

Design Services RFP – Nolan Park
Addendum #1

July 8, 2026

To: RFP Proposers

From: Laura Ma O’Connell, SVP, Design + Construction

Subject: Contract Template

Intent: This addendum is part of the RFP Documents. Acknowledge receipt of this Addendum is initialing in the space provided below and returning a copy with the submitted proposal.

Documents: 1. Contract template

AGREEMENT

Between

**GOVERNORS ISLAND CORPORATION
(D/B/A THE TRUST FOR GOVERNORS ISLAND)**

"Owner"

and

[]

"Architect"

Dated: As of _____, 2026

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AGREEMENT

Date: As of _____, 2026

Owner: Governors Island Corporation (d/b/a The Trust for Governors Island), a New York not-for-profit corporation, with an address at 10 South Street, Slip 7, New York, NY 10004 ("Owner")

Architect: [] ("the Architect" or "Architect")

Project: Nolan Park Arts Campus

THIS AGREEMENT (the "Agreement") IS MADE AS OF THE ABOVE DATE BETWEEN OWNER AND THE ARCHITECT:

Introductory Statement

Governors Island is an island in the New York Harbor that is comprised of approximately 172 acres of land above water and 32 acres of land under water. Owner is the owner of real property consisting of approximately 150 acres of land above water and all 32 acres of land under water of Governors Island ("Island Property" or "Property"). The City has an interest in the preservation, development and maintenance of the Island Property and provides certain funds to Owner pursuant to a Contract between the City and Owner, dated as of July 1, 2025 (as amended, restated and/or revised, the "City Contract") to perform such services.

Nolan Park is a distinctive enclave within the Island Property, comprising over 20 historic buildings – primarily former officer's residences – arranged around a shaded, 4-acre public green ("Nolan Park"). Serving as a cultural incubator since 2006, Nolan Park is the heart of Owner's arts programming and currently a seasonal home to the nearly two dozen local visual and performing arts non-profits that participate in the Owner's Organizations in Residence program every year. Between May and October, these organizations host vibrant residencies and exhibitions that provide opportunities to over 100 individual artists, and collaborate with the Trust to offer a broad variety of free public programs across diverse scales and audiences, creating opportunities for transformative encounters with art for all New Yorkers.

Nolan Park will be a permanent arts campus dedicated to supporting these small and mid-sized organizations, fostering creativity, and incubating new cultural initiatives. Owner's plan for reinvesting in the campus envisions a dynamic, collaborative environment where artists and organizations can thrive through accessible workspaces, shared resources, and public engagement opportunities. By preserving Nolan Park's historic character while expanding its affordable space options, the Nolan Park Arts Campus will strengthen New York City's cultural ecosystem, providing a vital platform for artistic creation, residency programs, and community-driven innovation. Owner's work is already well underway, with Building 9 occupied year-round, the recent completion of Building 20, renovation ongoing at Building 19, and that certain [_____, 202__] Master Plan guiding the Owner's overall goals, design strategies, and phasing, which was provided to Architect as part of the RFP and as may be reasonably updated by Owner following delivery to Architect (the "Master Plan").

Owner is now seeking to move the next phase of improvements at the campus forward by undertaking the Project described in Schedule A hereto. The Architect has advised Owner that the Architect has substantial experience in the design of this type of project and is organized to undertake its responsibilities under this Agreement in an economical and efficient manner. Owner desires to engage the Architect, upon the terms and conditions set forth in this Agreement, to furnish design and other architectural, engineering, and construction-related services for the Project, and the Architect desires to furnish such services.

NOW, THEREFORE, in consideration of their mutual promises in this Agreement, and subject to the terms of this Agreement and intending to be legally bound hereby, Owner and the Architect agree to keep and perform their respective obligations in and under this Agreement, which includes and incorporates the following Parts:

Part One -	Business Terms;
Part Two -	General Provisions; and
Part Three-	Schedules and Annexes.

IN WITNESS WHEREOF, OWNER AND THE ARCHITECT HAVE EXECUTED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

OWNER:

THE ARCHITECT:

GOVERNORS ISLAND CORPORATION
D/B/A THE TRUST FOR GOVERNORS ISLAND

[]

By: _____

By: _

Name:

Name:

Title:

Title:

Part One - Business Terms

The following "Business Terms" shall have the following meanings in this Agreement:

"Basic Services Fee": The all-inclusive, lump-sum fee for all Basic Services (including all fees to the Architect and all Subconsultants) is: \$ _____

Percentages of Basic Services Fee for each Phase:

For the Architect and all Subconsultants:

Programming	[] %
Schematic Design	[] %
Design Development	[] %
Construction Documents	[] %
Bidding and Negotiation	[] %
Construction	[] %

Required Insurance:

Is specified in Schedule F hereto.

Subconsultants:

The Architect's Subconsultants are listed on Schedule B hereto.

Compensation for Additional Services:

The compensation for Additional Services shall be determined either (a) on a lump sum basis to be agreed on by Owner and Architect in the particular case; or (b) at the hourly rates listed on Schedule C hereto for principals and employees of Architect and each Subconsultant.

"Project Schedule":

The Project Schedule is set forth in Schedule G hereto.

Progress Submissions of Deliverables:

Programming Phase:

Progress submissions shall be made at [_____].

Schematic Design Phase:

Progress submissions shall be made at 50% and 100% completion of documents.

Design Development Phase:

Progress submissions shall be made at 50% and 100% completion of documents.

Construction Documents Phase:

Progress submissions shall be made at 50% and 100% completion of documents (including all compliance documents).

Submissions of Cost Estimate:

Programming Phase:

A Cost Estimate shall be submitted at the end of the Programming Phase.

Schematic Design Phase:

A Cost Estimate shall be submitted at the end of the Schematic Design Phase.

Design Development Phase:

A Cost Estimate shall be submitted at the end of the Design Development Phase.

Construction Documents Phase:

A Cost Estimate shall be submitted at 50% completion of the Construction Documents Phase.

Reimbursable Expenses Budget:

The Reimbursable Expenses Budget is set forth in Schedule H.

"Notice Addresses"

(a) for Owner:

Governors Island Corporation
d/b/a The Trust for Governors Island
10 South Street, Slip 7
New York, New York 10004
Attn: Chief Real Estate Officer

and

Governors Island Corporation
d/b/a The Trust for Governors Island
10 South Street, Slip 7
New York, New York 10004
Attn: Legal Department

(b) for the Architect:
[insert]

and

(c) for Owner's Representative:

N/A

"Authorized Representatives":

(a) for Owner:

Alex Brady, Chief Real Estate Officer

(b) for the Architect:

[insert]

Part Two - General Provisions

Definitions

The following words and phrases have the following meanings in this Agreement:

"Additional Services" is defined in Section 1.7.

"Approved Construction Documents" is defined in Section 1.3.12.

"Approved Design Development Documents" is defined in Section 1.2.10.

"Approved Schematic Design Documents" is defined in Section 1.1.12.

"Architect" is defined in the heading to this Agreement (and is sometimes referred to as "the Architect").

"Architect's Certificate for Payment" is defined in Section 1.5.6.

"Architect's Personnel" is defined in Section 16.1.

"as built" is defined in Section 1.5.22.

"Basic Services" is defined in Article 1.

"Basic Services Fee" is defined in the Business Terms.

"Bidding Phase" means the period during which the services are required to be performed by the Architect under Section 1.4 (and elsewhere in this Agreement in connection with the bidding, procurement, and/or negotiation of agreements with the Contractors) are performed.

"Certificate of Final Completion" is defined in Section 1.5.17.

"Certificate of Substantial Completion" is defined in Section 1.5.17.

"Change Order" means a change order authorized by Owner pursuant to Owner's agreement with Construction Manager or, as applicable, the Contract with the applicable Contractor.

"City" means The City of New York.

"City Contract" is defined in the Introductory Statement.

"City Requirements" is defined in Section 15.2.

"Confidential Information" is defined in Section 16.1.

"Construction Budget" means a budget of Hard Costs for the Project. The initial Construction Budget is attached hereto as Schedule D, subject to amendment and updating if and as approved by Owner pursuant to this Agreement.

"Construction Documents" means the Construction Drawings and Specifications approved by Owner under Section 1.3, as supplemented by drawings, specifications, bulletins, informational statements, and other documents and materials issued by the Architect pursuant to this Agreement for construction of the Project.

"Construction Documents Phase" means the period when the services required to be performed by the Architect under Section 1.3 (and elsewhere in this Agreement in connection with the Construction Documents) are performed.

"Construction Drawings and Specifications" is defined in Section 1.3.1.

"Construction Manager" or "CM" means the construction manager – if any – to be engaged by Owner for construction management services with respect to the Project (and any successor construction manager appointed by Owner). If Owner has not engaged a Construction Manager for the Project, references to "Construction Manager" shall be deemed to mean "Owner" or "Owner's Representative" prior to the commencement of construction and "Contractor" after commencement of construction.

"Contractor" means any contractor(s) with whom Owner or CM enters into a written agreement for construction of all or any part of the Project (including demolition, excavation, foundation, and all other construction work, and/or equipment installation for the Project (and shall include any successor contractor(s) appointed by Owner)).

"Cost Estimate" means an estimate of Hard Costs, to be prepared by the Construction Manager and/or a cost consultant engaged by Owner. If preparation of Cost Estimates is required of Architect as part of the Basic Services under this Agreement, indicate by marking "YES" in the following space: YES. If not, insert "NO".

"Deliverables" means all designs, drawings, specifications, and other graphic and written work product (including the Cost Estimates and the Project Schedule), and all electronic and physical copies thereof, to be prepared and delivered by the Architect to Owner pursuant to this Agreement, including those described in Sections 1.1.12, 1.2.10, 1.3.10 and Schedule E.

"Design Development Documents" is defined in Section 1.2.2.

"Design Development Phase" means the period when the services required to be performed by the Architect under Section 1.2 (and elsewhere in this Agreement in connection with the Design Development Documents) are performed.

"Employee" of any Person means an officer, director, trustee, employee, partner, manager, member, co-venturer or shareholder of such Person or such Person's agent or representative.

"FF&E" means all of the following which are to be included by Architect as part of Basic Services in the design of the Project, including, for example, all built-in fixtures and equipment, telecommunications and tele-data equipment and fixtures, kitchen and food service equipment and fixtures, casework and built-in furniture, audio/visual equipment and fixtures, signage and graphics, and wiring for all of the foregoing, but excluding any Furniture.

"Final Completion" means the date when all of the following conditions have been satisfied: (a) Substantial Completion has occurred, and all Work, including all punch list Work remaining after Substantial Completion, has been completed and accepted by Owner in accordance with the Construction Documents; (b) if applicable, all government authorities having jurisdiction have unconditionally authorized occupancy (as evidenced by issuance of a permanent certificate of occupancy and/or any other permits or licenses required for lawful occupancy); (c) Owner has received certification from the applicable board of fire underwriters (if necessary) for the casualty and liability insurance to become effective upon completion of the respective Work; and (d) Owner has received a final "as-built" survey of the completed Project.

"Final Construction Document Submission" is defined in Section 1.3.12.

"Final Design Development Submission" is defined in Section 1.2.10.

"Final Schematic Submission" is defined in Section 1.1.12.

"Funding Source" means a bank, trust company, savings bank, insurance company, pension trust or other financial institution or governmental authority making (or participating in) a loan to finance development, and/or construction of the Project (whether or not secured by a lien) and any governmental authority or other entity providing funds, grants or subsidies for the Project.

"Furniture" means all moveable or otherwise loose furniture and equipment (whether new or re-used), including for outdoor areas.

"Furniture Planning Services" means – if applicable – any services required of Architect for design and selection of Furniture as described in Annex "B" hereto.

"Governmental Approval" means a permit, license, approval, variance and authorization required for design, construction, location, or occupancy of the Project from any governmental authority having jurisdiction (including zoning approvals or variances, environmental permits or approvals, building permits, community board approvals, etc.).

"Hard Costs" means all trade contract costs, general conditions costs, permit fees and costs (and, if and as applicable for this Project, construction contingencies and design contingencies).

"Hourly Rates" (or "hourly rates") means the hourly rates of Architect and the Subconsultants set forth in Schedule C.

"Initial Cost Estimate" is defined in Section 1.0.3.

"Island Property" is defined in the Introductory Statement.

"Island Requirements" is defined in Section 15.1.

"LEED" is defined in Section 1.0.5.

"LPC" means New York City Landmarks Preservation Commission.

"Master Plan" is defined in the Introductory Statement.

"Nolan Park" is defined in the Introductory Statement.

"notice" or "Notice" is defined in Section 10.2.

"OPRHP" means New York State Office of Parks Recreation & Historic Preservation.

"Owner" is defined in the heading to this Agreement.

"Owner Consultants" is defined in Section 13.1.

"Owner Consultant Submissions" is defined in Section 13.3.

"Owner Indemnitees" means Owner; the City; the Owner's Representative; any other Owner Consultant; and the Employees of each of the foregoing.

"Owner's Representative" means that certain owner's representative firm – if any – to be engaged by Owner to provide project management and owner's representative services with respect to the Project.

"Person" means an individual person, a corporation, partnership, limited liability company, trust, joint venture, proprietorship, estate, association, government agency or entity, or other incorporated or unincorporated enterprise, legal entity or organization of any kind.

"Program" means the written program for the Project, as and when approved by Owner, which Program shall be consistent with the Island Requirements.

"Programming Phase" means the period when the services required to be performed by the Architect under Section 1.0 (and otherwise under this Agreement in connection with the preparation of the Program) are performed.

"Project" means, unless specified otherwise in the particular case, the "Project" as initially described in the Introductory Statement and in Schedule A hereto. "Project" includes the respective building(s), structures, utilities, amenities, appurtenances and all other components and improvements for the Project, as well as all Temporary Construction (if any) needed for each Stage and component of such Project, to be developed and constructed upon the Project Site based upon the concept outlined in the Program as approved by Owner and the design expressed in the Schematic Design Documents, Design Development Documents and Construction Documents to be furnished by the Architect under this Agreement.

"Project Documents" is defined in Section 7.1.

"Project Schedule" means the schedule for the design and construction of the Project to be developed for Owner's approval pursuant to this Agreement. The initial Project Schedule is attached as Schedule G (subject to revision pursuant to this Agreement). The Project Schedule will include estimated times for design and construction of all Stages of the Project. If and after Owner engages a CM, the CM will be responsible for the Project Schedule.

"Project Site" is described in Schedule A.

"Property" is defined in the Introductory Statement.

"Protected Parties" is defined in Section 16.1.

"punch list" is defined in Section 1.5.17.

"Reimbursable Expenses" are defined in Schedule H.

"Required Insurance" is defined in Schedule F.

"RFP" means that certain Request for Proposals issued by Owner on June 29, 2026 in connection with the Project.

"Schematic Design Documents" is defined in Section 1.1.1.

"Schematic Design NTP" is defined in Section 1.1.1.

"Schematic Design Phase" means the period when the services required to be performed by the Architect under Section 1.1 (and otherwise under this Agreement in connection with the preparation of the Schematic Design Documents) are performed.

"SHPO" means New York State Historic Preservation Office.

"Stage" means the stage of construction for each component of the Project.

"Standard of Care" is defined in Section 14.9.

"Standard Details" is defined in Section 7.4.

