

TRANSMITTAL: Request for Qualifications

To:	Engineering Firm	Sent Via:	N/A
From:	David Yoo	Date:	N/A
Re:	Request for Engineering Services Qualification	Pages:	(30) Pages

Grady Health System Facilities Development (GHS-FD) appreciates your interest in providing engineering services and our intention is to qualify your firm for project engineering involvement.

GHS-FD provides services for maintenance, engineering and construction operations for all the GHS facilities. GHS-FD typically manages projects that have dollar values ranging from \$2,000 to \$20,000,000. GHS-FD manages approximately 150-200 projects annually. New design and construction, light and heavy interior and exterior renovation, equipment replacements, engineering studies, commissioning of existing utility systems, asbestos abatement, and cosmetic upgrades are the types of projects GHS-FD is involved with annually.

GHS-FD is soliciting a qualification package in order to add your firm to our bid list for future project work. We are looking for favorable experience, size, services offered, insurance, bonding capacity, references, financial strength, and safety records.

Per your expressed interest, GHS-FD is requesting the completion of the **Qualification Form** attached. Please be sure to include the requested back-up documentations including signature of acceptance of GHS-FD **General Conditions of Contract** for Engineering Services (form attached). The **W-9 Form** is also required. Feel free to send any additional documents such as brochures, business cards, etc.

Please send the qualifications package to:

Grady Health Systems
Attn: David Yoo, Facilities Development
80 Jesse Hill Jr. Drive, S.E.
P.O. Box 26083
Atlanta, GA 30303

GHS-FD encourages the participation of HUB contractors and suppliers.

GHS-FD is excited and looks forward to possibly working with your firm. Please do not hesitate to call me at 404-616-3872 or by email at dyoo@gmh.edu if you have any questions or concerns. We look forward to hearing from you.

Sincerely,

David Yoo

Pre-Construction Manager/Estimator
GHS-FD

Professional Services Qualification Form

Name: _____ Date: _____
 Address: _____ Contact: _____
 City/State/Zip: _____ Phone No. _____
 Email: _____
 President: _____ Type of Firm: Corporation
 Vice President: _____ Partnership
 Sec/Treas: _____ Other

Year Founded _____ Years under present name: _____ Years Performing Work Specialty: _____
 Work now under Contract: _____ Percentage of Work Performed by Own Forces: _____
 Average Contract Amount: _____ Contract Range: _____ to _____
 Work in Place Last Year: _____ Average Annual Sales last Three Years: _____
 Average Work in Place Last 3 Years: _____ Number of Employees in the Office: _____
 Georgia Architectural/Engineering License Number: _____

Fundamental Services Offered by Your Firm:

- Planning/Programming Master Planning: _____
- Architectural Design: _____
- Interior Design: _____
- Engineering (Specify): _____
- Landscape Architecture/Design: _____
- Construction Management: _____
- Other (Specify): _____

Is your firm presently using CAD? Yes No System: _____

Current Work (Health Care, Commercial, Hospitality, Other)	Quality of Work Performed References:		
_____ % Volume	Institution	Contact	Phone
_____ % Volume	_____	_____	_____
_____ % Volume	_____	_____	_____
_____ % Volume	_____	_____	_____

Submit a list of relevant projects and references with this form

Insurance Company: _____ Contact: _____ Phone: _____
 General Liability Policy Number: _____ Limit: _____ Effective Period: _____
 Automotive Liability Policy Number: _____ Limit: _____ Effective Period: _____
 Workers Compensation Policy Number: _____ Limit: _____ Effective Period: _____
 Excess Liability Policy Number: _____ Limit: _____ Effective Period: _____

Submit a copy of your latest Certificate of Liability Insurance with this form.

Bank: _____ Phone No.: _____
 Address: _____ Contact: _____
 City/State/Zip: _____

Professional Services Qualification Form – page 2

Federal Identification Number: _____

Dunn and Bradstreet Number: _____

Submit a copy of your latest Financial Statement with this form

Has Firm Failed to Complete a Contract? Yes No

Has Firm been involved in Bankruptcy or Reorganization? Yes No

Does Firm have any Pending Judgements, Claims, or Suits? Yes No

If the answer to any of the last three questions is yes, submit details.

Credit References:

	Items Supplied	Name	Monthly Bill	Contact/Phone
Suppliers	_____	_____	_____	_____
	_____	_____	_____	_____
Other	_____	_____	_____	_____
	_____	_____	_____	_____
Contractors	_____	_____	_____	_____
	_____	_____	_____	_____

Is Firm qualified as a HUB, WBE, DBE, or MBE? Yes No

If yes, where: _____

Enclose Copy of Certification

Signature – Information Release:

My signature below authorizes any references including credit-reporting agencies to furnish information requested by GHS-FD.

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

Name: _____ Title: _____ Date: _____

Comments: _____



GHS-FD Comments: _____

General Conditions of Contract Acceptance Form

Firm:

To whom it may concern:

Type of General Conditions of Contract Accepted (Circle all that Apply): Architect Contractor Engineer Professional Services

I certify that the terms and General Conditions of Contract Between Owner and our firm have been specifically noted and that I have taken them into consideration in the submission of this Qualifications Package. I agree to abide by the General Conditions of Contract Between Owner and Engineer and certify that I am authorized to sign this acceptance form.

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

By:

NAME: _____

TITLE: _____

PHONE: () _____

FAX: () _____

SIGNATURE: _____

DATE: _____

Note: this form may, at the firm's discretion, be replaced by another document to the same effect.

