expense, obtain and maintain during the term of the Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to transact business in the State of Colorado and with a minimum AM Best rating of A-XI. The insurance required by this Subparagraph 11.1.1 shall be for the following amounts and coverage:

11.1.1.1 Commercial general liability insurance in Archistructor's name which shall include coverage for bodily injury, property damage, personal injury and contractual liability, broad form property damage, and completed operations, with combined single limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Limits will apply per Project. Commercial general liability insurance shall be furnished on an occurrence basis.

11.1.1.2 Business automobile liability insurance including owned, non-owned and hired vehicle coverage with combined single limit of not less than \$1,000,000 bodily injury and property damage. Business automobile liability insurance shall be furnished on an occurrence basis.

11.1.1.3 Statutory amounts of workers' compensation with employer's liability limits of \$1,000,000/\$1,000,000/\$1,000,000.

11.1.1.4 Umbrella/excess liability insurance for coverage identified at Subparagraphs 11.1.1.1 and 11.1.1.2 with a limit of \$9,000,000. Umbrella/excess liability insurance shall be furnished on an occurrence basis.

11.1.1.5 Professional liability insurance, with limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate. Professional liability insurance shall be furnished on a claims made basis.

11.1.1.6 Property insurance upon the Work at the Site (Builder's Risk Insurance) to the full replacement value of such Work. The property insurance shall include the interests of Owner, Archistructor and Subcontractors of every tier in the Work. It shall be issued on an all risks of direct physical loss or special form policy. Archistructor shall bear the expense of losses within the deductible that are caused by its negligence or those for whom it is responsible. Otherwise, such deductible expenses shall be treated as a Cost of the

Work and the GMP shall be increased by Change Order for the deductible expense. The deductibles shall be: for flood \$25,000, earthquake \$25,000, for rust or corrosion \$10,000, for property of others \$10,000, and for all other perils \$1,000. To the extent that the Project suffers property damage that is not covered by the Builder's Risk Insurance provided by Archistructor, any costs of replacing or repairing such property damage are to be borne by Owner.

11.1.1.7 Archistructor's Builder's Risk Insurance coverage pursuant to Subparagraph 11.1.1.6 shall be endorsed to provide "Soft Cost" coverage to protect Owner, with a limit equal to fifteen percent (15%) of the amount of that Builder's Risk Insurance. "Soft Cost" coverage typically includes loss of income, rents, additional construction loan interest and other fees, all as is specified in the Archistructor's Builder's Risk Insurance policy. The deductible for "Soft Cost" coverage shall be the amount of the Soft Costs incurred during the first three (3) days and the deductible shall be borne by the Owner.

11.1.2 Insurance policies obtained by Archistructor pursuant to Subparagraphs 11.1.1.1, 11.1.1.2, and 11.1.1.6 hereof shall, to the extent permitted by Law, name Owner as an "additional insured," which additional insured endorsement shall not include coverage to the extent of or for the Owner's negligence.

11.1.3 Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work through the period of all contractual obligations for this Agreement. At Substantial Completion, Owner's permanent property insurance shall replace the property insurance provided by Archistructor.

11.1.4 Certificates of Insurance reasonably acceptable to Owner shall be delivered to Owner immediately after execution of this Agreement. Those Certificates shall contain a provision that coverage afforded under the policies shall not be altered, canceled non-renewed, or terminated until at least 30 days prior written notice has been given to Owner.

11.2 Owner's Insurance.

Owner shall be responsible for purchasing and maintaining Owner's liability and property insurance, including that required for all Owner's property or installations pursuant to Subparagraph 5.3.5, and statutory amounts of workers' compensation insurance with employer's liability. Unless otherwise specified in writing in accordance with Subparagraph 5.3.5, Owner waives any claims against Archistructor, Subcontractors and Archistructor's Consultants for any damage to Owner's furniture, fixtures, and equipment installed within partially occupied or used portions of the Work pursuant to Subparagraph 5.3.5 and Owner shall look solely to its insurance for payment of such claims. Owner hereby declares that the total value of any existing property owned by Owner contiguous to the Site is \$10,187,775.00. Owner's declaration of values is for information purposes only and shall not serve to limit any of Owner's rights under this Agreement.

11.3 Waiver of Subrogation [Intentionally omitted].

11.4 Indemnification.

11.4.1 To the extent permitted by Law, Archistructor shall defend, indemnify, and hold Owner harmless from all claims of bodily injury or property damage (other than to Owner's property pursuant to Subparagraph 5.3.5) that may arise from the performance of the Work, but only to the extent of the negligence of Archistructor, Archistructor's Subcontractors or anyone employed by any of them. Archistructor shall not be required to defend, indemnify or hold harmless Owner for any negligent acts, omissions or errors of Owner, Owner's Other Contractors, or their employees.

11.4.2 To the extent permitted by Law, Owner shall defend, indemnify and hold Archistructor harmless from all claims of bodily injury and property damage (other than to the Work itself), that may arise from performance of the Work or completion of the Project, but only to the extent of the negligence of Owner or Owner's Other Contractors or anyone employed by any of them. Nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. Owner shall not be required to defend, indemnify or hold harmless Archistructor for any negligent acts, omissions or errors of Archistructor, Archistructor's Subcontractors, or their employees.

11.4.3 During the course of the Work, Archistructor may install posts at the roof of the building for horizontal lifelines to protect its workers from hazards associated with steel erection and roofing installation. Archistructor shall remove such posts prior to final completion of the Work unless Owner directs Archistructor in writing to leave the posts in place. If Owner directs Archistructor in writing to leave the posts in place, Archistructor assumes no responsibility for the structural integrity of the posts and specifically disclaims any responsibility for the design, engineering, maintenance, and fitness for any purpose or use by Owner after Substantial Completion of the Work. If Owner directs Archistructor in writing to leave the posts in place, Owner shall indemnify, defend and hold harmless Archistructor, Archistructor's Consultants and Subcontractors, and directors, officers, and agents of any of them, from any claims, losses or expenses of any kind arising out of the use of the posts. The foregoing commitment shall be limited by and subject to all the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. and nothing herein shall be construed to waive or limit any such rights or defenses.

11.4.4 In claims against any person or entity indemnified under Subparagraphs 11.4.1, 11.4.2, or 11.4.3 hereof by an employee of Archistructor or Owner, or anyone engaged by Archistructor or Owner, the indemnification obligation under Subparagraphs 11.4.1, 11.4.2, or 11.4.3 hereof shall not be limited by a limitation on amount or type of damages, compensation of benefits payable by or for Archistructor or Owner under workers compensation acts, disability benefit acts or other employee benefit acts.

11.5 Special Insurance.

If Owner requires Archistructor to maintain any other insurance coverage, policy, amendment, or endorsement not described above, Owner shall pay the additional cost thereof.