"Subconsultant" means each subconsultant of the Architect retained in connection with the Project, to be listed on Schedule B hereto as and when approved by Owner, and their respective sub-subconsultants (if any).

"Subcontract" is defined in Section 1.9.3.2.

"Subcontractor" means each Person (other than employees of a Contractor) engaged by a Contractor or any Person directly or indirectly in privity with a Contractor (including every sub-subcontractor), to furnish, supply, or fabricate labor, materials, equipment, services, or other matters or things constituting part of the Work.

"Substantial Completion" means the date when all of the following conditions have been satisfied with respect to the Project: (a) the governmental authority having jurisdiction has issued a temporary certificate (or certificates) of occupancy and/or any other approvals then needed for lawful occupancy; (b) all utilities are connected; (c) Owner may use and occupy the Project for the intended use and purpose; (d) all Work has been completed, and all systems of the Project are operating, and accepted by Owner in accordance with the Construction Documents except for minor repairs, corrections, and adjustments of a "punch list" nature which can be completed promptly and with minimal interference to occupancy and use by Owner; and (e) the Architect, the Construction Manager, and Owner have approved in writing a final punch list of such minor repairs, corrections and adjustments pursuant to Section 1.5.17. In Owner's discretion, Substantial Completion may occur with respect to particular portions or sections of the Project (in which event the requirement of a temporary certificate of occupancy or other approvals shall apply only to that applicable portion or section of the Project).

"Temporary Construction" means all temporary structures, facilities, installations, and improvements – if any – which must be designed and constructed to allow continuing and safe use and operation of adjacent or other components of the Project or the Project Site while one or more parts of the Project or the Project Site are under demolition or construction. "Temporary Construction" includes, for example: swing space inside the Project Site, temporary staircases; doorways; partitions; other ingress and egress; mechanical, electrical, and plumbing installations and rerouting; sprinkler systems, fire and other life safety facilities and devices; telecommunications networks and fixtures; and finishes for the foregoing. All Temporary Construction must be code compliant and comply with applicable laws.

"Termination Fee" is defined in Section 9.3.2.

"Termination Notice" is defined in Section 9.1.

"Trade" (or "trade") means a particular portion or phase of the Work of any part of the Project that is customarily performed by a particular type of contractor or supplier (such as, for example, plumbing, electrical, or HVAC).

"Work" means, with respect to any CM or Contractor, "Work" as defined in Owner's agreement with such CM or Contractor.

Whenever used in this Agreement:

(a) the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation";

(b) the word "day" means a calendar day unless otherwise specified;

(c) the word "party" means each signatory to this Agreement;

(d) the word "fault" means fault, inaccuracy, error, or negligence; and

(e) the word "law" (or "laws") means any law, rule, regulation, order, statute, ordinance, resolution, regulation, building or other code, decree, judgment, injunction, mandate or other legally binding requirement of a government entity, the Island Requirements, and City Requirements.

Certain other words and phrases are defined elsewhere in this Agreement and the Schedules and Annexes hereto and have the same meaning throughout.

ARTICLE 1. ARCHITECT'S SERVICES AND RESPONSIBILITIES

Unless otherwise stated to the contrary in this Agreement, the Architect's "Basic Services" means and shall consist, for the Architect and all Subconsultants, of all services reasonably necessary and appropriate to achieve the design, bidding, and construction administration of the Project consistent with the Standard of Care, including all services described in Articles 1, 3, 10, 13, 14, and 15 (and in all Sections under each Article) and in Schedule E, together with any other services described elsewhere in this Agreement as part of Basic Services.

1.0 Programming Phase.

1.0.1 Architect acknowledges that the Architect has reviewed the zoning and regulatory considerations regarding the Project Site, including the Island Requirements, and familiarized itself generally with existing conditions as provided in the RFP, which may affect the design of the Project and the performance of the Architect's services under this Agreement. Upon the execution of this Agreement, Architect shall prepare the Program for approval by Owner and otherwise provide the following services as a part of the Programming Phase.

(a) PROGRAMMING SERVICES CONSISTENT WITH SCOPE DEFINED IN RFP TO BE INSERTED

1.0.2 (a) During the Programming Phase, the Architect shall: (i) furnish Owner with a list of significant surveys, tests, studies and evaluations necessary to verify any relevant facts with respect to physical characteristics of the Project Site (whether above or below surface) or any significant limitations imposed by law upon the design of the Project; (ii) furnish Owner with a schedule indicating when such surveys, tests, studies and evaluations should be completed so as not to delay the orderly design of the Project.

(b) During the Programming Phase the Architect shall undertake an assessment of all relevant building systems, including mechanical, electrical, plumbing, fire protection, standpipe sprinklers, security, fire alarm, audio visual and electric and shall include a written report on the same. In that report Architect will indicate how all such building systems will be affected by construction of the Project and what temporary or permanent changes are needed to keep necessary systems operational for the parts of the Project Site which Owner will continue to use and occupy during construction of the Project.

1.0.3 As Architect prepares the Program, Architect will consult with CM and/or Owner's cost consultant as to the initial Cost Estimates (the "Initial Cost Estimate"). (If Architect itself is required to prepare Cost Estimates, Architect will prepare and furnish the Initial Cost Estimate and consult with CM and Owner's cost consultant, if any). During this period the design will be tested against such Cost Estimates in accordance with Article 3.

1.0.4 The Architect will consult with applicable governmental agencies (to the extent necessary) and will use professional care to establish that the design of the Project will comply with applicable laws. (This activity may include, among other things, consultation with LPC, SHPO, OPRHP, or the City's Department of Buildings and other agencies having jurisdiction to confirm that the evolving design is code compliant.) Based on the foregoing, Architect shall provide Owner with a written code compliance and filing strategies plan.

1.0.5 Architect shall assess sustainability opportunities and confirm with Owner any desired rating from the United States Green Building Council under its Leadership in Energy and Environmental Design ("LEED") and/or other certification level, energy conservation or other green goals, including sustainability-related qualification(s) as described in the RFP, and potential design and construction phase costs associated with achieving such certifications. (Owner shall determine whether LEED certification or other sustainability-related qualification(s) shall be required for the Project, and the Desired Rating if so, at the completion of the Schematic Design Phase, as more particularly described in Section 1.1.14).

1.0.6 Upon completion of the Programming Phase, Architect shall stop all services under this Agreement. Architect shall resume its services thereafter if and when Owner delivers to Architect the Schematic Design NTP.

1.1 Schematic Design Phase

1.1.1 The Schematic Design Phase of the Project shall commence on a written notice to proceed from Owner to Architect (the "Schematic Design NTP"). Taking into account the Cost Estimates and Project Schedule during this initial phase, the Architect shall prepare and furnish the Schematic Design Documents to Owner within the time frame indicated in the Project Schedule. "Schematic Design Documents" means drawings, outline specifications, and other documents including all components of the Project and illustrating the scale and the relationship of the Project components which include: (a) a written report outlining a proposed scope of the Work, summarizing all elements of the Project (including an outline specification which describes the mechanical, plumbing, heating, ventilating, air conditioning, electrical and lighting systems, sprinkler and fire protection systems; exterior wall materials (if applicable), etc., and which considers possible alternative systems); (b) schematic plans and designs, including drawings and design sketches, and other appropriate documents to indicate the physical dimensions, overall scope and intent, and scale, relationship and character of all components of the Project; (c) a preliminary FF&E schedule for the Project with description of all new FF&E; (d) a historical and architectural assessment of the buildings comprising the Project Site to determine filings that may be required by LPC, SHPO, and OPRHP; (e) sustainability-related criteria and requirements (if applicable) as described in Section 1.1.14 below; (f) design of critical Temporary Construction (if applicable) for each component of the Project; (g) the furniture services (if any) specified in Annex "B" for the Schematic Design Phase; and (h) all other drawings, specifications, studies, models and other items specified elsewhere in this Section 1.1 and/or in Schedule E for the Schematic Design Phase.

1.1.2 Beginning in the Schematic Design Phase and continuing through the Construction Documents Phase, Architect shall include as part of the Project (if applicable) upgrade of the building services infrastructure, code compliance, and asbestos removal both (i) within the program areas of the Project and (ii) in "impact areas", which are other areas of the Project Site that are materially impacted by reason of Work to be undertaken in the program areas of the Project.

1.1.3 During the Schematic Design Phase, Architect shall consult with Owner and the Construction Manager and/or Owner's cost consultant in connection with their revised Cost Estimates (and any Cost Estimates prepared by the Architect if applicable under this Agreement) based upon the Schematic Design Documents. Such Cost Estimates shall be regularly reconciled with each other and tested against the Schematic Design Documents, including in accordance with Article 3. For the avoidance of doubt, all value engineering, selection of alternatives, reconsideration of design choices, redesign, and revision of and new approaches to previously-considered alternatives in the development of the Project prior to Owner's approval of the Schematic Design and Construction Budget at the end of the Schematic Design Phase are included in the Basic Services Fee.

1.1.4 During Schematic Design the Architect shall review with Owner, and seek Owner's approval for, each of the following: (i) site use and improvements; (ii) selection of materials, building systems and equipment; feasible construction methods; and (iii) alternative approaches to addressing Owner's needs.

1.1.5 The Architect shall submit the Schematic Design Documents, Cost Estimates, and Project Schedule for review by Owner and the Construction Manager at the intervals specified in the Business Terms. Architect will devote such time and effort to the Schematic Design Phase as necessary to produce the requisite results. If Owner requests revisions in any submission of the Schematic Design Documents, Cost Estimates or the Project Schedule (or aspects thereof), the Architect shall revise the same and resubmit as necessary to secure Owner's approval.

1.1.6 During the Schematic Design Phase, the Architect will advise and consult with Owner and the Construction Manager in updating the Project Schedule which shall be tested against the evolving design and the Cost Estimates as contemplated above.

1.1.7 The Architect acknowledges that the Architect has visited the Project Site and familiarized itself generally with observable existing conditions that may affect the design of the Project and performance of the Architect's services under this Agreement.

1.1.8 The Architect will consult with applicable governmental agencies (to the extent necessary) and will use professional care to establish that the design of the Project will comply with applicable laws. (This activity may

include, among other things, consultation with the City's Department of Buildings and other agencies having jurisdiction to confirm that the evolving design is code compliant.)

1.1.9 The Architect shall furnish Owner with: (a) a list of significant Governmental Approvals required for the Project, other than permits and approvals customarily secured by the Construction Manager or Contractors performing the relevant portion of the Work; and (b) a schedule indicating when applications necessary to secure the same must be submitted so as not to delay the orderly progress of the Project.

1.1.10 The Architect shall review the results of its various investigative efforts and prepare measured drawings of key locations as may be necessary or desirable for development of the Schematic Design. To this end the Architect will take any necessary field measurements to produce a set of scaled reproducible drawings which represent the existing observable conditions. The Architect shall include information furnished by a land surveyor engaged by Owner, if applicable.

1.1.11 The Architect shall be responsible that the Schematic Design will include corrective measures to achieve necessary compliance with the Americans With Disabilities Act ("ADA") (or, if more stringent, New York City Local Law 58 as amended).

1.1.12 When Architect believes that Schematic Design is complete, Architect shall submit to Owner the Schematic Design Documents for the Project (the "Final Schematic Submission"). Owner shall review and comment on the same. Architect shall make the requested corrections and revisions and resubmit the relevant documents and materials to Owner for its additional review. After Architect makes any required resubmissions, Owner shall decide whether to proceed with the Project. The Project shall only move forward if (a) Owner has approved in writing the complete set of the Schematic Design Documents (and also the Cost Estimates and Project Schedule); and (b) has given Architect written notice to proceed to the Design Development Phase. The foregoing approved set of documents is referred to herein as the "Approved Schematic Design Documents".

1.1.13 The Architect shall furnish to the Construction Manager copies of the Approved Schematic Design Documents. Further, the Architect shall prepare presentation materials reflecting the Approved Schematic Design Documents that will be used in Owner's fundraising, public relations, and stakeholder outreach efforts. These materials should be of a quality suitable for publication in print, broadcast and publication media. (The Architect will work with Owner to develop a style and format of presentation that best promotes Owner's goals.)

1.1.14 The Architect understands that, as more particularly described in Section 1.0.5, this Project may require a rating from the LEED program, or such other sustainability-related qualification(s) as described in the RFP. Owner will notify Architect at the completion of the Schematic Design Phase if a LEED rating or other sustainability-related qualification(s) are required (which notice shall specify the desired rating or qualification(s)). If a LEED rating is required, the Architect will take LEED factors into account in designing the Project and will provide the LEED Services described in Annex "A" hereto. If Owner notifies the Architect that Owner elects to pursue other sustainability related qualifications, the Architect will take the criteria for such qualifications into account in design of the Project.

1.2 Design Development Phase

1.2.1 After Owner's written approval of the Approved Schematic Design Documents and based on such documents and on any adjustments authorized by Owner in the Construction Budget, the Architect shall prepare and furnish the Design Development Documents to Owner for the Project based on the updated Construction Budget. Design Development Documents shall meet the requirements of the Program.

1.2.2 "Design Development Documents" means drawings, outline specifications and other documents which: (a) fix and describe the size and character of the Project as to architectural, structural, mechanical, plumbing and electrical systems, sprinkler and fire protection systems; materials, floors, walls, partitions, ceilings, colors, finishes, and other appropriate elements; (b) include all other components and elements for the Project (including a detailed site plan, and drawings showing utility connections and any subsurface installations required for the building), floor plans, elevations and sections indicating types of architectural detail, utility layouts, materials and types of

mechanical systems and equipment; (c) set forth the existing utility connections and subsurface installations and identify and design changes needed in such utilities and installations; (d) set forth a schedule of FF&E for the Project; (e) include all LEED criteria and requirements (if applicable); (f) include design of any applicable Temporary Construction; and (g) include all other drawings and materials specified in Schedule E or elsewhere in this Section 1.2 for the Design Development Phase.

1.2.3 At the intervals set forth in the Business Terms, the Architect shall provide progress submissions of the Design Development Documents for review by Owner and the Construction Manager. Architect shall revise the Design Development Documents (or aspects thereof) until they meet with Owner's approval.

1.2.4 The Architect shall assist Owner and the Construction Manager in updating the preliminary Project Schedule.

1.2.5 The Architect shall consult with Owner and the Construction Manager and/or Owner's cost consultant in connection with their revised Cost Estimates (and any Cost Estimates prepared by the Architect if applicable under this Agreement) based upon the Design Development Documents. Such Cost Estimates shall be regularly reconciled with each other and tested against the Design Development Documents in accordance with Article 3.

1.2.6 The Architect shall review all proposed revisions to the Project Schedule and the Construction Budget, which shall also be regularly reconciled with the Cost Estimates and Design Development Documents and shall consult with Owner and the Construction Manager regularly in connection therewith in order to provide Owner with relevant information and recommendations.

1.2.7 The Architect shall consult with Owner concerning maintenance, operation, and workability of FF&E being considered for inclusion in the Project (including, if applicable, compatibility with elements in Owner's existing facilities).

1.2.8 The Architect will provide the furniture services (if any) specified in Annex "B" hereto for the Design Development Phase.

1.2.9 If requested by Owner to do so, Architect shall consult with Owner and Owner's insurance broker to ascertain insurance requirements applicable to the design of the Project; and, as applicable, the Architect will take those requirements into account in the design of the Project.

1.2.10 When Architect believes that the Design Development Documents are complete, Architect shall submit to Owner the finished Design Development Documents for the Project (the "Final Design Development Submission"). Owner shall review and comment on the same and Architect shall make the necessary corrections and revisions and resubmit the relevant documents and materials to Owner as necessary to obtain Owner's approval. After Architect makes any required resubmissions, Owner shall decide whether to proceed with the Project. The Project shall only move forward if (a) Owner has approved in writing the complete set of the Design Development Documents (and also the Cost Estimates and Project Schedule); and (b) has given Architect written notice to proceed to the Construction Documents Phase. The foregoing approved set of documents is referred to herein as the "Approved Design Development Design Documents".

1.2.11 The Architect shall furnish to the Construction Manager copies of the Approved Design Development Documents.

1.3 Construction Documents Phase

1.3.1 Based on the Approved Design Development Documents, and on any adjustments authorized by Owner in the Construction Budget, the Architect shall prepare and furnish the Construction Drawings and Specifications to Owner. "Construction Drawings and Specifications" means final construction drawings and specifications setting forth in detail all requirements for the construction of all components and elements of the Project which shall include (as and to the extent applicable): (a) drawings and specifications for: demolition; excavation;

foundations; structure; partitions; entrances; flooring; ceilings; all systems (including mechanical, electrical, communication, fire protection, plumbing, heating, ventilating and air-conditioning systems; sprinkler and fire protection systems); all architectural finishes; design of FF&E to be incorporated in the Project; utilities (and utility connections); and all other components and elements of the Project; (b) a submittal specification, setting forth the Architect's proposed procedure and requirements for the submission, review, and correction of shop drawings, samples, and other documents and materials required during construction; (c) where applicable in the foregoing documents, specification of all structural, mechanical, and other tests required by laws or necessary to ascertain when and whether the Work complies with the Construction Drawings and Specifications; (d) all other specifications and design materials necessary or appropriate for inclusion in contracts between Owner and Construction Manager and the Contractors with respect to the Project; (e) drawings, specifications, schedules and other documents setting forth in detail the requirements for the fabrication of FF&E for the Project; (f) design of any required Temporary Construction (if applicable); (g) all required LEED drawings, specifications, and other materials (if applicable); (h) all compliance drawings and specifications to be filed with any government agency for building or other permits or approvals needed for construction; and (i) all other drawings and materials specified in Schedule E or elsewhere in this Section 1.3 for the Construction Documents Phase. The Construction Drawings and Specifications shall be prepared with construction details completely shown and with dimensions completely stated sufficient to enable the Contractor and Subcontractors to make accurate estimates of the quantities, quality, and character of the labor and materials required.

1.3.2 The Architect shall prepare separate Construction Drawings and Specifications for any trades designated by Owner (including plumbing, HVAC, and electrical). Architect shall coordinate the design of the Project so as to avoid interferences, gaps and other design problems among and within the several trades and so that there is a complete, integrated, and coordinated set of all Architect's work product for the Project. Any interference, gap or other design problem in the Project caused by design or coordination of the Construction Drawings and Specifications will be the responsibility of the Architect, who will prepare, at no extra cost, supplemental drawings necessary to resolve any such design problem.

1.3.3 In preparing the specifications, Architect will endeavor to avoid inconsistencies between the general provisions of the Architect's specifications and Owner's agreements with the Construction Manager, Contractors and Architect respectively. In furtherance thereof, Architect shall consult with Owner and Owner's attorneys regarding the coordination of the general provisions of the Architect's specifications with the provisions in Owner's respective agreements with the Construction Manager and the Contractors before the issuance of the final Construction Drawings and Specifications.

1.3.4 At the intervals set forth in the Business Terms, the Architect will provide progress submissions of the Construction Drawings and Specifications for Owner's and the Construction Manager's review. Architect shall revise the Construction Drawings and Specifications (for any aspects thereof) until they meet with Owner's approval.

1.3.5 The Architect shall keep Owner and the Construction Manager informed of any changes in requirements or in construction materials, systems or equipment as the Construction Drawings and Specifications develop so that the Construction Budget and Project Schedule can be evaluated on a current basis.

1.3.6 The Architect shall advise Owner in connection with Owner's responsibility for filing documents required for Governmental Approvals and (as indicated above) shall prepare all necessary compliance documents as part of Basic Services. To this end the Architect shall: (a) endeavor, through Architect's expediter, to secure, on behalf of Owner, approval by the City's buildings department and all other regulatory approvals (or other applicable governmental authority having jurisdiction) of the Construction Drawings and Specifications and/or other compliance drawings and specifications; (b) provide documentation as necessary to enable the Construction Manager and/or Contractors to secure building and other construction permits; and (c) if requested by Owner, submit the Construction Drawings and Specifications to (and consult with) Owner's insurers or the appropriate fire insurance underwriters for review and evaluation in terms of applicable insurance requirements.

1.3.7 The Architect shall coordinate and consult with Owner and Construction Manager towards ensuring adherence with revised Cost Estimates prepared by the Construction Manager and/or Owner's cost consultant (or by Architect if required as part of Basic Services) based upon the Construction Documents. Such Cost Estimates shall

be regularly reconciled with each other and tested against the Construction Documents, throughout this phase in accordance with Article 3.

1.3.8 The Architect shall review proposed revisions to the Project Schedule and the Construction Budget, which shall also be regularly reconciled with the Cost Estimates and Construction Documents, and shall consult with Owner and CM regularly in connection therewith.

1.3.9 During the Construction Documents Phase, also, the Architect will advise and consult with Owner and the Construction Manager in updating the Project Schedule.

1.3.10 The Architect shall cause: (a) all Construction Drawings produced by the Architect to contain the professional seal of Architect; (b) all Construction Drawings produced by Subconsultants who are licensed design professionals to contain the professional seal of such Subconsultant; and (c) in any event, all Construction Drawings filed with a governmental authority to contain the professional seal of a design professional appropriately licensed in the State of New York.

1.3.11 The Architect will provide the furniture services (if any) specified in Annex "B" hereto for the Construction Documents Phase.

1.3.12 When Architect believes that the Construction Documents are complete, Architect shall submit to Owner the finished Construction Documents (the "Final Construction Document Submission"). Owner shall review and comment on the same and Architect shall make the necessary corrections and revisions and resubmit the relevant documents and materials to Owner as necessary to obtain Owner's approval. After Architect makes any required resubmissions, Owner shall decide whether to proceed with the Project. The Project shall only move forward if (a) Owner has approved in writing the complete set of the Construction Documents (and also the Cost Estimates and Project Schedule); and (b) has given Architect written notice to proceed to the Bidding and Negotiation Phase. The foregoing approved set of documents is referred to herein as the "Approved Construction Documents."

1.4 Bidding and Negotiation Phase

1.4.1 The Architect will assist Owner and the Construction Manager in preparing the necessary bid packages for the performance of the Work consistent with the Approved Construction Documents.

1.4.2 Following Owner's approval of the Construction Documents, the Architect shall assist Owner and the Construction Manager in obtaining and evaluating bids or negotiated proposals from Contractors. Such assistance shall include: (a) rendering interpretations and clarifications of the Construction Drawings and Specifications and other relevant documents; and (b) preparing for Owner and prospective bidders addenda, amendments, and supplementary drawings required for the clarification of the Construction Drawings and Specifications and other proposed Construction Documents. If Owner so requests, the Architect shall assist Owner and/or CM in explaining the Construction Documents to prospective Contractors and Subcontractors, at bidders' meetings or in separate conferences. The Architect shall assist Owner and/or CM in conducting pre-bid conferences and pre-award conferences with bidders as reasonably requested by Owner.

1.4.3 The Architect acknowledges that the Bidding Phase may overlap with the Design Development Phase, the Construction Documents Phase and the Construction Phase and that, accordingly, certain Work may be bid while both design and construction for other portions of the Work are in progress. (In this context Architect will prepare bid packages for early trades as necessary to accommodate the Project Schedule. The approval process for such early bid packages shall follow the same procedure as for the complete set of Construction Document Deliverables.) In furtherance of the foregoing, the Architect agrees that demolition and excavation for the Project may proceed before completion of the other phases for the remainder of the Project. The Architect's services for such accelerated work are included as part of the Basic Services; and the Architect shall furnish the services for such accelerated Work in the same sequence of phases as the services for the other portions of the Project.

1.4.4 The Architect shall consult with Owner and the Construction Manager to assist in finalizing such Contractor's line-item breakdown or schedule of values for the Work.

1.5 Construction Phase; Administration of the Construction Contract

1.5.1 The Construction Phase will commence upon the day that construction of the Project begins and will terminate upon Final Completion of the Project (or, if earlier, 120 days after Substantial Completion, unless Final Completion has not then occurred by reason of the Architect's fault). The services to be performed by the Architect in the Construction Phase may occur prior to or simultaneously with other services to be performed by the Architect under this Agreement, such as the overlap of the Bidding Phase with the Construction Documents Phase and the Construction Phase as noted in Section 1.4.3.

1.5.2 The Architect will advise and consult with Owner, Construction Manager and Contractors during the Construction Phase. The Architect will provide, generally, contract administration with respect to the Construction Documents (but the Architect shall have authority to act on behalf of Owner only to the extent provided in this Agreement or the Construction Documents unless otherwise agreed in writing).

1.5.3 The Architect shall visit the Project Site at intervals appropriate to the stage of construction and/or whenever reasonably requested by Owner, but at least one full work day per week, for the resolution of problems and/or for the orderly progress of the Work. The Architect shall observe and be familiar with the progress and quality of the Work and, based upon such observations and familiarity, determine if the Work is proceeding substantially in accordance with the Construction Documents. On the basis of such on-site observations as an architect, the Architect shall endeavor to guard Owner against defects and deficiencies in the Work of the Construction Manager, Contractors and Subcontractors.

1.5.4 Except as to any such matters that the Architect has specifically included in the Construction Documents, the Architect shall not be responsible for, nor have control or charge of, construction means, methods, techniques, sequences or procedures of construction, or for safety precautions and programs in connection with the Project.

1.5.5 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.5.6 The Architect shall review and evaluate all monthly and other requisitions for payment submitted by the Contractors. Based on the Architect's observations at the Project Site (or at other places where Work is being performed), the Architect shall determine the amounts then deemed by the Architect to be owing to the applicant at the current stage of completion of the Work and (if and to the extent deemed justified by the Architect) shall issue an Architect's certificate for payment (the "Architect's Certificate for Payment") to Owner in a form approved by Owner (with a copy of the respective requisition attached). If appropriate, based on information received by the Construction Manager as well as the Architect's observations, the Architect will make recommendations to Owner to adjust the proposed requisition.

1.5.7 The issuance of an Architect's Certificate for Payment shall indicate, based on the Architect's observations as provided in Section 1.5.3 and on the data comprising the particular requisition for payment, Work has progressed to the point indicated; that, to the best of the Architect's knowledge, information and belief, the quality and quantities of Work are in accordance with the Construction Documents (subject to an evaluation of Work for conformance with the Construction Documents upon Substantial Completion and Final Completion and to minor deviations from the Construction Documents correctable prior to completion); and that Construction Manager or the applicable Contractor is entitled to payment in the amount certified. However, the issuance of an Architect's Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how or for what purpose the Construction Manager or Contractor has used the monies paid on account of the contract sums.

1.5.8 Architect agrees that its interpretations and decisions shall be consistent with the intent of, and reasonably inferable from, the Construction Documents, and shall be in written or graphic form.

1.5.9 Based on the Architect's observations and inspections at the Project Site, the Architect shall advise Owner to reject Work which in the Architect's opinion does not conform to the Construction Documents and/or to stop all or any portion of the Work, if, in the Architect's opinion, such stoppage is necessary. Whenever, in the Architect's opinion, it is necessary or desirable to implement the intent of the Construction Documents, the Architect

shall recommend to Owner special inspection or testing of the Work, whether or not such Work is then fabricated, installed, covered, or completed; and the Architect shall recommend uncovering of the Work where necessary or appropriate. If requested to do so by Owner in writing, the Architect shall arrange for and evaluate any such tests. (The cost of such tests shall be a Reimbursable Expense unless required by reason of the Architect's fault.) The Architect shall not have authority alone to reject nonconforming Work, stop the Work, or terminate any agreements between Owner and any other Persons.

1.5.10 The Architect shall, in a timely manner (meaning within ten (10) days after each submittal unless a shorter or longer period is appropriate under the circumstances or required by the Construction Documents) and so as not to delay or disrupt the progress of the Work, review and take appropriate action on shop drawings, samples, product data, and other submittals required under the Construction Documents of (or by) CM and Contractors for conformance with the design concept expressed in the Construction Documents and the information and requirements set forth in the Construction Documents. The Architect shall indicate any changes or corrections or other aspects of such submittals that do not so conform. In furtherance of the foregoing, the Architect shall review and comment on any proposed schedule of submittals proposed by CM and shall consult with Owner and the CM to achieve an agreed schedule for submittals consistent with the foregoing. The Architect shall similarly review resubmittals and take other appropriate action that may be necessary in the particular case. If requested to do so or if so provided in the Construction Documents, the Architect shall attend weekly meetings at the Project Site or at Owner's offices with Owner, CM, and Contractors, as applicable, to review the status of shop drawings and other submittals and to discuss necessary action.

1.5.11 The Architect shall submit to Owner and the Construction Manager at least monthly a listing of shop drawings submitted to date, including: (a) names of the Contractor or Subcontractors; (b) names of shop drawings; (c) date due in accordance with the approved shop drawing schedules; (d) dates of issue, receipt, review, return for correction or other action; (e) dates of resubmission; (f) date of acceptance; and (g) other relevant information. Also, the Architect shall submit to Owner and CM at least every other week a listing of all samples submitted to date, including the names of the Contractor or Subcontractors, the date submitted, date accepted or rejected and any other relevant information.

1.5.12 The Architect shall review, revise and furnish technical documentation for, and take other appropriate action on, proposed Change Orders prepared by CM or Contractor for Owner's authorization with reasonable promptness taking into account the relevant circumstances, and the Architect will consult with and advise Owner and CM with respect to the same. The Architect shall sign each Change Order approved by Owner to indicate Architect's concurrence therewith. (Note: Section 1.7.5 specifies certain circumstances when the Architect's furnishing of drawings, specifications, documents or services with respect to Change Orders will constitute Additional Services.)

1.5.13 The Architect shall have authority to order minor changes in Work if the same do not involve an increase (or reduction) in a contract price or any change in the Project Schedule and if the same are not inconsistent with the intent of the Construction Documents. Such changes shall be effected by written bulletins issued by the Architect. The Architect may recommend to Owner other suggested changes to the Work, but all such other changes shall be subject to Owner's prior written approval.

1.5.14 The Architect shall undertake such reviews and take such other action (including the matters described in Section 1.5.17) as the Architect deems necessary to determine when Substantial Completion (including Substantial Completion as to any particular portion or section of the Project designated by Owner) and Final Completion have occurred; the Architect shall so advise Owner; and the Architect shall issue certificates for payment upon such Substantial Completion and Final Completion in form reasonably satisfactory to Owner. The issuance by the Architect of any certificate for payment shall not be construed to relieve Construction Manager or any Contractor from their respective obligations to Owner.