11.6 Payment and Performance Bonds.

Archistructor shall purchase and maintain 100% payment and performance bonds for the construction portion of the Contract Price as identified at Subparagraph 2.1.7.1.1 covering (1) the faithful performance of the Agreement, and (2) the payment of all obligations arising thereunder. The bonds shall be on form AIA Document A312, December 1984 edition. Archistructor shall deliver the required bonds to the Owner not later than fourteen (14) days prior to commencement of construction. The premium for all bonds shall be paid by Archistructor and shall be included in the Contract Price. Owner will accept and approve bonds written by sureties legally authorized to write such bonds in the State of Colorado, provided such surety companies are rated in Best's Insurance Guide (latest edition) not lower than A+ or have a Best's Financial Rating of at least XV. If at any time a surety on such a bond becomes irresponsible or loses its right to do business in the State of Colorado, Owner may require substitution of another surety acceptable to Owner, which Archistructor shall furnish within ten (10) days after receipt of written notice to do so. Notwithstanding the foregoing, the payment and performance bonds shall only cover a one (1) year correction period if a four (4) year correction period is provided pursuant to Subparagraph 8.2.5.

12. ARTICLE 12—DISPUTE RESOLUTION

12.1 Resolution of Disputes.

Any and all claims, disputes or controversies between Owner and Archistructor arising out of or relating to the Agreement or the breach thereof (hereinafter "Dispute") shall be resolved in accordance with this Article 12. Pending final resolution of a Dispute between the parties except as otherwise agreed in writing or as provided in Article 10, Archistructor shall proceed diligently with performance of the Work.

12.2 Negotiation.

12.2.1 If a Dispute arises which Owner's and Archistructor's Representatives are unable to resolve, either party may, by notice to the other party, advise the other party that it would like to resolve the Dispute pursuant to this Paragraph 12.2.

12.2.2 Within ten (10) days after the other party's receipt of such notice, each party will nominate a senior officer of its management (other than its representative) to meet at a mutually agreed time and attempt to resolve such Dispute. To aid the negotiation by the parties' senior management, each party shall promptly prepare and exchange memoranda stating the issues in dispute and their positions.

12.3 Mediation.

All Disputes which are not resolved as a result of direct discussions referred to above, shall be submitted for mediation. The selection of the mediator, as well as the date, time, and location of the mediation shall be by mutual agreement of the parties.

12.4 Judicial Proceedings.

In the event that any dispute is not resolved by Negotiation or Mediation as provided herein, either party may elect to have the dispute resolved by the judicial process and either party may demand, within such period set forth in the applicable court rules or rules of civil procedure, that the dispute be resolved by a jury.

12.5 Prevailing Party.

The substantially prevailing party in any proceeding brought under Paragraph 12.4 hereof shall be entitled to recover from the other party all costs, expenses, and reasonable attorney and expert fees, costs, and expenses incurred by such substantially prevailing party in connection with any such proceeding.

13. ARTICLE 13 – MISCELLANEOUS PROVISIONS

13.1 Choice of Law.

The Agreement shall be governed by the laws of the State of Colorado.

13.2 Hazardous Materials.

13.2.1 Notwithstanding anything to the contrary in the Agreement, the obligations of Archistructor and Owner to each other with respect to Hazardous Materials shall be as set forth in this Paragraph 13.2. The terms of Paragraph 13.2 hereof shall survive the completion of the Work under the Agreement and/or any termination of the Agreement.

13.2.2 Archistructor and Owner acknowledge that Hazardous Materials may exist in areas where Work is to be performed. Prior to commencing Work in any area where Work is to be performed, Owner's representative and Archistructor shall meet to identify, to the fullest extent possible, all Hazardous Materials in that area to review the Owner's Asbestos Management Plan and any other Owner plans for management of Hazardous Material. Owner and Archistructor will agree upon a plan for remediation or removal of Hazardous Materials in that area where Work is to be performed, including the party or parties responsible for such remediation or removal. Archistructor shall not be obligated to commence Work in any area of the Work until such meeting has occurred and until the items in such plan for remediation or removal have been completed.

13.2.3 Intentionally not used.

13.2.4 If after the commencement of the Work, Hazardous Material is discovered at the Site or if Archistructor reasonably believes Hazardous Material exists at the Site, Archistructor shall be entitled to immediately stop Work in the affected area. Archistructor shall report the condition to Owner and, if required, the government agency with jurisdiction. Archistructor shall not be required to perform any Work relating to, or in the area of, the Hazardous Material without its consent. Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures and/or remedial action. Such measures and actions shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effects upon the other Work of Archistructor. Archistructor shall resume Work in the area affected by any Hazardous Material only upon written agreement between the parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of any governmental agency with jurisdiction. The obligations of Owner herein shall not apply to Hazardous Materials first brought to the Site by Archistructor, Subcontractors, or anyone else for whom Archistructor is responsible.

13.2.5 If Archistructor incurs additional costs and/or is delayed due to the presence or remediation of Hazardous Material, Archistructor shall be entitled to an equitable adjustment in the Contract Price and the Scheduled Substantial Completion Date.

13.2.6 To the extent not caused by the negligent acts or omissions of Archistructor, its Subcontractors, and the agents, officers, directors and employees of each of them, Owner shall, to the extent permitted by Law, defend, indemnify and hold harmless Archistructor, Subcontractors, and the agents, officers, directors and employees of each of them, from and against any and all claims, damages, losses, costs and expenses, including but not limited to attorney's fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material. To the fullest extent permitted by Law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of Owner. Notwithstanding the foregoing, nothing herein shall be construed to waive any rights or defenses available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq. The obligations of Owner herein shall not apply to Hazardous Materials first brought to the Site by Archistructor, Subcontractors, or anyone else for whom Archistructor is responsible.

13.2.7 Material Safety Data (MSD) sheets as required by Law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Archistructor, Subcontractors, Owner or Owner's Other Contractors, shall be maintained at the Project by Archistructor and made available to Owner.

13.2.8 During Archistructor's performance of the Work, Archistructor shall be responsible for the proper handling of all materials brought to the Site by Archistructor. Owner shall be responsible under this Paragraph 13.2 for materials and substances brought to the Site by Owner's Other Contractors or by Owner after Substantial Completion.

13.3 Successors and Assigns.

Owner and Archistructor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the Agreement and to the partners, successors and assigns of such other party with respect to all covenants of the Agreement. Neither Owner nor Archistructor shall assign the Agreement or the benefits therein without the written consent of the other, and such consent shall not be unreasonably withheld. However, Owner may assign the Agreement to any institutional lender providing construction financing or any entity controlling, controlled by, or under common control of Owner, and Archistructor agrees to execute all consents reasonably required to facilitate such an assignment, but shall not be required to assume obligations that expand its existing obligations pursuant to this Agreement. If either party makes such an assignment, that party shall nevertheless remain legally responsible for all obligations under the Agreement, unless otherwise agreed by the other party.