1.5.15 At Owner's request, or if the specifications for other Construction Documents provide for such inspection, the Architect shall inspect for compliance with Construction Documents before incorporation in the Work major fabricated components or modules which have been manufactured or fabricated off site and then delivered to the Project Site.

1.5.16 The extent of the duties, responsibilities and limitations of authority for the Architect during construction shall not be modified or extended without the written consent of Owner and the Architect.

1.5.17 (a) Prior to Substantial Completion, upon a request from CM or Owner from time to time, Architect shall prepare one or more "punch lists" or similar schedules or lists of incorrect or incomplete Work then remaining (each, a "punch list") at the current state of construction. The Architect shall also consult with CM and the particular Contractors with respect to the correction, completion, or furnishing of items specified on each punch list. The Architect shall review all punch list Work to determine whether the same has been completed in accordance with the Construction Documents and shall confirm in writing to Owner if and when all punch list Work has been completed.

(b) Upon a request from Owner for certification of Substantial Completion with respect to all or any part of the Project, the Architect shall advise Owner and CM that Substantial Completion has not yet occurred or shall issue a certificate of Substantial Completion ("Certificate of Substantial Completion") in form and content reasonably acceptable to Owner.

(c) Upon a request from Owner for certification of Final Completion with respect to the Project, the Architect shall advise Owner and CM that Final Completion has not yet occurred or shall issue a certificate of Final Completion ("Certificate of Final Completion") in form and content reasonably acceptable to Owner.

1.5.18 As part of the Basic Services, the Architect shall consult and cooperate with Owner, CM, the Contractors and any other Persons designated by Owner as necessary or appropriate to the relevant stage of the Project with respect to matters pertaining to the Construction Documents or the Architect's other responsibilities under this Agreement.

1.5.19 During the Construction Phase, the Architect shall maintain a complete and current set of the Construction Documents, Change Orders, and all shop drawings, samples, and other submissions received by the Architect from, or issued by the Architect to, CM, the Contractor and the Subcontractors: (a) at the Project Site, if the Architect has a field office at the Project Site; or (b) at the Architect's office, if the Architect has no field office at the Project Site.

1.5.20 The Architect will provide the Furniture Planning Services (if any) specified in Annex "B" hereto for the Construction Phase. Also, the Architect shall furnish the documents or materials (if any) required under Schedule E for the Construction Phase.

1.5.21 When the Work is sufficiently complete for such purpose, the Architect shall provide all requested technical information and use reasonable efforts to fulfill its obligations in assisting CM to secure temporary and permanent certificates of occupancy and/or other sign-offs for the Project.

1.5.22 It is understood that CM and/or the Contractor are to "mark up" the original Construction Drawings and Specifications in the field to indicate any deviations from the original and to thereby depict the Project "as built" (i.e., as actually constructed). As built shall be submitted in AutoCAD and by hard copy.

1.5.23 The Architect shall provide all designs and documents necessary for the commissioning of the Project. The Architect shall consult and coordinate with the commissioning agent engaged by Owner, and with CM and Contractors in connection with the commissioning of the Project (including set-up adjustment balancing and testing of systems and operating equipment). If applicable, the Architect will also coordinate with the commissioning agent, CM and Contractors regarding LEED requirements that may require enhanced commissioning.

1.6 Other Basic Services

1.6.1 Architect's time and materials for preparation of specific drawings and analyses and attendance at up to 10 meetings and presentations of this type related to governmental bodies and land use approvals (including, without limitation LPC SHPO, and OPRHP), and all such necessary governmental approvals meetings are included in the Basic Services Fee. Time and materials necessary to prepare specific drawings and analyses for meetings after the first 10 such meetings and presentations will be an Additional Service, subject to prior approval by Owner in each

instance, and may be paid for as a “Reimbursable Expense” hereunder. Similarly, Architect understands that the Project will require on-going meetings and periodic presentations to Owner's trustees, responsible committees, executives, and managers and has included time in the Basic Services Fee necessary for this purpose.

1.6.2 Before the Construction Phase, as requested by Owner, the Architect shall attend meetings from time to time with Owner, CM, the Contractors, and/or other Persons invited by Owner to discuss documents furnished by the Architect, or other matters pertaining to the Project and/or the Work. During the Construction Phase the Architect shall attend such meetings as and when requested by Owner (including in-person or remote attendance as requested by Owner), but at least bi-weekly (with Subconsultants attending from time to time, as requested by Owner or as appropriate for such meeting). Before the Construction Phase (or until CM assumes such duties), the Architect shall keep detailed written minutes of each such meeting and shall deliver copies of the minutes of each meeting, within a reasonable time after such meeting (but before the next weekly meeting), to Owner, CM, the Contractor, and each other Person represented at such meeting. It is expected that CM will keep and circulate such minutes during the Construction Phase if not earlier. Architect shall provide for (and arrange) the participation of all relevant Subconsultants in meetings, as requested by Owner or as appropriate for such meeting. Meetings shall be in-person at the Island Property if requested by Owner.

1.6.3 The Architect shall use Building Information Modeling (“BIM”) to design each Project Stage, and shall develop such BIM models in accordance with the relevant requirements set forth in Schedule E. The Architect shall propose BIM protocols governing the transmission and use of BIM models for Owner’s approval prior to the completion of the Design Development Phase for each Project Stage, provided, however, that such BIM protocols shall not affect Owner’s rights of ownership in (or license to) and use of any Project Documents. Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. Notwithstanding the foregoing, the parties agree that the Owner and Contractor may use and rely on the information without further requirements for: (1) clash detection; (2) backgrounds for submittals including delegated design; and (3) overall Project layout. If requested by the Owner, the Architect shall allow Contractors and other Project team members to access and use the BIM model and files for the applicable Project Stage. The Architect shall, at the Owner’s request, supply the Owner with a copy of the electronic BIM file. After completion of the services, the Architect shall remain available to the Owner for consultation with regard to the BIM process and data. Architect acknowledges that the use of BIM does not relieve Architect of any of its duties and responsibilities under the terms of this Agreement, including Architect’s obligation to at all times to perform all services in accordance with Architect’s Standard of Care.

1.7 Additional Services

The following services ("Additional Services") are not included in Basic Services but shall be provided (but only if authorized in writing by Owner’s Authorized Representative)¹.

1.7.1 Providing site evaluations, environmental impact statement, or comparative studies of prospective sites; preparing special surveys; unless specified elsewhere as a Basic Service under this Agreement.

1.7.2 Providing services relative to facilities, systems and equipment pertaining to the Project which are not reflected in the Construction Documents or which are not otherwise required to be performed as a part of Basic Services.

1.7.3 Performing (or securing from qualified consultants approved by Owner) controlled inspections as and when required by the Construction Documents.

¹ Provided such services have been requested and so authorized in writing, Owner shall pay for such Additional Services on an agreed fixed sum basis or at the hourly rates specified in the Business Terms.

1.7.4 Providing services for planning tenant or rental spaces and/or design of swing space outside the Project Site. (Design of swing space within the Project Site is part of Basic Services.)

1.7.5 Making revisions directed by Owner in the Approved Design Development Documents or the Approved Construction Documents when such revisions are inconsistent with approvals or instructions previously given by Owner, are required by the enactment or revision of laws subsequent to the preparation of such documents, or are due to other causes not primarily within the control of the Architect. Notwithstanding the foregoing, however, the Architect shall not receive Additional Services compensation where any revisions to drawings or specifications: (a) are required by reason of the Architect's fault; (b) are not substantial; (c) are initiated by the Architect as a result of the Architect's reevaluation of a previous design judgment or initiation of a new concept or idea, or are minor; (d) where any such revisions (other than those required by the enactment or revision of laws) are required in order to bring the Project within the Construction Budget; (e) involve sketches to clarify or coordinate the Work; (f) are necessary, during the Construction Phase, in connection with Change Orders which are required by reason of the Architect's fault; or (g) do not result in substantial revision to any Construction Documents (and for purposes of this subsection, a revision is "substantial" if it requires the Architect to perform services requiring more than four hours of design time).

1.7.6 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

1.7.7 Providing services (other than routine, insubstantial services) made necessary by the termination or default of the Construction Manager; default of a Contractor; material defects or deficiencies in the Work of any Contractor; or material failure of performance of Construction Manager or any Contractor – except and to the extent, in any such case, that such services are required by reason of the Architect's fault.

1.7.8 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation, unless specified elsewhere as a Basic Service under this Agreement.

1.7.9 Preparing to serve or serving as a witness in connection with legal proceeding (not including public hearings in furtherance of the Project in accordance with Section 1.6.1), unless it is finally adjudged (or otherwise agreed by the parties) that such legal proceeding arose out of the fault of the Architect or a Subconsultant to the Architect.

1.7.10 If Owner requests the Architect in writing to accelerate the time(s) for the performance of the Architect's services so as to advance the previously-agreed time for the Architect's services under this Agreement for reasons other than Architect's delays, providing overtime work for such purpose.

1.7.11 Performing LEED Services as described in Annex "A" hereto, which shall entitle Architect a lump sum fee of \$[_____].

1.7.12 Performing Furniture Planning Services as described in Annex "B" hereto, which shall entitle Architect a lump sum fee of \$[_____].

1.8 Time

1.8.1 The Business Terms and the Project Schedule (as updated with Owner's approval from time to time) set forth time periods for performance of the Architect's services with respect to the Schematic Design Phase, Design Development Phase, and Construction Documents Phase. The Architect shall comply with such time schedule (as reasonably amended from time to time with Owner's approval), and shall otherwise consult with Owner and coordinate with CM as to the requirements of the Project Schedule. The Architect shall endeavor, generally, to perform the Architect's services with promptness and diligence to avoid delays in the Project and the Work. The Architect shall receive extensions of time to comply with the Project Schedule day-for-day by reason of delays caused by Owner or CM or otherwise beyond the Architect's reasonable control, provided that the Architect reasonably documents (and gives notice to Owner of) the cause and length of such delays. Delays in the Project do not give rise to Additional

Services compensation unless the Architect provides any of the Additional Services described in Section 1.7 by reason of such delays (and to the extent that such delays are not caused by the Architect or its Subconsultants).

1.8.2 As of the signing of this Agreement, the projected schedule for the Architect's services (which is reflected in the Project Schedule) is set forth in Schedule G.

1.9 Certain Matters Involving Subconsultants

1.9.1 The Architect's Subconsultants are listed on Schedule B hereto.

1.9.2 The identity of each Subconsultant shall be subject to Owner's approval and the requirements of Section 15.2.7. For the avoidance of doubt, the Architect will be responsible for directing and coordinating the services of all Subconsultants so that the result is an integrated whole complying with the requirements of this Agreement. The Architect will be fully responsible for the performance of all Subconsultants (and the acts and omissions of all Subconsultants shall be deemed those of the Architect).

1.9.3.1 The Basic Services Fee, hourly rates, and reimbursables of each Subconsultant shall be subject to Owner's prior written approval. For the avoidance of doubt, there shall be no mark-up on Subconsultant fees or expenses of any kind whatsoever.

1.9.3.2 Agreements between Architect and every Subconsultant ("Subcontract") will incorporate the same terms and conditions as the Agreement except for differing scopes of services, Basic Services Fee, hourly rates, reimbursables, and other terms and provisions which must necessarily differ based on the specifics of the particular Subconsultant's engagement.

1.9.3.3 Architect will not terminate any Subconsultant without Owner's consent unless such Subconsultant's poor or non-performance would adversely affect Architect's performance.

1.9.3.4 If Owner so requests (upon reasonable grounds, including any disapproval of the City or otherwise as to which Owner will consult with Architect in advance), Architect will terminate a particular Subconsultant.

1.9.3.5 All substitute Subconsultants will be subject to Owner's approval.

1.9.3.6 Owner will be a third-party beneficiary of the agreement between Architect and each Subconsultant.

ARTICLE 2. OWNER'S RESPONSIBILITIES

2.1 Owner has designated, in the Business Terms, one or more representatives authorized to act on Owner's behalf for purposes of this Agreement; and the Architect may rely upon the signature of any one such authorized representative acting in such capacity. Owner may change such designation by written notice to the Architect from time to time.

2.2 Owner shall be responsible for surveys of the Project Site, commissioning, and other studies or services needed for planning of the Project that are not included in Architect's Basic Services and are not customarily provided by an architect or any Subconsultants listed in Schedule B. Where possible, Owner shall also make available to the Architect any prior plans or surveys in Owner's possession relating to the Project Site. Owner does not represent the accuracy of such plans or surveys.

2.3 Owner may engage a Construction Manager for the Project who will provide standard pre-construction services prior to the commencement of construction, including preparation of Cost Estimates, value engineering, constructability analysis, and scheduling, and then standard construction management services. Owner may also engage consultants to provide environmental assessment, existing building verification/background drawings, and commissioning.

ARTICLE 3. COST ESTIMATES

3.1 The Architect understands that it is of great importance to Owner to keep the cost of the Project within the Construction Budget and will design the Project within the constraints of the Construction Budget, subject to the terms and conditions of this Agreement.

3.2 During each phase of design, at the intervals set forth in the Business Terms or elsewhere in this Agreement, and in any event at least once during each of Schematic Design, Design Development, and Construction Documents², Architect will review the Cost Estimates prepared by CM and/or Owner's cost consultant (or, if this Agreement requires Architect to prepare Cost Estimates, Architect shall prepare its own Cost Estimate) and shall consult with CM and/or Owner's cost consultant and with Owner to test those Cost Estimates against the evolving design and to reconcile any differences.

3.2.1 Consistent with the foregoing, the Initial Cost Estimate will be prepared as provided in Article 1; and the Cost Estimates for the Programming Phase, Design Development Phase and Construction Documents Phase will be prepared and reconciled by the Architect and CM and/or Owner's cost consultant on an on-going process at 100% completion of each of the Programming Phase, Schematic Design Phase, and Design Development Phase and upon 50% completion of Construction Documents Phase.³

3.3 Each Cost Estimate shall represent the total estimate of the Hard Costs of all elements of the Project to be designed or specified by the Architect, based upon current market conditions and expressed in current dollars, determined with respect to the applicable phase of the design of the Project.

3.4 If the Cost Estimate determined for any phase of the Project reflects an increase over the Construction Budget, and if the Construction Budget must be increased as a result, such increase shall not operate by itself to increase the Architect's fee or charges or otherwise require Owner to make additional payments to the Architect. Similarly, any reduction in the Construction Budget by Owner shall not operate to either increase or decrease the Architect's fees or charges or otherwise require Owner to make additional payments to the Architect.

3.5 Notwithstanding anything to the contrary in this Agreement, if the Cost Estimate for any phase of the Project exceeds the approved Construction Budget, the Architect shall lead value engineering workshops and revise the documents at the applicable state of design with the goal of bringing the then-Cost Estimates within the approved Construction Budget at no additional cost to Owner (unless there is a scope change directed by Owner covered by Section 1.7.5).

ARTICLE 4. REIMBURSABLE EXPENSES

4.1 Reimbursable Expenses are in addition to the compensation for Basic and Additional Services. Schedule H hereto is a budget for reimbursable expenses covering, among other things (i) a schedule of visits by Architect's personnel and (ii) costs of air travel, hotel, food, taxis, presentation material for standard visits, presentation material for milestone meetings, models, visualizations, and DVDs. Unless otherwise agreed to in writing, Architect will be reimbursed for Reimbursable Expenses only up to the Reimbursable Expenses Budget. (All in-house document coordination, reproduction, printing, and other incidentals not included in Schedule H are included in the Basic Services Fee.)