13.4 Notices.

All notices, demands or other communications required or permitted to be given under the Agreement shall be in writing and deemed to have been duly delivered: (a) upon personal delivery; or (b) as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed to the proper party at the appropriate address set forth below; or (c) as of 12:00 noon on the business day immediately after the day it is deposited with and accepted by Federal Express, or a similar overnight courier service, addressed to the proper party at the appropriate address set forth below; or (d) two hours after facsimile transmission between the hours of 8:00 a.m. and 3:00 p.m. (prevailing local time at the address of the recipient) on any business day to the proper party at the appropriate fax number set forth below, provided that receipt of such facsimile is confirmed by the recipient. For the purposes of the Agreement, a business day means any day Monday through Friday that is not a holiday recognized by the federal government or the State of Colorado.

If to Owner:

Adams County School District No. 1
Attention: Don Herman, COO
591 East 80th Avenue
Denver, Colorado 80229
Phone: 303-853-1000
Fax: 303-853-1087

With a copy to:

Caplan and Earnest LLC
Attention: Jim Branum
2595 Canyon Boulevard, Suite 400
Boulder, Colorado 80302-6737
Phone: 303-443-8010
Fax: 303-440-3967

If to Neenan:

The Neenan Company LLLP
Attention: James R. Hayes
2620 East Prospect Road, Suite 100
Fort Collins, Colorado 80525
Phone: 970-493-8747
Fax: 970-494-4411

13.5 Relationship of Parties.

Nothing contained in the Agreement nor any acts of the parties hereto shall be deemed or construed by any party hereto or by any other person to create the relationship of principal agent, or of limited or general partner, or of joint venture of any association between or among the parties hereto, except that of Owner and independent contractor.

13.6 Counterparts.

The Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which, when taken together, shall constitute one and the same instrument.

13.7 Entire Agreement.

The Agreement represents the entire and integrated agreement between Owner and Archistructor and supersedes all prior negotiations, representations or agreements, whether written or oral, between Owner and Archistructor related to the Project or the Work.

13.8 Severability and Waiver.

If any provision of the Agreement conflicts with any applicable Law and is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement. Furthermore, if the application of any provision of the Agreement to particular circumstances conflicts with any Laws and Regulations and is held to be invalid or unenforceable as so applied, such invalidity or unenforceability shall not affect the application of such provision to other circumstances for which it is valid and enforceable. To these ends, the provisions of the Agreement are severable. Where the effect of such severability would deprive a party of a material benefit of its bargain under the Agreement, the invalid or unenforceable provision shall not be severed, and such party may instead terminate the Agreement. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or rights in connection with that occurrence or with respect to future or further performance.

13.9 Additional Provisions.

13.9.1 Preference for Colorado Labor, Materials and Resident Bidders. In compliance with C.R.S. §§ 8-17-101 & -102, preference shall be given to Colorado labor in the several classifications of skilled and common labor, and not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed shall be Colorado labor. The term "Colorado labor" means any person who is a resident of the State of Colorado at the time of employment, without discrimination as to race, creed, color, sex, age, religion, national origin, veteran status, marital status, or disability. Additionally, in compliance with C.R.S. § 8-18-101, if any of the Work includes a contract for commodities or services, preference shall be given to a resident bidder (The term "resident bidder" means a person, partnership, corporation, or joint venture that is (a) authorized to transact business in Colorado and maintains its principal place of business in Colorado; or (b) authorized to transact business in Colorado, maintains a place of business in Colorado, and has paid Colorado unemployment compensation taxes in at least seventy-five percent (75%) of the eight (8) quarters immediately prior to bidding on the Work) against a nonresident bidder equal to the preference given or required by the state in which the nonresident bidder is a resident.

13.9.2 Nondiscrimination. During the performance of this Agreement, the Archistructor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, disability or age. The Archistructor will take action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, creed, color, sex, national origin, disability or age. Such action shall include, but not be limited to employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Archistructor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Archistructor shall state, in all solicitations or advertisements for employees placed by or on behalf of the Archistructor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, national origin, disability or age.

13.9.3 Alcohol, Tobacco, Drugs, and Fraternization. Archistructor shall ensure that its employees, agents, and subcontractors comply with all Laws and all Owner's policies, regulations, and/or procedures prohibiting the use, possession, sale, or distribution of alcohol, drugs or tobacco on any site or property owned by Owner. Archistructor shall keep its employees and those of its Subcontractors from socializing upon the Site after normal working hours and from fraternizing at any time with Owner's staff, students, parents, and other persons who are at the Owner's building or the Site.

13.9.4 Intentionally not used.

13.9.5 Intentionally not used.

13.9.6 Illegal Aliens. Archistructor shall not knowingly employ or contract with an illegal alien to perform Work under this Agreement, or enter into a contract with

a Subcontractor that fails to certify to Archistructor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform Work under this Agreement.

13.9.6.1 Archistructor has verified or attempted to verify through participation in the United States Citizenship and Immigration Services' Basic Pilot Employment Verification Program (hereinafter referred to as the "Basic Pilot Program") that Archistructor does not employ any illegal aliens. If Archistructor has not been accepted into the Basic Pilot Program prior to entering into this Agreement, Archistructor shall apply to participate in the Basic Pilot Program every three months until Archistructor is accepted or the Agreement has been completed, whichever is earlier. Archistructor shall not use the Basic Pilot Program to undertake pre-employment screening of job applicants while the Agreement is being performed.

13.9.6.2 If Archistructor obtains actual knowledge that a Subcontractor performing Work under this Agreement knowingly employs or contracts with an illegal alien, Archistructor shall:

13.9.6.2.1 Notify the Subcontractor and Owner within three days that Archistructor has actual knowledge that the Subcontractor is employing or contracting with an illegal alien; and,

13.9.6.2.2 Terminate the Subcontract if within three (3) days of receiving actual notice the Subcontractor does not stop employing or contracting with the illegal alien, except that Archistructor shall not terminate the Subcontractor if during such three (3) days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.

13.9.6.3 Archistructor shall comply with any reasonable request by the Department of Labor and Employment (hereinafter referred to as the "Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. § 8-17.5-102(5).

13.9.6.4 If Archistructor violates the provisions of this Subparagraph 13.9.6, Owner may terminate the Agreement for Archistructor Default and Archistructor shall be liable for actual and, subject to Paragraph 7.10, consequential damages.

13.9.6.5 The Owner will notify the Office of the Secretary of State if Archistructor violates the provisions of this Subparagraph 13.9.6 concerning illegal aliens and the Owner terminates the Agreement for such breach.

13.9.6.6 Archistructor shall execute the Owner furnished "Certification Statement Regarding Illegal Aliens" attached hereto as Exhibit G.

13.9.6.7 Archistructor shall obtain certifications from Subcontractors regarding the prohibition against use of illegal aliens on this Project on the form attached hereto as Exhibit H before allowing the Subcontractor to perform any Work.

13.10 Exhibits.

The following Exhibits are attached hereto, or shall be attached hereto, and are specifically made a part hereof by this reference:

- Exhibit A: Preliminary Project Schedule
- Exhibit B: Pre-Construction Services
- Exhibit C: Additional Services
- Exhibit D: Interior Design Services
- Exhibit E: Landscape Design Services
- Exhibit F: Design and Pre-Construction Fees and Schedule of Rates
- Exhibit G: Certification Statement Regarding Illegal Aliens
- Exhibit H: Subcontractor Certification Statement Regarding Illegal Aliens
- Exhibit I: Options for Moisture Sensitive Flooring
- Exhibit J: Options for Expansive Soils
- Exhibit K: Options for Floor Vibration

This Agreement must be accepted by Owner by February 1, 2011, to prevent delay in commencing Work, and thus the Project Schedule, and to prevent impact upon the Contract Price.

THIS AGREEMENT is entered into as of the effective date.

ARCHISTRUCTOR:

The Neenan Company LLLP
a Colorado limited liability limited partnership
By: Neenan Management Company
a Colorado corporation
Its: General Partner

By: _____
Name: Randolph P. Myers
Its: President
Date: _____

OWNER:

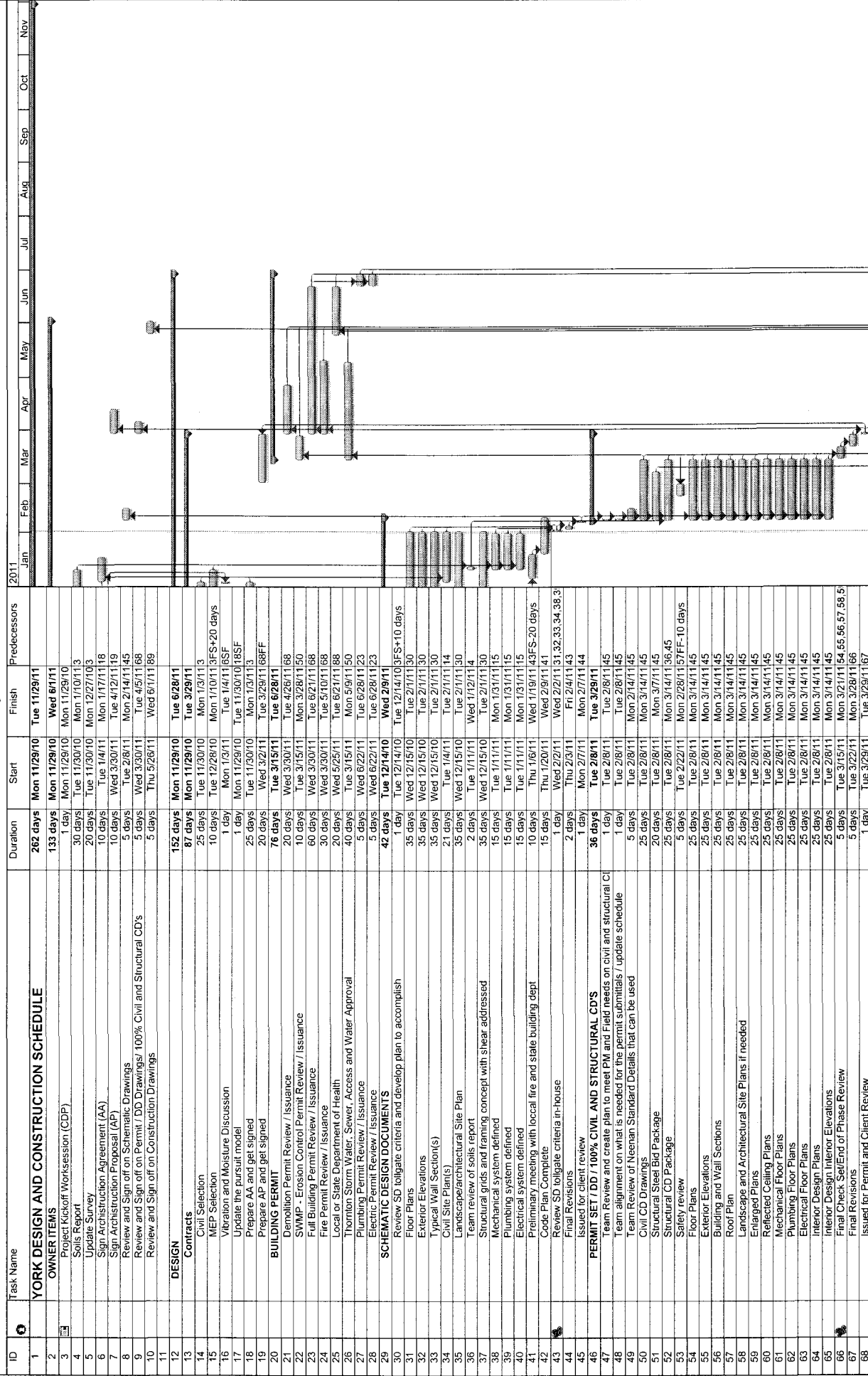
Adams County School District No. 1

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A - PRELIMINARY PROJECT SCHEDULE

See the attached "Preliminary Project Schedule" dated January 17, 2011.