ARTICLE 5. PAYMENTS TO THE ARCHITECT

5.1 Payments on Account of Basic Services

5.1.1 The Basic Services Fee (including all basic service fees of all Subconsultants) shall be in the amount as computed or set forth in the Business Terms. Architect will deliver regular invoices of the Basic Services Fee to Owner monthly, for payment for services completed on a percentage basis for the applicable Phase through the date

² Note to draft – Finalize intervals for cost estimates once business terms are finalized.

³ Note to draft – Finalize intervals for cost estimates once business terms are finalized.

of the invoice (unless directed otherwise by Owner). The Basic Services Fee for each Phase shall equal the percentages of the total Basic Services Fee set forth in the Business Terms. The Architect may submit to Owner after the end of each calendar month a statement of the monthly amount due on account of Basic Services earned for such calendar month. Owner shall pay any undisputed amount due and owing to Architect within thirty (30) days of receipt of such statement. Such statement shall include sufficient detail on the underlying amount due and include all other information and materials which Owner may reasonably request. Architect shall cooperate with Owner and comply with all requirements of Owner's accounts payable process (including enrollment in any payment processing system).

5.1.2 If any portions of the Project are deleted or otherwise not constructed, compensation for such portions of the Project shall be payable only to the extent the relevant services have been actually performed.

5.2 Payments on Account of Additional Services

5.2.1 Architect will deliver invoices on account of Additional Services (to the extent completed to date) to Owner monthly (provided that Architect has complied with its obligations hereunder) upon presentation of the Architect's (and the applicable Subconsultant's) statement together with such documentation as may be necessary (or otherwise reasonably required by Owner) to establish entitlement to payment for such Additional Services.

5.2.2 For Additional Services of the Architect, compensation shall be computed as set forth in the Business Terms.

5.2.3 For Additional Services of Subconsultants, compensation shall be computed as set forth in the Business Terms.

5.3 Payments on Account of Reimbursable Expenses

5.3.1 Architect will deliver invoices for Reimbursable Expenses (described in Schedule H hereto) to Owner monthly upon presentation of the Architect's (and the applicable Subconsultant's) statement for such Reimbursable Expenses, together with receipts or other documentation reasonably satisfactory to Owner establishing that the Architect or Subconsultant has paid or incurred the same. Reimbursable Expenses will be billed at cost.

5.4 Project Suspension

5.4.1 If the Project is suspended so that the Architect is thereby prevented from performing any work on the Project, Owner shall only be required to pay Architect for services performed prior to such suspension; provided, however, that if Owner directs Architect to demobilize by reason of such suspension, Architect shall be compensated at the Hourly Rates for the reasonable actual direct costs to the Architect of windup and orderly demobilization during, and remobilization after, such suspension, including the cost of organizing, indexing, and preparing documents for storage.

5.5 Documentation of Owner's Payments; Release of Lien

5.5.1 Upon Owner's written request from time to time, the Architect shall furnish Owner with a release of lien in a form acceptable to Owner, covering all services and work for which the Architect and each Subconsultant has previously received payment from Owner. (Compliance with such request shall be a condition to Owner's acceptance of the next application for payment.)

ARTICLE 6. ARCHITECT'S RECORDS

6.1 For six (6) years after Final Completion, the Architect shall maintain books, receipts, and records of Architect's services for the Project, including all Reimbursable Expenses and expenses pertaining to all Basic Services and Additional Services, together with copies of all documents issued or received by the Architect in connection with the Project, or matters relating thereto. The Architect shall permit authorized representatives of Owner to examine (and make reasonable copies of) such books, receipts, and records during normal business hours upon reasonable advance notice.

ARTICLE 7. OWNERSHIP AND USE OF DOCUMENTS

7.1 The Architect agrees that all designs, plans, specifications, drawings, documents, and other graphic and written work product of any kind whatsoever, and in whatever medium expressed, prepared by the Architect or any Subconsultant in connection with the Work or the Project or otherwise pursuant to this Agreement, including without limitation the Deliverables and all BIM models and data (the "Project Documents") and all worldwide rights therein (including trademarks, trade names, rights of use, copyrights and/or other proprietary rights) shall be and remain the sole property of Owner (whether or not Owner undertakes, terminates, or completes the Work, or Owner or the Architect terminates this Agreement for any reason whatsoever); and the Project Documents may be used by Owner (and its licensees) without restriction for any purpose. (The Architect may use excerpts from the Project Documents in the Architect's portfolio and public relations materials (subject to Owner's prior written approval) and then only with appropriate credits in form approved by Owner.) In any event the Project Documents are or shall be deemed "work made for hire" as defined in the U.S. Copyright Act and therefore Owner is the author and owner of the copyright and all other worldwide right, title, and interest in the Project Documents, and to the extent ever deemed not to be work made for hire, Architect hereby irrevocably, perpetually, and unconditionally assigns to Owner all right, title and interest therein for the term of copyright throughout the world. To the extent Owner terminates this Agreement before completion of the Project but uses the Project Documents and/or design to complete the Project, or if Owner uses the Project Documents and/or design after completion of the Project (for example, in changes to or renovations of the Project) and does not engage the Architect in such connection: (a) Owner releases the Architect from liabilities arising by reason of changes in the Project Documents relating to such use; provided, however, that this Section shall not release the Architect from responsibility for portions of the Project Documents not materially changed after such termination or completion of the Project; and (b) Architect shall have the right upon written notice to have Owner remove Architect's name from the buildings and publicity materials for the Project within a reasonable period of time following such notice (but Architect's name shall remain on the drawings and specifications produced by Architect and Architect's seal shall remain on drawings previously sealed by Architect).

7.2 Submission or distribution of the Project Documents to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of Owner's rights. For the avoidance of doubt, Owner shall own all right, title, and interest in and to the hard copies of all Project Documents, as well as all other physical deliverables (including models, renderings, and other presentation materials) furnished by Architect to Owner pursuant to this Agreement.

7.3 Except as expressly provided in this Agreement, the Architect shall not use (or distribute) the Project Documents, or any other material relating to the Project, without Owner's prior written consent.

7.4 Notwithstanding Section 7.1, the Architect shall retain customary rights to unique design approaches, depictions, concepts and other unique elements of Architect's general design work not specific to the Project (collectively, "Standard Details") that Architect or a Subconsultant can use on other projects without substantially replicating this Project. The Architect hereby grants Owner an unconditional, perpetual, worldwide, irrevocable, royalty-free, transferable, and sublicensable license to use the Standard Details in connection with this Project and any future renovation or alteration to the Project, subject to Section 16.3 hereof.

7.5 In any submission of the Project Documents, the Architect shall include hard copy sets in addition to any sets delivered in electronic form. Architect's warranties and professional liability attach only to Project Documents which are delivered in hard copy or which are delivered in an electronic format that is fixed and immutable (e.g., files in a secured PDF format or CADD files burned on a non-rewritable compact disc). With respect to Project Documents delivered in an electronic format that is not fixed or immutable, Owner releases Architect from any liability to Owner resulting from changes to such Project Documents that are made by a party other than Architect and are made without Architect's approval. Notwithstanding the foregoing, the Architect shall be responsible at its own cost for replacing or fixing any electronically produced Project Documents that are found to have errors. Unless specifically requested otherwise, any Project Documents delivered in electronic form by Architect shall be in a fixed and immutable format.

7.6 If Architect wishes to incorporate any preexisting or third-party material in the Project Documents, Architect must obtain Owner's prior written consent. In the event such consent is provided by Owner, Architect must obtain, at its expense and on Owner's behalf, all rights necessary for Owner to use that material as part of the Project

Documents on an irrevocable, non-exclusive, royalty-free, worldwide and perpetual basis, including the right to sublicense it as incorporated in the Project Documents.

7.7 This Article 7 shall survive the termination or expiration of this Agreement.

ARTICLE 8. ASSISTANCE TO OWNER

8.1 If any claim is made or action brought by or against Owner relating to the services of the Architect or any of its consultants in connection with the Project, the Architect shall render to Owner such reasonable assistance as Owner may require. The Architect shall be compensated for such assistance as an Additional Service in accordance with Section 5.2 except to the extent that such claim or action arose out of an error, omission or the negligent performance of services by the Architect or any of its Subconsultants, in which case the Architect shall repay to Owner any compensation paid under this Section upon demand.

ARTICLE 9. TERMINATION OF AGREEMENT

9.1 For Convenience. In its sole discretion, Owner may terminate the Architect's right to perform services under this Agreement, for any reason whatsoever (i.e., with or without cause) by written notice to the Architect at any time after the date hereof (the "Termination Notice"). In such event, Architect's right to perform Services under this Agreement shall terminate effective as of thirty (30) days after the giving of the Termination Notice (or, if later, on the date specified in the Termination Notice).

9.2 For Cause.

9.2.1 Owner may terminate the Architect's right to perform services under this Agreement upon seven (7) business days' written notice specifying this Section 9.2 if the Architect fails substantially to perform any obligation under this Agreement in accordance with its terms and if such default is not cured within thirty (30) days after written notice from Owner. If it is determined that a termination under this Section was wrongful or not justified, such termination shall be deemed a termination under Section 9.1 above; and the Architect's recourse shall be as set forth in Section 9.3 below.

9.2.2 If Owner fails to pay the Architect any undisputed amounts properly due and payable as required under this Agreement, and after thirty (30) days written notice from Architect of such late payment Owner has failed to make such payment, then upon further prior written notice the Architect may suspend its services until such payment is made. The Architect shall not be liable for any delays or damages incurred by Owner as the result of such a suspension by Architect. If, after Architect thus suspends its services, Owner thereafter fails to pay such undisputed amounts within forty-five (45) days after the date on which the Architect notified Owner of its suspension of services, the Architect may terminate this Agreement upon five (5) days' prior written notice.

9.3 Termination Fee.

9.3.1 In the event of any termination under Section 9.1 above (i.e., not a termination for cause under Section 9.2.1), the Architect shall be entitled to the Termination Fee specified in Section 9.3.2 but otherwise shall have no further claim to payment of any kind under this Agreement. The Termination Fee shall be payable thirty (30) days following the Architect's submission of a satisfactory invoice for the same.

9.3.2 "Termination Fee" means:

(a) As to the Architect, payment representing: (i) compensation for all portions of the Basic Services Fee earned through the effective date of the termination under Section 9.1; (ii) reimbursement for all Reimbursable Expenses properly paid or incurred by the Architect prior to the effective date of such termination; and (iii) reasonable compensation for the actual direct costs incurred by the Architect for the demobilizing of the Architect's team for the Project (taking into account the Architect's ability to reassign staff to other client projects and other relevant factors); and

(b) As to the Subconsultants, payment representing: (i) compensation for all services earned through the effective date of the termination under Section 9.1 in accordance with the applicable Subconsultant's agreement; (ii) reimbursement for all Reimbursable Expenses properly paid or incurred by such Subconsultants prior to the effective date of such termination; and (iii) reasonable compensation for the actual direct costs incurred by the respective Subconsultant for the demobilizing of the Subconsultant's team for the Project (taking into account the Subconsultant's ability to reassign staff to other client projects and other relevant factors).

(c) (Any amounts properly due to Owner from the Architect (or the applicable Subconsultant) pursuant to this Agreement shall be offset against the Termination Fee.)

9.4 Upon completion of all services to be rendered by the Architect under this Agreement, or upon any termination of this Agreement, the Architect shall, at the Architect's sole cost and expense: (a) promptly remove from the Project Site all equipment and facilities owned or leased by the Architect and repair any damage caused by such removal; (b) clean and place in an orderly condition the area of the Project Site previously occupied by such equipment or facilities and/or the Architect's personnel; (c) cause all Employees and Subconsultants of the Architect to vacate the Project Site; and (d) immediately deliver to Owner copies of all Project Documents not already delivered.

ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of New York (without giving effect to principles of conflicts of laws). The parties hereby consent to the jurisdiction of the federal and state courts in the State of New York, County of New York. Any and all claims asserted by or against Owner arising under this Agreement or related hereto will be heard and determined either in the federal courts of the Southern District of New York, or in the New York State Courts located in the City and County of New York. With respect to any action in New York State Court, Architect waives and relinquishes any rights it may have to move to dismiss on grounds of forum non conveniens, remove to Federal Court or move for a change of venue to a New York State Court outside New York County. With respect to any action in Federal Court located in the City, Architect waives and relinquishes any right it may have to move to transfer the action to a Federal Court outside the City. Service of process may be made on Architect in person or by registered mail addressed to Architect's address as specified in the Business Terms. If Architect commences any action against the City or Owner in a court located other than in the City, then Architect will consent to a transfer of the action to a court of competent jurisdiction located in the City, or if such court will not or cannot transfer the action, then Architect will consent to dismiss the action without prejudice and may reinstate the action in a court of competent jurisdiction in the City.

10.2 All notices, submissions, requests, or other communications (including invoices, certifications, and applications for payment) by the Architect to Owner, or by Owner to the Architect, under this Agreement (any such, a "notice" or "Notice") must be in writing and shall be addressed to Owner, the Architect, and any Owner's Representative at the addresses and otherwise as specified in the Business Terms. Any notice required by this Agreement to be given or made within a specified period of time, or on or before a date certain, shall be deemed given or made only if sent by: (i) hand delivery evidenced by written receipt; (ii) registered or certified mail, return receipt requested, and postage and registry fees prepaid; or (iii) United States Express Mail, return receipt requested, and postage and registry fees prepaid. Delivery "by hand" shall include delivery by commercial express or courier service. All notices shall be deemed given when received (or the date of attempted delivery if refused). A notice may be given by a party or its attorneys. Either party may change its address for receiving notices by notice given in accordance with this Section.

10.3 No action pursuant to this Agreement (including any investigation or payment), and no failure to act, shall constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement in this Agreement. No course of dealing and no delay on the part of either party in exercising any right, power or remedy conferred by this Agreement shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of any right, power or remedy conferred by this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

10.4 In addition to (and not in limitation of) any other rights or remedies of Owner under this Agreement, to the fullest extent permitted by law, the Architect shall defend, indemnify, and hold harmless the Owner and the Owner Indemnitees, including their officials and employees, against any and all claims or judgments for damages on account

of any injuries or death to any person or damage to any property, and costs and expenses to which the Owner, the Owner Indemnites, or their officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Architect and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, the failure to comply with law or any of the requirements of this Agreement (including failure to satisfy the Standard of Care), and/or any infringement of any copyright, trademark, patent, or other proprietary or personal right arising out of or related to any Project Document (unless Owner directs the use of the particular system or piece of equipment out of which the infringement arises). Insofar as the facts or law relating to any of the foregoing would preclude the Owner, the Owner Indemnites, or its officials or employees from being completely indemnified by the Architect, the Owner, the Owner Indemnites, and their officials and employees shall be partially indemnified by the Architect to the fullest extent permitted by law.