Exhibit A Preliminary Project Schedule January 17, 2011



Task

Progress

Milestone

Summary

Rolled Up Task

Rolled Up Milestone

Project Summary

Group By Summary

Deadline

Rolled Up Progress

Split

External Tasks

Task

Progress

Milestone

Summary

Rolled Up Task

Rolled Up Milestone

Project Summary

Group By Summary

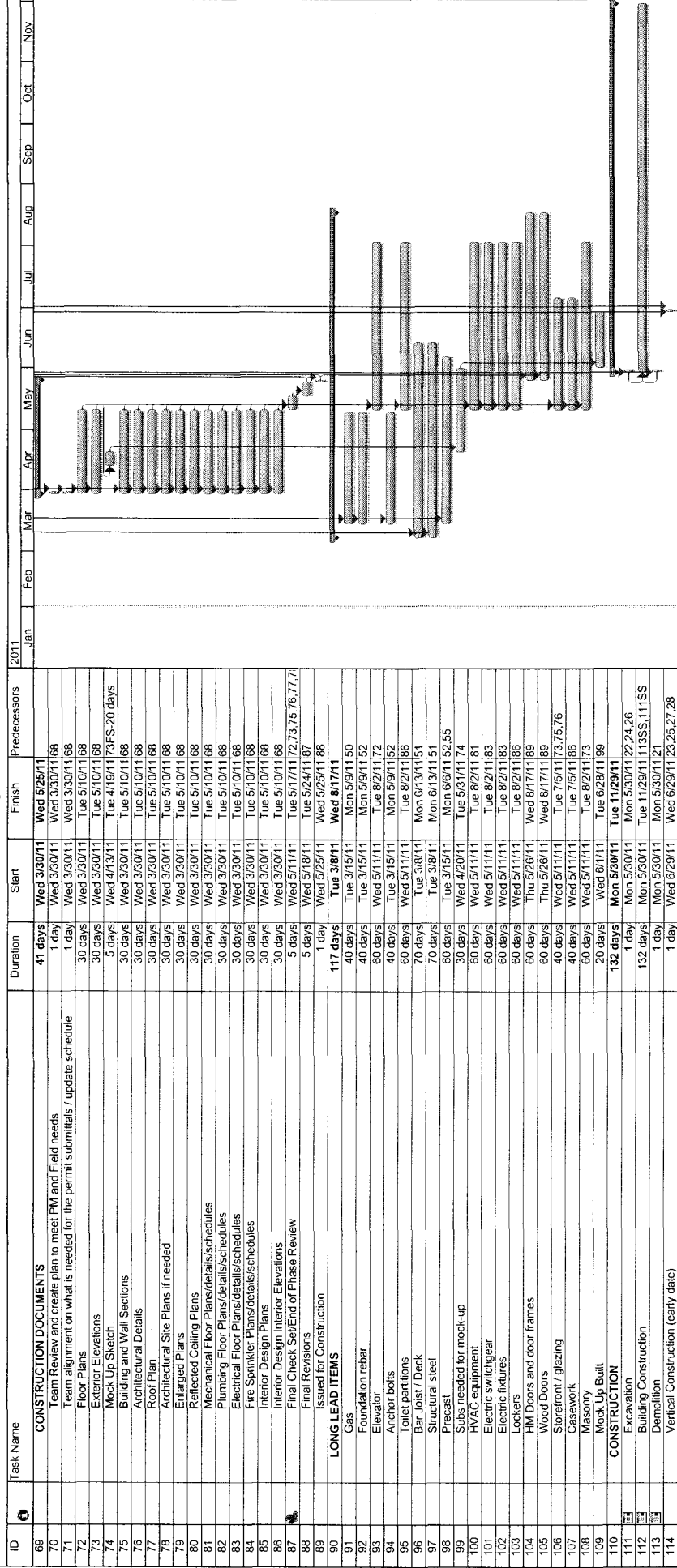
Deadline

Rolled Up Progress

Split

External Tasks

Exhibit A Preliminary Project Schedule January 17, 2011



Task

Progress

Milestone

Summary

Rolled Up Task

Rolled Up Milestone

Rolled Up Progress

Split

External Tasks

Project Summary

Group By Summary

Deadline

EXHIBIT B - PRE-CONSTRUCTION SERVICES

The following Pre-Construction services are concurrent and interactive with the Design services described in the Agreement and **Exhibit F**, and generally include estimating, scheduling, value engineering and the incorporation of construction knowledge and expertise into the design process.

1. Attendance at meetings with the Owner and Archistructor's Architect, Subcontractors and Consultants.
2. Evaluation of the Owner's objectives and limitations, and schedule and budget requirements.
3. Review of the site and site-related data, including site conditions; land survey and geotechnical investigation furnished by Owner's Consultants; assessment of the adequacy of site utilities; and the need for off-site improvements.
4. Review of design documents at the conclusion of the phases identified in Article 2 and at other appropriate times during design.
5. Recommendations on site utilization and improvements, construction feasibility and methods, and building systems and materials.
6. Preparation of construction cost estimates at the conclusion of the phases identified in Article 2 and at other appropriate times during design. Estimates shall be appropriate to the level of available design information and shall include alternative systems and materials, where appropriate.
7. Preparation of a final construction estimate for Archistructor's Proposal that details the estimated costs for the Project.
8. Evaluation of present and future construction costs associated with expansion.
9. Preparation of Project Schedules at appropriate times during design and the final Project Schedule for the Archistructor's Proposal. Such schedules shall integrate Owner requirements, design activities, anticipated construction durations, approval processes of regulatory agencies, and other factors that may affect the Scheduled Substantial Completion Date.
10. Identification of actions designed to minimize adverse effects of labor shortages, material shortages, and long-lead items, including the need for expedited design and procurement.
11. Identification of pre-qualified Subcontractors and suppliers, including those required to furnish materials or equipment fabricated to a special design.

EXHIBIT C - ADDITIONAL SERVICES

The following services are Additional Services not included within the Contract Price, unless specifically included as a service elsewhere within this Agreement or within the Archistructor's Proposal, and are identified herein not by way of limitation, but by way of example of some of the services which Owner may elect to have Archistructor perform under the Agreement. If Owner desires Archistructor to furnish or perform any of the Additional Services set forth below, or any other service not included within the Work, Owner shall follow the process for implementing changes in the Work set forth in Article 7 hereof.

1. Permits, approvals, and licenses required by governmental, quasi-governmental or regulatory agencies which are required for facility certification, accreditation, or licensure; and researching regulations applicable to the Owner's business plan.
2. Detailed investigation of conditions in existing facilities.
3. Site development services, including site analysis and selection, comparative studies and evaluations of prospective sites, site development planning, detailed site utilization studies, and master planning services.
4. Design, selection, coordination, procurement or installation of furnishings, furniture, or artwork unless such services are specifically included at **Exhibit D**.
5. Programming, listing, design, planning, selection, coordination, procurement, installation, or certification of Owner's or Owner's tenant's equipment, except architectural, mechanical, electrical and fire protection coordination utilizing Owner's equipment cut sheets provided to Archistructor during the Project Analysis Phase.
6. Graphic design, renderings, animation, model construction, and still photography, unless specifically included as a service elsewhere within this Agreement.
7. Architectural, interior design, or engineering services other than those set forth in the Contract Documents or Article 2 and **Exhibit D** of this Agreement, including, but not limited to, such services for acoustics, security, communications, and audio/visual that are not required by applicable code.
8. Preparing in excess of one (1) iteration (set) of Schematic Design Documents for review and approval by Owner.
9. Revisions to the approved Schematic Design Documents, Design Development Documents or Construction Documents, or any other work product provided by or through Archistructor due to causes not within the control of Archistructor, including Owner-requested changes and adjustments in the Project scope, budget or schedule.
10. Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with replacement of such Work.

EXHIBIT D – INTERIOR DESIGN SERVICES

The following Interior Design Services are concurrent and interactive with the Design Phase Services described in the Agreement, and the associated fees are included within the Design and Pre-Construction Fees shown at **Exhibit F** unless specifically excluded as a service elsewhere within this Agreement or within the Archistructor's Proposal.