10.5 If any claim, action or proceeding is made or brought against Owner or any of the Owner Indemnites by reason of any event to which reference is made in Section 10.4, then upon demand by Owner or any such Owner Indemnitee, Architect shall either resist, defend or satisfy such claim, action or proceeding in Owner's or such Owner Indemnitee's name, by the attorneys for, or approved by, Architect's insurance carrier (if such claim, action or proceeding is covered by insurance) or by such other attorneys as Owner shall approve, such approval not to be unreasonably withheld. The foregoing notwithstanding, Owner or any such Owner Indemnitee may engage its own attorneys to defend Owner or such Owner's Indemnitee, or to assist Owner or such Owner Indemnitee in such its defense of such claim, action or proceeding, as the case may be, the costs and expenses of which shall be paid by Owner or such Owner Indemnitee. Architect shall not, except as permitted in this section enter into any settlement without the applicable prior written consent of Owner or any applicable Owner Indemnitee, which shall not be unreasonably withheld; provided that Owner or the Owner Indemnitee's consent shall not be required for any settlement by which: (y) Architect procures (by payment, settlement, or otherwise) a full and unconditional release of Owner and the Owner Indemnites by which the Owner and Owner Indemnites need not make any payment to the claimant (or any payments with respect thereto shall be paid by Architect); and (z) neither Owner, the Owner Indemnites, nor Architect on behalf of Owner or the Owner Indemnites admits liability or is required to undertake any action or expend any funds or other amounts. The Owner and Owner Indemnites shall reasonably cooperate with Architect's defense, provided that Architect reimburses the Owner and Owner Indemnites' reasonable legal fees and other out-of-pocket fees, costs and expenses of such cooperation. In the event the Architect fails to provide a defense of the Owner, the Owner Indemnites, or their officials or employees, of a claim upon demand, the Architect shall reimburse the Owner, the Owner Indemnites, or its officials or employees as the case may be, for all reasonable attorney's fees and expenses. Notwithstanding anything to the contrary herein, Architect's duty to defend shall not apply in the first instance to any claim covered by Architect's professional liability insurance policy (to the extent that coverage under such policy is actually accepted by the insurer); provided, however, that Architect shall reimburse Owner for the costs and expenses reasonably incurred by Owner Indemnites in connection with defending any such claim if it is determined in a final legal proceeding that Architect defaulted in its obligations hereunder. The failure to give notice under this Agreement, whether or not the applicable provision of the Agreement requires notices, shall not limit the Owner or any Owner Indemnitee's right to any indemnification under this Agreement except to the extent that such failure prejudices Architect such that Architect is not able to properly respond to a claim or to defend Owner or such Owner Indemnitee (or obtain insurance to provide a defense, to the extent insurance would otherwise have been available) because Architect was not notified.

10.6 The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.

10.7 This Agreement may be executed (a) in counterparts, a complete set of which shall constitute an original, and (b) in duplicates, each of which shall constitute an original. Copies of this Agreement showing the true signatures of the respective parties, whether produced by photographic, digital, computer, or other reproduction may be used for all purposes as originals.

10.8 Wherever this Agreement states that a matter shall be satisfactory to, or subject to the consent or approval, of a party or the parties, such satisfaction, consent or approval must be evidenced in writing.

10.9 The acceptance by the Architect, its successors or assigns, of any final payment under this Agreement, or any final payment due on termination of this Agreement, shall constitute a full and complete release of Owner from any

claims, demands and causes of action which the Architect and its successors or assigns have or may have against Owner for payment for the performance of services under this Agreement.

10.10 Architect Warranties and Representations. Architect warrants and represents that: Architect has the right to enter into and perform this Agreement; Architect is authorized to do business in the City; Architect has the right to grant Owner the rights set forth in Article 7 and has not previously encumbered or transferred to any third party any part of those rights; and there are no claims, litigation or other proceedings pending or threatened that adversely affect or prejudice Owner's rights under this Agreement.

10.11 This Article 10 shall survive the termination or expiration of this Agreement.

ARTICLE 11. SUCCESSORS AND ASSIGNS

11.1 Owner and the Architect, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement. Owner may assign this Agreement or any part of Owner's right, title and interest under this Agreement to any entity, including the City, any Funding Source, any successor or affiliate of Owner. Such assignment shall not increase the Architect's services, responsibilities or liabilities, or reduce the Architect's compensation and reimbursement or any of the Architect's other rights, under this Agreement. Owner and the Architect shall not otherwise assign or transfer this Agreement, or any interest therein, without the written consent of the other.

11.2 The Architect will perform its obligations under this Agreement for the benefit of any Funding Source(s), whether the Funding Source is a third-party beneficiary or an assignee, provided all compensation due to Architect has been paid to date (or that such assignee shall agree to pay compensation previously due and owing). The Architect agrees to execute any documents which any such Funding Source(s) may reasonably require to confirm the foregoing and to consult with any such Funding Source(s) if Owner so requests.

11.3 Upon the request of Owner, the Architect shall comply with the requirements of any Funding Source or governmental agency, so long as such requirements do not increase the Architect's services, responsibilities or liabilities, or reduce the Architect's compensation and reimbursement or reduce any of the Architect's other rights, under this Agreement. However, if any such requirements involve a material increase in the Architect's services generally within the scope of this Agreement, the Architect shall perform such increased services as an Additional Service.

ARTICLE 12. EXTENT OF AGREEMENT

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

12.2 Nothing shall be deemed to create any contractual relationship between the Architect and the Construction Manager, the Contractor, or any Subcontractors on the Project. Moreover, nothing in this Agreement shall be deemed to give any other Person any claim or right of action against Owner or the Architect that does not otherwise exist without regard to this Agreement.

ARTICLE 13. COORDINATION WITH OWNER CONSULTANTS; OWNER'S REPRESENTATIVE

13.1 Coordination with Owner Consultants

13.1.1 This Article applies to Consultants engaged by Owner ("Owner Consultants"). The responsibilities of the Architect under this Article are part of Architect's Basic Services.

13.1.2 The Architect shall endeavor to coordinate the services of Owner Consultants and facilitate the exchange of information between the Architect and Owner Consultants.

13.1.3 The Architect shall arrange with each Owner Consultant a schedule as to the furnishing of drawings, specifications and other documents (the "Owner Consultant Submissions") to be submitted by Owner Consultants to the Architect so that the work product of each Owner Consultant can be coordinated with the Project Schedule.

13.1.4 The Architect shall assemble, integrate (if and as applicable), and coordinate the Owner Consultant Submissions into and with the Architect's work product under this Agreement, so that there is a complete, integrated (if applicable), and coordinated set of all professional consultants' work product for the Project.

13.1.5 The Architect shall review the Owner Consultant Submissions for purposes of the foregoing and of identifying conflicts, inconsistencies or missing elements with and between, the Owner Consultant Submissions and the Architect's own work product. The Architect shall advise each Owner Consultant in writing as to (i) special provisions, details or other elements which are to be included in such Owner Consultant Submissions, and (ii) coordination problems, if any, involving such Owner Consultant Submissions. The Architect shall respond promptly to inquiries from Owner Consultants concerning coordination of services.

13.1.6 Notwithstanding the foregoing, the Architect shall not be professionally responsible for the work product of any Owner Consultant except to the extent that the Architect fails properly to assemble, integrate (if applicable), and coordinate the Owner Consultant Submissions with the work product of the Architect as contemplated in this Article.

13.1.7 Upon request by Owner, Architect will provide Owner with copies of correspondence between Architect and any Owner Consultant relating to the subject matter of this Article.

13.2 Owner's Representative.

13.2.1 In the event Owner elects to engage an Owner's Representative to provide project management and owner's representative services with respect to the Project (all as set forth in a written agreement between Owner and Owner's Representative), Owner shall provide notice of such engagement to Architect. Upon such notice, and until Owner gives Architect notice to the contrary, throughout the Project on a daily basis, Architect shall work with, consult with and take direction and instruction from Owner's Representative (except that all written approvals and change orders must be signed by Owner's authorized representative rather than Owner's Representative).

13.2.2 Unless and until directed otherwise by Owner in writing (and whether or not this Agreement so states specifically in a particular context), upon notice of Owner's election to engage an Owner's Representative, Architect shall render and furnish to Owner's Representative the same services and materials to which Owner is entitled under this Agreement, including providing to Owner's Representative all documents and other submittals (including requisitions) which the Architect is required to submit to Owner, at the times when Owner is entitled to the same. (Thus, for example, Architect will give Owner's Representative duplicates of all materials which Architect furnishes to Owner; Architect will include the Owner's Representative as a beneficiary and recipient of all certifications and interpretations of Architect; Architect will give Owner's Representative copies of all Notices sent to Owner; etc.). Upon Owner's direction in writing at any time, Architect shall thereafter submit such items to any other party (including any replacement Owner's Representative) as Owner may designate.

ARTICLE 14. INSURANCE; KEY MEMBERS; CERTAIN OTHER SERVICES

14.1 No later than the commencement of services and thereafter throughout the Agreement's term, the Architect shall place and maintain in effect the Required Insurance and deliver to Owner certificates of such insurance, all as specified in Schedule F. The minimum coverages and time periods specified above are not intended, and shall not be construed, to limit liability of the Architect under this Agreement. The cost of Required Insurance is included as a part of the Basic Services Fee.

14.2 The Architect's principal and authorized representatives for the purposes of this Agreement are specified in the Business Terms. The Architect shall not substitute any other person as an authorized representative without Owner's prior written consent (not to be unreasonably withheld provided that the proposed substitute is at least equal in qualification and experience). Such authorized representatives shall render decisions under this Agreement

promptly to avoid unreasonable delay in the furnishing of the Architect's services hereunder. The acts of each such authorized representative shall be the fully binding acts of the Architect; and Owner shall be protected fully in relying upon, or dealing with, any one of such persons.

14.2.1 The key members of the Architect's Project team and the key members of the team of each Subconsultant are listed in Schedule C hereto. The Architect shall not substitute (or cause any Subconsultant to substitute) any other person as a member of Architect's team (or a Subconsultant's team) without Owner's prior written consent, not to be unreasonably withheld provided that the proposed substitute is at least equal in qualification and experience.

14.3 All Persons assigned to the Work by the Architect shall cooperate fully with Owner, the Construction Manager, the Contractors, and the Owner Consultants in connection with the Project. If, in Owner's opinion, any Person assigned to the Work by the Architect fails to cooperate, is not skilled in the task assigned, causes dissension, or is detrimental to the Project, the Architect shall terminate the assignment of such Person to the Project and secure a substitute with Owner's consent (not to be unreasonably withheld), without additional cost to the Owner.

14.4 Notwithstanding anything to the contrary in this Agreement, the Architect is and shall be an independent contractor for all purposes of this Agreement and not an agent or employee of Owner, but only a consultant to Owner. The Architect shall have no authority whatsoever to bind Owner or to obligate Owner to the Contractor, any Subcontractor, or any other Person without Owner's prior written consent, unless otherwise expressly provided in this Agreement.

14.5 Owner's approval of any plans, drawings, specifications or other documents prepared by the Architect, and/or any payments by Owner to the Architect, CM, the Contractor, or any other Person, and/or any occupation of part or all of the Project, by Owner or any affiliate or tenant of Owner, shall not be deemed to waive, release or modify any rights or remedies of Owner under this Agreement, unless specifically so provided in a separate written agreement between Owner and the Architect.

14.6 The Architect's Employees shall abide by Owner's reasonable rules and regulations in effect from time to time (including those governing security, safety, health and personal conduct) while on the Project Site or otherwise upon property under the supervision and control of Owner.

14.7 The Architect agrees that it will use the Standard of Care set forth in Section 14.9 below to ensure that: (a) the Architect's services shall be performed in accordance with laws; and (b) the design of the Project (i) will comply with laws (including the most recent versions of applicable codes and regulations), and (ii) will comply with requirements and restrictions of endorsements, gifts, donations, or other contractual obligations applicable to the Project or any parts thereof of which Owner has given the Architect notice in writing.

14.8 Upon request by Owner or any governmental authority having jurisdiction over the Project, or any Funding Source, during any of the phases of the Project, the Architect shall render to Owner (and any other Person designated in writing by Owner) interpretations and decisions which are necessary or desirable for the planning and/or design of the Project and/or the prompt and proper execution and/or progress of the Work. Such interpretations shall cover (among other things) requirements of the design documents in their current state of development, the Construction Documents (when completed) and the quality, quantity, execution, or progress of the Work. The Architect shall furnish such interpretations and decisions with reasonable promptness so as not to delay the progress of the design or the Work. Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Construction Documents, and shall be in written or graphic form.

14.9 Architect shall provide its services pursuant to this Agreement in accordance with a standard of care appropriate to a premier architectural firm of similar experience and reputation designing a project of approximately the same size, complexity, schedule, location and other characteristics of a historically significant building for a major civic, cultural or educational institution in the City (the "Standard of Care").

14.10 Upon written request of Owner, from time to time within eighteen (18) months after the end of the Construction Phase, and without additional charge, the Architect shall render the following services to and for Owner:

(a) review any state of facts identified by Owner in connection with problems in the Work or the Construction Documents, or any respects in which the Work does not conform to the requirements of the Construction Documents or comply with laws; and (b) advise Owner of appropriate action to be taken with respect to the same. Notwithstanding the foregoing, preparation of any formal reports requested by Owner in connection with the foregoing shall be an Additional Service except and to the extent that the same is needed by reason of the Architect's fault.

ARTICLE 15. ISLAND REQUIREMENTS; CITY REQUIREMENTS

15.1 In addition to, and in no way limiting, any requirements set out elsewhere in this Agreement, Architect shall provide its services pursuant to this Agreement (and cause all Project Documents to be) in compliance with the following requirements (collectively, the "Island Requirements"):

15.1.1 For any portions of the Project Site within the Governors Island Historic District, Owner's North Island Design Guidelines included in Annex "C-1".

15.1.2 For any portions of the Project Site outside of the Governors Island Historic District, Owner's South Island Design Guidelines included in Annex "C-2".

15.1.3 The Master Plan.

15.1.4 **[NTD: Additional relevant documents to be confirmed. E.g., any existing building surveys and plans, Governors Island Preservation and Design Manual (January 28, 2003), etc.]**

15.2 In addition to, and in no way limiting, any requirements set out elsewhere in this Agreement, Architect shall provide its services pursuant to this Agreement in compliance with the following requirements ("City Requirements"):

15.2.1 Promptly following the date of this Agreement, Architect shall properly enroll in MOCS Procurement and Sourcing Solutions Portal (N.Y.C. Admin. Code Section 6-116.2) ("PASSPort") and provide Owner with confirmation of PASSPort enrollment in such form as Owner may require. Architect shall maintain its PASSPort enrollment throughout the Project.

15.2.2 Architect acknowledges that: (i) it shall not be deemed to be an agent, servant, employee or contractor of the City by virtue of the City Contract, this Agreement or any other agreement related to the Project; (ii) the City has no obligation to Architect or any Subconsultants pursuant to the City Contract, this Agreement or any other agreement related to the Project; and (iii) none of Architect, or any of its employees or Subconsultants, shall commence any legal proceeding against the City to recover any compensation which may be payable as a result of any work performed in connection with the Project.

15.2.3 Architect hereby agrees that no official, officer, director, employee, agent or servant of the City, who at any time during his tenure has had any responsibility with respect to this Agreement, shall have any personal interest or enjoy any personal benefit, directly or indirectly, in this Agreement and/or any subcontract for work to be performed in connection with this Agreement. Upon having any knowledge of any interest prohibited by this Section, Architect shall immediately advise Owner in writing and use its best efforts to terminate the prohibited interest in question. Architect represents and warrants that it has no knowledge of any interest prohibited by this Section, and covenants to cause any official, officer, director, employee, agent or servant of the City with an interest prohibited by this Section to terminate the prohibited interest in question, immediately, upon demand by the City, or Owner.

15.2.4 All persons employed by Architect (including all Subconsultants) who are subject to New York State prevailing-wage laws must be paid the prevailing wage accordingly; otherwise, all such persons must be paid not less than the minimum hourly rate required by law.

15.2.5 Architect shall comply with the requirements of Executive Order No. 50 (April 25, 1980) ("E.O. 50") as long as E.O. 50 or any successor thereto is in force and effect, in whole or in part, and the regulations promulgated thereunder applicable to Architect, certain of which are annexed hereto as Annex "D" consisting of the "Supply and Service Rider".

15.2.6 Upon Owner's request, Architect shall furnish to the City (or any City official designated by Owner) any submissions or services which this Agreement requires Architect to furnish to Owner (in addition to any matters which this Agreement specifically requires Architect to furnish to the City).

15.2.7 Architect agrees that the City shall be a third-party beneficiary of Architect's obligations under this Agreement and shall have a direct cause of action against Architect in the event that any claim be made or any cause of action be brought against Owner or the City under this Agreement, or if Architect breaches this Agreement, although nothing contained in this Agreement is intended to establish privity of contract between Architect and the City. Architect acknowledges that it has reviewed the City Contract and agrees to comply with the City Contract with respect to the Work and shall not violate, or through its acts or failure to act, cause Owner to violate, the City Contract. To the fullest extent permitted by law, Architect agrees to defend, indemnify and hold harmless Owner from any claim, liability loss, cost, expense (including attorney's fees), or judgment to which Owner may be subject because of any such action or failure to act.

15.2.8 The identity and scope of any proposed Subconsultant shall be submitted to Owner in accordance with Section 1.9.2 before Architect enters into any proposed Subcontract. Consistent the requirements of the City for services funded in whole or in part by the City, no Subcontracts shall be issued if the City determines for any reason that any proposed Subconsultant is not qualified, Architect shall then submit another proposed Subcontractor for Owner's approval in accordance with this Agreement. In the event that the City rescinds its approval (or its deemed approval pursuant to the City's requirements) following execution of a Subcontract in compliance with this Section, Architect shall be obligated to obtain a replacement Subconsultant pursuant to this Agreement, but Owner shall pay the difference in cost, if any, resulting from such replacement, and the Project Schedule shall be adjusted as appropriate.

15.2.9 In addition to any other right to postpone, delay, suspend or terminate the Agreement or the services set forth in this Agreement, if, pursuant to the City Requirements or otherwise, there shall be a suspension, termination or reduction of the funds from the City or any funding source funding this Agreement as a result of which funds are not available for some or all payments under this Agreement, Owner shall so notify Architect, pursuant to Section 5.4 hereof, and Architect shall, and agrees to, cease to perform the activities specified in the notice (permanently or temporarily, as specified in the notice) on the date set forth therein, which may be immediately. Architect shall assume no further binding obligations in connection with any services specified in the notice to be stopped, after the date set forth in the notice, except that such cessation need only be for the period of suspension if the services are suspended rather than terminated.

ARTICLE 16. CONFIDENTIALITY

16.1 Architect agrees (and shall require all of its Employees, Subconsultants and other Persons performing any part of the services under this Agreement ("Architect's Personnel") to agree) to keep all information concerning Owner, its Employees, and any affiliate of Owner or other entity having an interest in the Project Site or the Project (collectively, the "Protected Parties") and all information concerning the services under this Agreement, the Project Site, the Project, this Agreement and the Deliverables (collectively, the "Confidential Information") confidential at all times during and after the term of this Agreement in accordance with this Article 16. No such information shall be given to any third party, except as required by law, without the prior written consent of Owner, except that the foregoing shall not prohibit or interfere with the disclosure of information required in connection with the performance of Architect's duties hereunder to the extent required for such purposes. Architect shall be responsible for adherence to this provision by all Architect's Personnel and any other parties to which such information is disclosed by Architect. Architect further agrees not to use any confidential or proprietary information to the benefit of any person or entity other than Owner, or adverse to the interests of Owner.

16.2 As between Owner and Architect, the right to release any information relating to the Protected Parties or the Confidential Information and to determine the form, content and timing of the release of such information shall belong exclusively to Owner.

16.3 Architect shall not name or refer to the Protected Parties or the Confidential Information for promotional purposes or advertise or include representations or statements concerning the Protected Parties or the Confidential Information, such as photographs, among Architect's promotional, professional and similar materials without first

obtaining the express prior written consent of Owner's Authorized Representative (in each instance), which may be withheld in Owner's sole discretion. Such materials shall not include any Confidential Information of the Protected Parties. In addition, Architect agrees not to use the name, logo, trademark, service mark or other identification of any Protected Parties or other information regarding the Protected Parties or the Confidential Information without the prior written consent of Owner. Without diminishing the requirements and restrictions of this Section 16.3, Architect shall submit to Owner for written approval any and all proposed promotional, professional and similar materials depicting or referring to the Protected Parties or the Confidential Information at least twenty (20) business days before publishing the same. Architect shall obtain approval confirmed in writing by Owner before any press releases or announcements. Any failure by Owner to respond to a request for consent or approval under this Section shall be deemed to be a disapproval of such request.

SCHEDULE A

The Project; Project Site

The "Project" means the renovation and adaptive reuse of Buildings 15 through 18 along Evans Road (the "Evans Road Buildings") and Building 11 (the "Campus Hub"), as well as landscape and circulation enhancements to the central open space, all in Nolan Park. [Additional scope to be added upon selection of successful proposer.]

The "Project Site" means the portions of the Island Property to be used for the Project.

SCHEDULE B

Subconsultants

[To be Updated Pursuant to Architect Recommendations]

The following, as specifically identified below (or identified by category subject to later engagement) shall be "Subconsultants" under this Agreement; and their fees for Basic Services are included within the aggregate Basic Services Fee set forth in the Business Terms:

<u>Category</u>	<u>Name/Address</u>	<u>Basic Services Fee</u>
Historic Preservation	[to be designated]	
Landscape	[to be designated]	
Code Consultant	[to be designated]	
Structural	[to be designated]	
MEP/Fire Protection	[to be designated]	
Cost Estimating	[to be designated]	
Environmental Assessment	[to be designated]	
Other		

SCHEDULE C

Key Members of Teams; Hourly Rates of Architect and Subconsultants for Additional Services Compensation

1. *Architect*
 - (a) The key members of the team are as follows:

[insert names, titles, and contact information]
 - (b) The hourly rates for Additional Services are as follows:

[insert categories of personnel and hourly rate for each]
2. The key members of the Subconsultants' (as listed on Schedule B hereto) respective teams, and their hourly rates, are listed below:
 - (a) [insert]

SCHEDULE D

Initial Construction Budget

Owner's Initial Construction Budget for the Project is [] Dollars (\$[]).

SCHEDULE E

Deliverables

[Note to draft: text below is provided for illustrative purposes only. Before contract execution, Schedule E will be expanded to incorporate any additional requirements stated in the RFP.]

In addition to standard documents enumerated under applicable provisions of the foregoing Agreement that fully describe the design and building systems for each phase of design, the following documents and submittals are to be provided as part of Basic Services:

A. Program

1. Develop a minimum of two comprehensive programmatic options for consideration. Presentation documents sufficient for all users to understand the design including but not limited to physical and computer models, diagrams, drawings, and narrative descriptions.
2. Completion of site model (3d digital).
3. For Owner's fundraising, public relations and stakeholder outreach:
 - (a) PowerPoint™ presentation of the building in its urban context sufficient to communicate to the general public, potential donors and others how the building relates to the urban context on all four sides of the site, the character and design of the exterior and interior spaces. Presentation to be approved by Owner.
 - (b) Description of the design signed by Architect and approved by Owner, suitable for publication and broad distribution.

B. Schematic Design

1. Develop a minimum of two alternative schematic design studies for consideration. Program documents including diagrams, drawings models and other materials sufficient for all users to understand the details of the program, adjacencies and the relationships between spaces, safety, lighting, and design needs.
2. Presentation documents sufficient for all users to understand the design including but not limited to computer models, diagrams, drawings, and narrative descriptions: complete schematic design set, plans for site development, overall building sections and elevations, plans and section of every space.
3. If significant changes in the design occur between the approved Concept Design and the approved Schematic Design Architect shall revise items under Concept Design #3 above to conform to the approved Schematic Design.
4. Cost estimate.
5. Site plan (inclusive of all utilities (e.g. irrigation and stormwater) and topography)
6. All below ground floor plans
7. Ground floor plan
8. All above ground floor plans
9. Schematic building core plans

10. Building sections
11. Interior elevations
12. Exterior elevations, as required
13. Key wall sections
14. Model
15. Detailed area computations
16. Outline specifications
17. Indication of project staging and temporary construction
18. BIM Execution Plan and model sharing protocol.

C. Design Development

1. Presentation documents sufficient for all users to understand the design including but not limited to computer models, diagrams, drawings, and narrative descriptions.
2. Complete set of design development drawings including plans, elevations sections, typical details, equipment layouts and site development.
3. Cost estimate.
4. Development and written description of donor identification plan, signage plan and naming plan for various portions of the Project.
5. Models of key spaces and the overall building.
6. Materials samples and specifications for all materials.
7. Computer modeled renderings as appropriate to explain the design.
8. Site plan (inclusive of all utilities (e.g. irrigation and stormwater) and topography)
9. All below ground floor plans
10. Ground floor plan
11. All above ground floor plans
12. Exterior elevations, as required
13. Interior elevations of all key areas
14. Schematic building core plans
15. Building sections
16. Exterior and interior wall sections of all key spaces

17. Elevators and escalators and conveyor systems plans
18. Toilet plans, elevator and wall sections
19. Building core plans
20. Outline specifications
21. Detailed area computations
22. Renderings, model
23. Project staging and temporary construction

D. Contract Documents/Construction Drawings and Specifications

1. Presentation documents sufficient for all users to understand the design including but not limited to computer models, diagrams, drawings, and narrative descriptions 50%, 95% and 100% construction document sets.
2. Project manual and bidding and proposal forms and complete specifications.
3. Final Construction Documents, including final drawings and specifications for regulatory approval and bidding; coordinated construction documents; final drawings and specifications shall contain all pertinent information necessary to fulfill the Program and requirements.
4. Cost estimate
5. Site plan (inclusive of all utilities (e.g. irrigation and stormwater) and topography)
6. Final floor plans (building sections, details, interior and exterior elevations, tabulations of gross and net area)
7. All required approvals from utilities and all applicable regulatory approvals
8. Separate drawings and specifications to permit the award of separate contracts for trade work.
9. Renderings and models.

E. Certain Submittals/Deliverables on Allowance Basis

Architect shall prepare and furnish the following on an allowance basis. If the cost exceeds the specified allowance, Owner shall pay for the excess cost as an Additional Service:

1. [INSERT]

F. Coordination of Project

As required under this Agreement.

SCHEDULE F

Required Insurance

The "Required Insurance" under this Agreement consists of all coverages described in, and required under, this Schedule F.

A. Architects and each Subconsultant

1. Architect and each Subconsultant shall secure and maintain the following coverages, with the insurance limits as specified in Section B of this Schedule F.
 - (a) Workers' compensation insurance including employers' liability and statutory disability insurance as required by the laws of New York State (and any other applicable jurisdiction of employment) for all persons employed in connection with the Project.
 - (b) Commercial general liability insurance covering liability for bodily injury including death, property damage and personal injury with regard to the Project. Coverage is to be provided on an occurrence basis and be written via the ISO CG 00 01 12 07 (or equivalent) form. Further, the general liability policy shall contain no exclusions other than the standard exclusions contained in the ISO CG 00 01 12 07 (or equivalent) form with respect to:
 - a. Contractual Liability
 - b. Pollution
 - c. Bodily Injury
 - d. Property Damage
 - e. Personal Injury
 - f. Explosion, Collapse, Underground Property (XCU)
 - g. Mobile Equipment.
 - (c) Business automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles used in connection with the Project insuring against liability for bodily injury including death and for property. Coverage is to be provided via the ISO CA 00 01 03 06 (or equivalent) form.
 - (d) Umbrella/excess liability providing excess coverage above general liability, automobile liability and employers' liability. Coverage is to be afforded on an occurrence basis and not be any more restrictive in coverage than the scheduled underlying policies (general liability, business automobile and employers' liability).
 - (e) Professional liability/errors & omissions liability.
 - (f) Valuable papers coverage in an amount equal to the cost of replacing all designs, drawings, specifications, and other valuable records and documents produced by the Architect and/or Subconsultant under this Agreement.
2. Should any of the insurance carried by Architect or any Subconsultant contain a deductible or self-insured retention, payment of said deductible or self-insured retention is the sole responsibility of Architect or any Subconsultant. In addition, Owner shall have the right to request sufficient proof of Architect's or any Subconsultant's ability to meet said deductible or self-insured retention obligation. There shall be no self-insurance program, including a self-insurance retention, exceeding \$25,000.00, with regard to any insurance required under this Agreement unless approved in writing by the Owner.
3. All insurance carried hereunder is to be primary and non-contributory with any insurance carried by Owner, the Additional Insureds, and all Persons insured thereunder.
4. All insurance carried hereunder shall include a waiver of subrogation in favor of the Additional Insured as required herein. No insurer under such insurance may bring any claim for insurance premiums against Owner.
5. All insurance carried hereunder shall be provided through valid and enforceable policies issued by a company or companies which are licensed to issue insurance in the State of New York and having an A.M. Best rating of "A-" and "VII" or better (or which are otherwise reasonably acceptable to Owner).

6. All of Architect's and each Subconsultant's insurance policies (except for workers compensation and professional liability policies) shall designate the parties identified below as additional insureds ("Additional Insureds"). Additional insured status shall be granted via ISO CG 20 26 or CG 20 10 (or equivalent) forms. No additional insured endorsement will be accepted which attempts to limit Architect's or any Subconsultant's insurance carrier's responsibility (as outlined in ISO CG 20 26 or CG 20 10) to provide defense and indemnification to the Additional Insureds and indemnitees. Architect's and each Subconsultant's umbrella/excess liability coverage should provide additional insured status equivalent to that required of the Architect's and each Subconsultant's general liability coverage as required herein.

The Additional Insureds are:

- (a) Owner;
 - (b) The City;
 - (c) The Owner's Representative;
 - (d) Any other Owner Consultant;
 - (e) **[additional entities to be confirmed]**; and
 - (f) The respective members, directors, commissioners, officers, officials, employees, representatives, and agents of the foregoing entities.
7. Architect's and each Subconsultant's valuable papers coverage should designate Owner as loss payee.
8. Architect and each Subconsultant shall maintain all applicable policies of insurance as described herein from the effective date of this Agreement through Final Completion. Professional liability/errors & omissions liability coverage is to be kept in force for a period of no less than six (6) years from Final Completion.
9. Architect shall require that all Subconsultants and their invitees carry insurance of the same type, coverage and limits as specified herein unless and except as Owner agrees in writing. Architect shall be responsible for: (i) ensuring that each Subconsultant complies with the provisions hereunder and (ii) collecting all applicable documentation.
10. Each policy of Architect's and each Subconsultant's insurance shall contain (whether or not requiring additional premium) an agreement by the insurer that such policy shall not be cancelled or amended, or any coverage reduced, without at least thirty (30) days prior written notice given to Owner at the address specified in this Agreement.
11. Each policy of Architect and each Subconsultant's insurance shall contain (whether or not requiring additional premium) an endorsement that
- (i) no unintentional act or omission of Owner, Architect or any other named or additional insured, and
 - (ii) no violation of warranties, declarations or conditions of the policy or any application therefor by any of the aforementioned,

shall affect or limit the insurer's obligation with respect to Owner and any other named or additional insured.