Schematic Design Phase:

1. Preliminary selection of interior finishes at new addition and areas of remodel.
2. Coordination with Architect for programming and space planning.
3. Coordination with Owner and Architect for preliminary lighting and casework.
4. Research of finish materials and their application.
5. Confirmation of budget allowances for finishes.

Design Development Phase:

1. Selection and specification of interior finishes at new addition and areas of remodel.
2. Coordination of interior finish drawings with architectural drawing.
3. Coordination with Architect on casework and millwork design.
4. Coordination and specification of interior feature lighting and ceiling.
5. Generic layout and coordination of furniture locations in order to verify electrical and data needs with the appropriate subcontractors.

Construction Documents Phase:

1. Production of finish plan at new addition and areas of remodel.
2. Production of schedules and legends.
3. Production of casework and millwork elevations and details.
4. Production of interior specialty details as required.
5. Production presentation boards for owner's use and construction boards for Owner's maintenance manuals.

Construction Administration:

1. Review of shop drawings for casework, millwork and finishes.
2. Participation in Project meetings and walk-through as required.
3. Site inspections for quality control.

Signage:

1. Selection of interior facility identification signage as required by applicable code.
2. Assist in coordination of installation of the signage.

Exclusions:

Except as such items are specifically included in Archistructor's Work elsewhere in this Agreement or the Contract Documents, the following services are excluded:

1. Costs for purchase and installation of the following products: appliances, signage, furniture, accessories, art, plants, specialty educational equipment and specialty appliances.
2. Coordination of any existing equipment (e.g. refrigerators, vending machines and copiers).
3. Move coordination and all moving costs.

EXHIBIT E – LANDSCAPE DESIGN SERVICES

The following **LANDSCAPE DESIGN** services are concurrent and interactive with the Design Phase Services described in the Agreement, and the associated fees are included within the Design and Pre-Construction Fees shown at **Exhibit F** unless the services are specifically excluded elsewhere in the Agreement.

Schematic Design Phase:

1. Coordination of landscape design with site planning, including with the site lighting and the sidewalk layout

Design Development Phase:

1. Selection and specification of plant materials and hardscape
2. Coordination of landscape drawings with civil and architectural drawings
3. Establish conceptual irrigation plan
4. Coordination of landscape design with, and specification of, site lighting with the electrical Subcontractor
5. Layout and specification of site furnishings (e.g. benches, trash receptacles and bike racks) for coordination with the Owner and/or local municipal requirements
6. One meeting with Owner to review the landscape Design Development Documents

Construction Documents Phase:

1. Production of the landscape and irrigation plan, including schedules, legends, details and specifications

Construction Administration:

1. Review landscape and irrigation submittals
2. Production of a record set of drawings
3. Participation in the commissioning of the landscape and irrigation system

Exclusions:

1. Water feature design
2. Costs for site furnishings and site lighting unless they are included in Architect's Proposal

EXHIBIT F – DESIGN AND PRE-CONSTRUCTION FEES AND SCHEDULE OF RATES

Owner agrees to pay Archistructor the following fees for the specified services:

The following fees are based upon the sizes and scope of the Project shown at the Background section of this Agreement.

Total Fee for Design (Architectural, Interior, and Landscape;
and for Structural, Civil, Mechanical, Electrical, Plumbing,
and Fire Protection Engineering): \$376,431.00

Schematic Design Phase:	\$ 94,107.00
Design Development Phase:	\$ 56,464.00
Construction Documents Phase:	\$150,752.00
Construction Administration Phase:	\$ 75,108.00

Fee for Pre-Construction Services: \$ 43,434.00

Total Fees: \$419,865.00

For Change Orders, the Archistructor's Fee for design will be seven and one-quarter percent (7.25%) of the direct costs for the change.

The Cost of the Work for Subparagraphs 6.9.1.1 through 6.9.1.3 shall be calculated using the following hourly billing rates that do not include vehicles. Fees for Additional Services by Archistructor or for changes in the Work will be mutually agreed fixed amounts or based on the following hourly billing rates that do not include vehicles:

Principal Architect	\$190.00	VP Operations	\$160.00
Senior Architect	\$140.00	Risk Manager	\$100.00
Sr. Project Architect	\$125.00	Sr. Project Manager	\$105.00
Project Architect	\$105.00	Project Manager	\$ 85.00
Designer	\$105.00	Asst. Project Manager	\$ 75.00
Job Captain	\$ 80.00	Project Engineer	\$ 55.00
CAD Manager	\$ 80.00	Field Engineer	\$ 55.00
Drafter	\$ 60.00	Quality Assurance Manager	\$ 75.00
Animation Manager	\$130.00	Clerical	\$ 45.00
Animation Drafter	\$ 80.00	Sr. Pre-Construction Mgr	\$105.00
Sr. Interior Designer	\$ 90.00	Pre-Construction Manager	\$ 90.00
Interior Designer	\$ 75.00	Assistant Pre-Con Manager	\$ 70.00
Landscape Architect	\$ 90.00	Safety Manager	\$ 85.00
Structural Engineer	\$140.00	Gen. Superintendent	\$115.00
Structural Coordinator	\$ 80.00	Sr. Superintendent	\$105.00

Structural Drafter	\$ 60.00	Superintendent	\$ 85.00
Accounting Manager	\$ 95.00	Asst. Superintendent	\$ 75.00
Accountant	\$ 65.00	Carpenter Foreman	\$ 60.00
IT Manager	\$110.00	Carpenter	\$ 50.00
IT Technician	\$ 85.00	Laborer	\$ 35.00

Fees for Additional Services by Archistructor's Consultants and Subcontractors will be mutually agreed fixed amounts.

**EXHIBIT G – CERTIFICATION STATEMENT REGARDING ILLEGAL ALIENS
FOR THE MAPLETON YORK CAMPUS PROJECT #2492**

Archistructor, whose name and signature appear below, certifies and agrees as follows:

1. Archistructor shall comply with the provisions of CRS 8-17.5-101 et seq.
2. Archistructor does not and shall not knowingly employ or contract with an illegal alien to perform work under this project or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien on this project.
3. Archistructor represents, warrants, and agrees that it has participated or will attempt to participate in the Basic Pilot Program in order to verify that it does not employ any illegal aliens.
4. Archistructor shall comply with all reasonable requests made in the course of any investigation by the Colorado Department of Labor and Employment.
5. Archistructor will obtain a certification from its subcontractors that they shall not knowingly employ or contract with an illegal alien to perform work arising out of this Project.

CERTIFIED and AGREED to this _____ day of _____, 2011.