12. Prior to the commencement of Work, Architect and each Subconsultant shall deliver to Owner certificates of insurance including applicable additional insured endorsement (and copies of the applicable policy if requested by Owner) evidencing compliance with the insurance requirements and limits of liability as set forth herein.

The certificates of insurance must contain the specific number (including edition date) of the general liability form covering Architect or the applicable Subconsultant as well as the additional insured form.

The certificates of insurance must include:

Certificate Holder: Governors Island Corporation d/b/a The Trust for Governors Island
10 South Street, Slip 7
New York, NY 10004

Additional Insured: **All required Additional Insureds stated above**, and their respective members, directors, commissioners, officers, officials, employees, representatives, and agents are included as additional insureds, with coverage at least as broad as the most recently issued ISO Form CG 20 26. Coverage shall be primary and non-

contributory with insurance carried by any additional insured. Further all policies contain a waiver of subrogation in favor of all additional insureds.

Architect and each Subconsultant shall supply replacement certificates of insurance no less than fifteen (15) days prior to renewal of any insurance policy referenced on the certificate and applying to this Agreement.

13. The procurement and premium payment of any additional insurance policies necessary to obtain required permits or otherwise comply with laws, including any changed circumstances regarding the performance of the Project, shall be the responsibility of the Architect and each Subconsultant.

B. Insurance Limits; No Owner Insurance⁴

This Schedule does not reflect Owner's agreement that the stated coverage and limits will be adequate to protect the Architect or any Subconsultant, nor are such coverage and limits intended to limit liability of the Architect or any Subconsultant to Owner. Owner will maintain no insurance for the Architect or any Subconsultant.

With regard to the insurance policies outlined herein, the below limits shall constitute the minimum limits required under this Agreement:

Commercial general liability:

Architect and any Subconsultant:	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000

Business automobile:

Architect and any Subconsultant:	
Combined Single Limit	\$1,000,000

Workers' compensation:

Architect and any Subconsultant:	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$1,000,000

Commercial umbrella/excess:

Architect and any Subconsultant performing engineering services:	
Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000
Any other Subconsultant:	
Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000

Professional liability/errors & omissions:

Architect:	
Each Claim	\$10,000,000
Aggregate	\$10,000,000

⁴ Note to Draft: Owner open to discussion of appropriate alternate limits for Subconsultants based on scope and subcontract value. Respondents must include any/all proposed alternative limits as a "contract comment" within RFP response.

Any Subconsultant performing engineering services:	
Each Claim	\$5,000,000
Aggregate	\$5,000,000

Any other Subconsultant performing professional services	
Each Claim	\$2,000,000
Aggregate	\$2,000,000

Architect's current Professional Liability/Errors & Omissions insurance company shall furnish to Owner, prior to commencement of the Agreement and annually thereafter, a "non impairment letter" as confirmation that the Architect's existing limits of liability and policy aggregates are in full force and effect. Should any limits of liability become fully exhausted due to the payment of claims, Architect and each Subconsultant shall procure replacement policies no less than thirty (30) days from the date the limits were deemed exhausted.

If at any time, Architect or any Subconsultant fails to secure required policies, Owner shall have the right but not the obligation to purchase said insurance at Architect's expense, or to terminate this Agreement immediately for cause.

SCHEDULE G

Project Schedule

[To be Updated]

Design Stages	Duration	Remarks
Programming	__ months	
Schematic Design (includes pre-design and programming)	__ months after notice to start from Owner	
Design Development	__ months	
Construction Documents	__ months	
Bidding and Procurement	__ months	
Construction Contract Administration	__ months	
TOTAL	__ months	

SCHEDULE H

Reimbursable Expenses Budget

The categories of expenditure listed below are "Reimbursable Expenses" for purposes of this Agreement. Architect shall charge no mark-up on any Reimbursable Expenses, which shall be billed at direct cost.

"Reimbursable Expenses" are:

- Cost of out-of-town travel, hotel, food, taxis
- Presentation material for milestone meetings
- Reproduction of drawings and specifications
- Models, photography for presentation purposes
- Renderings and DVD
- Any other reasonable out-of-pocket expenses approved by Owner
- Any other services, determined by Owner to be necessary for the Project.
- Air express deliveries

The Reimbursable Expenses Budget for the Project will not exceed: \$[]

ANNEX "A"

[Annex "A" to be revised in accordance with sustainability goals, as set out in the RFP. Example for LEED provided below for reference.]

LEED SERVICES

ARTICLE 1. GENERAL PROVISIONS

1.1 "LEED Services" means the services of Architect and its Subconsultants described in this Annex, which shall be performed as Additional Services if and to the extent authorized pursuant to Section 1.7.11.

1.2 The Architect shall provide the LEED Services necessary to achieve the LEED rating specified by Owner pursuant to Section 1.1.14 (the "Desired Rating") for the Project under the LEED rating program selected by Owner, in accordance with the meaning given such rating and program descriptions as of the date of Owner's selection of such program or program(s). If the meaning of such rating and program description changes before the respective Project is registered with the Green Building Certification Institute ("GBCI"), the Architect shall consult with Owner as to the appropriate rating and program for the Project which shall be determined by Owner.

1.3 Architect has advised (and represents to) Owner that Architect (either through itself or through a Subconsultant) has the expertise and experience required to provide the LEED Services and design the Project (and provide the Architect's construction administration services) so as to achieve the Desired Rating.

1.4 With regard to the LEED certification requirements for the Desired Rating, Architect will consult with Owner, research applicable criteria, attend Project meetings, communicate with the Construction Manager, Contractors, and Owner's Consultants, and issue progress reports with the Architect's progress submissions of the design documents. Architect shall coordinate the LEED Services provided by Architect those services provided by Owner, Owner Consultants and the Construction Manager that impact the LEED certification process.

1.5 Architect shall timely submit LEED certification documentation to Owner at intervals appropriate to the LEED certification process for purposes of evaluation and approval by Owner and with sufficient time (not less than ten (10) days) for Owner to review the same prior to any LEED certification deadlines or applicable Project milestones.

1.6 Owner will give the Architect such information and data in Owner's possession as necessary or desirable for the Architect to provide the LEED Services under this Annex (which may include master plans, past operation costs, and operating budgets). For existing buildings being renovated, such information may include past design drawings and construction documents, record drawings, shop drawings and other submittals, operation and maintenance manuals, pertinent records relative to historical building data, building equipment and furnishing and repair records.

ARTICLE 2. LEED CERTIFICATION PROCESS

2.1 Pre-Design Workshop. Architect shall conduct a pre-design workshop with Owner, Owner Consultants, the Construction Manager (if then engaged) and the Subconsultants at which the participants will review the LEED program and the LEED requirements for the Desired Rating, as well as any green building requirements required by law or Owner's Funding Sources ("Additional Green Requirements") applicable to the Project. The participants will also examine each LEED credit utilizing the appropriate Green Building Rating System Project Checklist as a template for establishing green building goals, identifying potential LEED points, examining strategies for implementation, assessing the impact on the Program and the Construction Budget, and determining the LEED points to be targeted.

2.2 LEED Certification Plan. Architect shall prepare a plan for obtaining LEED certification of the Project at the Desired Rating (the "LEED Certification Plan"). The LEED Certification Plan will describe the LEED certification process and describe the green building goals established, LEED points targeted, implementation strategies selected,

list of participants and their roles and responsibilities, explanation of how the plan is to be implemented, certification schedule, specific details about design reviews, list of systems and components to be certified, certification documentation required, and any filings or submittals required under Additional Green Requirements. The LEED Certification Plan shall be one of the Schematic Design Documents and shall not be inconsistent with this Agreement. The LEED Certification Plan shall be updated at the end of each design phase to address refinements of the Project's design and changes in the Construction Budget.

2.3 LEED Certification Documentation.

2.3.1 The Architect shall organize and manage the LEED certification process. The Architect shall review the LEED certification process and regularly report progress to Owner.

2.3.2 Architect shall provide the services of LEED accredited professionals necessary for certification of the Project. However, Owner will engage the commissioning agent.

2.3.3 Architect shall register the Project with GBCI as a LEED project on a timely basis in accordance with the Project Schedule. Registration fees charged by GBCI shall be a Reimbursable Expense.

2.3.4 Architect shall prepare submittals for credit interpretation requests ("Credit Rulings") from GBCI for interpretation of credit language, principles, or implementation strategies. Credit Ruling fees charged by GBCI shall be a Reimbursable Expense. Architect shall explain the meaning and impact of Credit Rulings to Owner and the Project team and take such Credit Rulings into account in the design of the Project and in providing the LEED Services.

2.3.5 Architect shall prepare and submit the LEED certification application for the Project to GBCI, including required calculations and documentation for each LEED credit claimed, in accordance with the LEED Certification Plan and applicable GBCI requirements.

2.3.6 Architect shall prepare responses and submit additional documentation required by comments or questions received from GBCI during the technical review and certification audit process.

2.3.7 Architect shall also prepare and submit those reports, filings and submittals – if any – required under Additional Green Requirements.

2.3.8 Upon receipt of the final LEED review from GBCI, Architect shall be responsible for accepting the LEED rating awarded by GBCI within the required time frame, provided the LEED rating awarded is the Desired Rating. If GBCI has not awarded the Desired Rating to the Project, Architect shall consult with Owner about the appeals process with GBCI. If after consultation Owner requests that Architect appeal the awarded LEED rating, Architect shall be responsible for preparing, filing and managing the appeals process with GBCI. Architect shall bear the costs of the appeal to the extent that failure to obtain the Desired Rating was the result of Architect's fault; otherwise Architect's work on such appeal shall be an Additional Service.

2.3.9 If, after all appeals with GBCI are finally determined, the Project is not awarded the Desired Rating, then Owner may, at its election, require Architect to redesign aspects of the Project as necessary to achieve the Desired Rating. If and to the extent that failure to obtain the Desired Rating was the result of Architect's fault, such redesign shall be at Architect's expense; otherwise Architect's corrective work shall be an Additional Service.

2.4 LEED Certification Specifications. Architect shall incorporate the applicable LEED requirements for the Desired Rating into the Specifications. The Specifications shall set forth the responsibilities and documentation requirements of CM or the applicable Contractor related to LEED certification, including those for credits relating to construction waste management, construction indoor air quality, and building materials.

2.5 Bidding Phase LEED Services.

2.5.1 Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the bidding documents related to LEED issues.

2.5.2 Architect shall consider and consult with Owner and CM as to LEED ramifications of proposed substitutions.

2.6 Construction Administration LEED Services

2.6.1 In providing its construction administration services, Architect shall take into account LEED certification requirements and issues.

2.6.2 Architect shall review proposed Change Orders for impact on LEED certification. If Architect determines that implementation of the requested changes would result in a material change to the LEED certification, Architect shall notify Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information, if any, furnished by CM and Contractor(s), Architect shall advise Owner regarding the possible modification of such Change Orders.

2.6.3 At 25%, 50% and 75% completion of construction, Architect shall prepare a report advising on the progress and compliance of the Project at its then stage of completion with LEED certification requirements for the Desired Rating, separately evaluating each LEED point targeted in the LEED Certification Plan. Following each issuance of such report to Owner, Architect shall meet with CM, Contractors and Owner to discuss the progress of the Project towards LEED certification and to address any areas of concern.

2.6.4 The Project shall not be deemed to have reached Substantial Completion unless and until Architect has determined that the Project will have met the requirements for the Desired Rating after completion of the Punch List.

2.7 Final LEED Certification Report. Architect shall prepare and deliver to Owner a final LEED certification report (the "Final LEED Report") documenting the LEED rating the Project achieved (after the conclusion of any appeals process), including the LEED Certification Plan, LEED certification documentation submitted, reports and submittals made pursuant to Additional Green Requirements, Credit Rulings received, material correspondence received from government or financial entities relating to Additional Green Requirements, LEED certification reviews received from GBCI, together with the specific LEED points that the Project is recognized as having received, all clarifications or interpretations of credits, and any re-certification requirements.

ANNEX “B”

FURNITURE PLANNING SERVICES

Architect shall perform the following Furniture Planning Services as Additional Services if and to the extent authorized pursuant to Section 1.7.12.

A. Design of Furniture

1. The Architect shall design or specify all proposed Furniture for the Project.
2. Furniture proposals shall include a full description of the material, color, texture, and proposed manufacturer of all Furniture.
3. Sample boards shall be submitted to Owner for approval of all materials and colors.
4. Manufacturers' cut-sheets shall be submitted for all Furniture.
5. The design for Furniture shall be included in the Schematic Design, Design Development and Construction Documents on the same basis that Fixtures & Equipment is addressed in the Agreement.

B. Procurement of Furniture. The Architect shall:

1. Consult with Owner on potential Furniture vendors.
2. Obtain price estimates from Furniture vendors.
3. If the total price estimate for all Furniture exceeds Owner's budget for same, the Architect shall propose revisions to the Project Documents to bring the Project within budget.
4. Assist Owner in selecting vendors for Furniture.
5. Assist Owner in preparing all purchase orders for selected vendors; deliver executed purchase orders to approved vendors.

ANNEX “C-1”

NORTH ISLAND DESIGN GUIDELINES

ANNEX “C-2”

SOUTH ISLAND DESIGN GUIDELINES

ANNEX "D"

E.O. 50 SUPPLY & SERVICE RIDER **EQUAL EMPLOYMENT OPPORTUNITY**

(For purposes of this Annex "D", the "Consultant" means Architect and "contract" means this Agreement.)

This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) (Sections 10-14) as revised ("E.O. 50") and the rules and regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the Consultant agrees that it:

1. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;
2. Will not discriminate in the selection of subconsultants on the basis of the owner's, partners' or shareholders' race, color, creed, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status;
3. Will state in all solicitations or advertisements for employees placed by or on behalf of the Consultant that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status, or that it is an equal employment opportunity employer;
4. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder;
5. Will furnish before the contract is awarded all information and reports including an Employment Report which are required by E.O. 50 (Sections 10-14), the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services ("Division"). Copies of all required reports are available upon request from the contracting agency; and
6. Will permit the Division to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such rules, regulations and orders.

The Consultant understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, such noncompliance shall constitute a material breach of the Agreement and noncompliance with E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

- i. Disapproval of the Consultant;
- ii. Suspension or termination of the Agreement;
- iii. Declaring the Consultant in default; or
- iv. In lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Division may recommend to the contracting agency head that a Consultant who has repeatedly failed to comply with E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder be determined to be nonresponsible.

The Consultant agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of New York City's small purchase limit established by rule of New York City's Procurement Policy Board to which it becomes a party unless exempted by E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subconsultant or vendor. The Consultant will take such

action with respect to any subcontract or purchase order as may be directed by the Director of the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The Consultant further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder with a subconsultant who is not in compliance with the requirements of E.O. 50 (Sections 10-14) and the rules and regulations promulgated thereunder.