ARCHISTRUCTOR:

THE NEENAN COMPANY LLLP
A Colorado limited liability limited partnership
By: Neenan Management Company
A Colorado corporation
Its: General Partner

By: _____
Name: Randolph P. Myers
Its: President
Date: _____

The foregoing document was acknowledged before me this _____ day of _____, 2011.

(Signature)

My commission expires _____.

**EXHIBIT H - SUBCONTRACTOR'S CERTIFICATE REGARDING NOT EMPLOYING
OR CONTRACTING WITH AN ILLEGAL ALIEN
FOR THE MAPLETON YORK CAMPUS PROJECT #2492**

FROM: _____
(Subcontractor)

TO: The Neenan Company LLLP (Contractor)

Project Name: Mapleton York Campus

As Subcontractor for the above-identified Project, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with any illegal alien and that I (we) shall not knowingly employ or contract with any illegal alien to perform work under this public project.

Executed this _____ day of _____, 2011.

Subcontractor _____

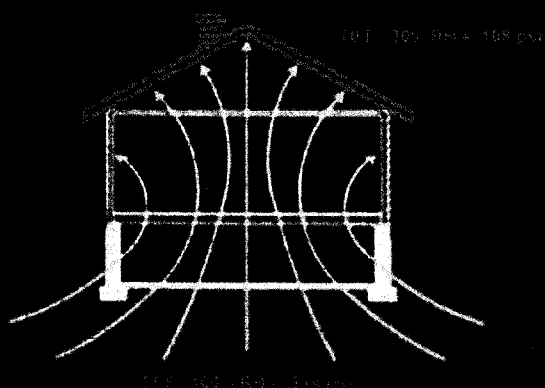
By: _____

Its: _____
(Title)

(Insert the Individual, Corporate or Partnership Certificate as appropriate)

Moisture Sensitive Flooring

Water can be found somewhere beneath most building sites. Through capillary action it rises as moisture vapor upward through the soil to the underside of concrete slabs. That moisture, together with the water contained in the concrete, reaches the surface of the slab as moisture vapor through the process of diffusion.



With the advent of laws eliminating asbestos as a flooring ingredient and eliminating solvents from adhesive and coating systems, the moisture vapor, if not controlled or mitigated, can result in devastating damage to building environments and modern floor coverings, adhesives, and coatings collectively known as "moisture sensitive flooring."

As a partner with building owners, The Neenan Company takes this issue very seriously and wants to help owners make educated risk/reward decisions concerning moisture sensitive flooring.



What are the risks?

- Floor covering damage
- Mold growth under floor coverings
- Loss of production due to rework
- Financial costs of replacement

Moisture issues affect all industries

Commercial office, medical, education, warehouse, high-tech,



What can an owner do?

- **Investigate the issues**
The Neenan Company will investigate your site to help determine which issues could affect your building.
- **Educate yourself**
We'll provide you with information on the issues, explain the potential problems on your site, and how the issues could affect your warranty. As an owner, you need to be confident that you understand the information. If something is unclear, ask questions!
- **Understand your options**
Once you understand the issues, understand the options and associated warranties as well. Neenan will provide you with a list of options to address the conditions at your site. It is important that you understand how the options will affect your warranty, budget, and schedule, as well as the facility's aesthetics and longevity.
- **Make a decision**
The decision you make will affect your project for years to come. With a clear understanding of the issues and potential solutions, you can make an educated, considered choice. It is important that you consider all of the factors and weigh the costs and benefits carefully so that you will be confident in your decision.
- **Maintain your investment**
The Neenan Company will provide you with information on how to maintain your facility. Diligent attention to maintenance concerns over the life of your building will protect your investment.



What you should know about

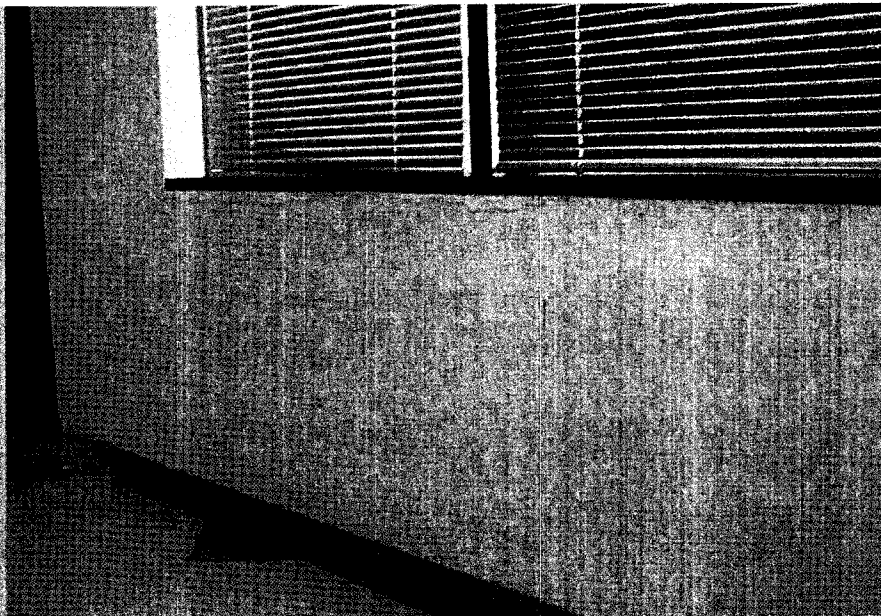
Expansive Soils

Expansive Soils contain, or are substantially composed of, clay. When the undisturbed clay soils are exposed to water, they expand. This expansion, or swell, can be significant in volume and force, and can result in heaving and movement of structures.

The information provided by your Geotechnical Engineer in his report ("Soils Report") is the key to understanding the soils at your building site. Your Engineer will test and study the soil from sample borings across your site. The tests will provide information about the soil composition, the bearing pressure, how much the soil will swell when water is introduced, and where stable bedrock exists below the surface.

Based on this data, the Soils Report will provide you with recommendations for building systems. It will provide options for the design of foundations and slabs, and any special considerations for the building design due to the soil conditions. The Soils Report will also provide the amount of building movement that may be expected for each design option.

The options have varying schedule and cost implications for your project. The Neenan Company, with your Geotechnical Engineer, will help you understand the options and their associated costs in order that you may make an informed decision.



What are the risks?

- Structural damage
- Loss of floor levelness
- Cosmetic damage to finishes
- Equipment not functioning properly
- Loss of production if remediation is required

Expansive soils issues affect all industries

Commercial office, medical, education, warehouse, high-tech, manufacturing, retail

What can an owner do?

Investigate the issues

The Neenan Company will work with you to identify any potential expansive soils issues for you to consider in the design of your building.

Educate yourself

We'll provide you with information on the issue, explain the potential problems for your building, and help you understand how this issue may affect you and your new facility.

Understand your options

Once you understand the issues, understand the options as well. Neenan will provide you with a list of options to address possible soils concerns on your site. It is important that you understand how the options will affect your warranty, budget, and schedule, as well as the facility's performance and longevity.

Make a decision

The decision you make will affect your project for years to come. With a clear understanding of the issues and potential solutions, you can make an educated choice. It is important that you consider all of the factors and weigh the costs and benefits carefully so that you will be confident in your decision.



What you should know about

Floor Vibration

Most often occurring in facilities constructed with structural slabs on decks, the amount of floor vibration experienced is a function of the structural system used and the loading of that system. Movable office systems furniture and electronic office environments that result in lighter floor loads than in the past cause more floor movement (vibration).

Floor vibration is not only annoying to building occupants but potentially damaging to sensitive equipment. While no reasonably affordable structural system can guarantee the complete elimination of vibration, building owners have many options available for minimizing the effects.

The first step in addressing potential floor vibration issues is to understand the specific situation. In 1997 the American Institute of Steel Construction (AISC) published "Design Guide 11, Floor Vibrations Due to Human Activities," to address the issue.

Identifying the optimal structural solution begins with the owner's assessment of three key issues: 1) sensitivity of their equipment, 2) type of office furniture to be used, and 3) vibration tolerance of the building's users or occupants. This information, in conjunction with the AISC guidelines, will help designers and contractors develop information on structural options and associated costs that will allow building owners to make educated decisions concerning floor vibration in their facilities.



Learn how to address the issue of floor vibration in your facility.

What are the risks?

• Equipment malfunctioning properly
• Adverse effects on employees
• Loss of production if machines are not used
• Risk of injury, property or equipment loss

Floor vibration issues affect all industries

Commercial offices, educational, healthcare, manufacturing, retail



What can an owner do?

Investigate the issue

The Neenan Company will help you to identify the cause of the problem and determine the best solution for your situation.

Evaluate yourself

We'll provide you with information on the sensitivity of your building and the vibration tolerance of your users or occupants. This information will help you to make an informed decision on the best solution for your situation.

Investigate your options

We'll provide you with information on the various structural options available to you. This information will help you to make an informed decision on the best solution for your situation. We'll also provide you with information on the associated costs of each option.

Make a decision

We'll provide you with information on the best solution for your situation. This information will help you to make an informed decision on the best solution for your situation. We'll also provide you with information on the associated costs of each option.





COLORADO SURPLUS ASSET FUND TRUST
MODEL RESOLUTION

WHEREAS, MAPLETON PUBLIC SCHOOLS ("Participant") desires to pool its funds with other local government entities by becoming a Participant in the Colorado Surplus Asset Fund Trust ("CSAFE") and therefore passes the following resolution:

WHEREAS, pursuant to the provisions of C.R.S. Section 24-75-601 and 701, et seq., as amended and C.R.S. 24-75-702, et seq. as amended, any local government entity (including cities, towns, school districts, special districts, counties or political subdivisions of the state) is authorized to pool any moneys in its treasury, which are currently surplus funds and not immediately required to be disbursed, with similar moneys from other local government entities, in order for these entities to take advantage of short-term investments and maximize net interest earnings. CSAFE is formed as a common law trust under the laws of the state of Colorado.

WHEREAS, the governing body of the Participant desires to participate in CSAFE formed in accordance with the aforesaid statutes, in order to pool its surplus funds with other local government entities, it has passed, by majority vote the following resolution:

NOW, THEREFORE, it is hereby RESOLVED:

That the governing body of the Participant has reviewed C.R.S. Section 24-75-601, as amended and C.R.S. Section 24-75-701, et seq., as amended, of the Colorado Revised Statutes and the merits of investing in a trust as permitted by C.R.S. Section 24-75-601, as amended and C.R.S. Section 24-75-701, et seq. as amended, including the trust's liquidity, risk diversification, flexibility, convenience and cost compared to the alternative direct purchase of comparable investments and finds it is in the best interest of the local government entity and therefore hereby approves and adopts this Resolution, along with other local government entities in the trust for the purpose of pooling surplus funds. The terms of the above mentioned trust indenture shall be incorporated herein by this reference and a copy filed with the minutes of the meeting at which warranties, either expressed or implied, are part of this agreement between CSAFE and said governing body of the Participant unless as set forth in the Indenture of Trust, but that CSAFE shall use its best efforts in conjunction with Participant to accomplish these goals.

The Participant is liable for all checks written on its account, authorized or unauthorized. The Participant shall indemnify and hold CSAFE harmless from and against any and all claims, demands, damages, losses, liabilities and expenses (including, without limitation, reasonable attorney fees and court costs at trial or appeal) arising from: (a) any checking activity on a Participants account or (b) any act or omission from CSAFE arising out of CSAFE action or inaction taken pursuant to a request by a Participant. Participants should implement proper security procedures to safeguard the checks for each account. CSAFE does not guarantee the prevention of fraud or theft from a Participant account.

RESOLVE, further that Shae Martinez (the "Representative"), who is the government official empowered to invest funds of the Participant or his/her successor in function, is hereby authorized and directed to execute the Indenture of Trust and any other documents necessary to establish an account with CSAFE. The Representative is hereby designated the "Treasurer" as that term is defined in the Indenture of Trust and is therefore authorized to invest money from the Participants' treasury, from time to time, which are not immediately required to be disbursed, by purchasing shares of CSAFE with those available funds and is authorized to redeem, from time to time, part or all of those shares as funds are needed for other purposes.

The undersigned certify that the Participant has adopted:

☒ The above Resolution ☐ An alternative resolution, a copy of which is attached

The undersigned agree that the authorizations and instructions contained in the trust registration form are to remain in effect until the trust receives written notice of any changes.

Name Shae Martinez Signature Shae Martinez Title Dir. of Finance

Name Norma Frank Signature Norma Frank Title Board President

ATTEST:

Carolyn Johnson
Secretary or Clerk Signature

DATED: 2/1/11

JFK

Jackie Kapushion – Assistant Superintendent

MEMORANDUM

TO: Charlotte Ciano, Superintendent

DATE: January 31, 2011

SUBJECT: Student Overnight Travel – Boys Wrestling Team

Purpose of Travel: Regional Wrestling Tournament in Loveland, CO

When: February 11-12, 2011, Student-athletes will leave school at 11:30 on Friday, February 11th to arrive in Loveland for a 1:00 pm weigh-in. Students will wrestle at 3:00 pm on Friday and resume wrestling at 8:00 am on Saturday morning.

Accommodations: Seven rooms at the Quality Inn for 12 male wrestlers (in 3 rooms), 1 female wrestler and two female managers (1 room), 3 coaches (2 rooms), 1 room for a bus driver.

Cost: \$455 for the hotel rooms – Athletic Budget
\$150 for food- Athletic Budget