GENERAL CONDITIONS
OF CONTRACT BETWEEN
OWNER AND ENGINEER

(For Review and Acceptance in Order to Be Pre-Qualified)

FULTON-DEKALB HOSPITAL AUTHORITY
(D/B/A GRADY HEALTH SYSTEM)
80 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30303

("Owner")

and

Engineering Company Name

Engineer Address

("Contractor")

("Engineer")

Date: Same as date on page 3

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GENERAL TERMS AND CONDITIONS OF
CONTRACT BETWEEN
OWNER AND ENGINEER

THIS DOCUMENT OF GENERAL TERMS AND CONDITIONS OF CONTRACT ("Document") BETWEEN OWNER AND ENGINEER is made as of xx/xx/xx by and between Fulton-Dekalb Hospital Authority (D/B/A Grady Health System), a Georgia county hospital authority ("Owner"), and Name of Company, a Georgia corporation ("Engineer").

RECITALS

Owner may desire to engage Engineer for the performance of design and other related services.

In order to engage the services of Engineer, Owner shall issue an offer substantially in the form of Exhibit A, which is attached and incorporated by reference ("Project Engagement Letter"). The Project Engagement Letter shall set forth the scope of the work, the consideration to be paid and other project-specific matters. The provisions of the Project Engagement Letter shall be controlling to the extent they are inconsistent or conflict with any provisions of the Document.

The parties understand and agree that this Document sets forth the general terms and conditions of the contract which is formed upon the issuance and acceptance of a Project Engagement Letter, together these documents are hereafter referred to as the "Contract."

This Document shall constitute the controlling the general terms and conditions upon the acceptance of a Project Engagement Letter. Separate and distinct Project Engagement Letters may be issued by Owner during the term of this Document. Each such Project Engagement Letter together with the general terms and conditions contained in this Document shall constitute a separate and distinct Contract.

THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Owner and Engineer agree as follows:

ARTICLE 1
ENGINEER'S RESPONSIBILITIES

1.1 ENGINEER'S SERVICES; GENERAL PROVISIONS

1.1.1 Engineer's services consist of those services performed by Engineer, Engineer's employees and Engineer's consultants as enumerated in Articles 1, 2 and 3 of this Document and any other services which may be included in the Project Engagement Letter. If Engineer and Owner agree upon modifications to the Basic and/or Additional Services provided for in Articles 1, 2 and/or 3, such modifications will be set forth in the Project Engagement Letter. The provisions of the Project Engagement Letter shall be controlling to the extent they are inconsistent or conflict with any of the provisions of Articles 1, 2 or 3.

1.1.2 Engineers services shall be performed in accordance with the care, diligence and professional standards commensurate with Engineering firms in the locality in which the project is located, engaged in connection with projects of similar scope and magnitude under similar conditions and circumstances. All services of Engineer shall be performed as expeditiously as is consistent with this standard and the orderly progress of the work and in accordance with a schedule approved by Owner. On or before the 10th day after the date of each Project Engagement Letter, Engineer shall submit for Owners approval a detailed schedule for the performance of Engineer's services in substantially the same form as Exhibit B which is attached and incorporated by reference. The schedule shall include reasonable allowances for periods of time required for Owner's review and for approval of submissions by authorities having jurisdiction over the project. The schedule for the performance of Engineer's services shall provide for commencement of construction of the project on or before the date specified in the Project Engagement Letter. Once approved by Owner, the schedule shall become a part of the Contract. The schedule, and the time periods for performance of Engineer's services, shall not be revised without the prior written consent of Owner. The Engineer shall staff the project and arrange for such other equipment, services and support as may be required to perform in accordance with the schedule.

1.1.3 On or before the 5th day after the date of each Project Engagement Letter, Engineer shall submit, in substantially the same form as Exhibit C which is attached and incorporated by reference, for Owner's approval, a list of key personnel of Engineer (the "Schedule of Key Personnel") who will perform or be responsible for supervising performance of the services of Engineer in connection with the project. Upon Owner's approval, the Schedule of Key Personnel shall be attached as an Exhibit to the Project Engagement Letter and shall become part of the Contract. Engineer shall use best efforts to avoid removal of any such personnel from the project. Any replacement of such personnel shall be subject to the prior written approval of Owner. Owner's approval shall not to be unreasonably withheld.

1.1.4 All references in this Document to "General Conditions of the Contract for Construction," shall mean the Standard Form General Conditions used by Owner in connection with the Contract between Owner and Contractor for the project or if no Contract between Owner and Contractor then exists, the edition of Standard Form General Conditions current as of the date of the Project Engagement Letter, a copy of which will be given to Engineer upon request.

1.1.5 Engineer represents that the Drawings and Specifications, as defined in Section 2.4.1, will be accurate, and that if it recommends unsuitable materials in the Specifications, it will assume sole responsibility for any re-design, remediation, damages, losses, claims or expenses caused by such unsuitable materials. Engineer further represents that the design of the project will conform to its foreseeable use as a project with all the amenities as set forth in the Drawings and Specifications. Engineer's representations shall not be affected by Owner's approval of the Drawings and Specifications or any other work product of Engineer nor shall Engineer be released from any liability by reason of such approval by Owner. Engineer understands and agrees that Owner is ultimately relying upon Engineer's skill, knowledge and professional training and experience in preparing the Drawings and Specifications and all other work products of Engineer. Engineer shall not be responsible for those materials that are ultimately determined to be unsuitable if such materials (i) were consistent with Owner's Program and (ii) at the time of execution of the Project Engagement Letter, the materials were generally recognized within the design and construction industries as being suitable for the purpose intended.

1.1.6 Engineer represents that all persons connected with Engineer who are directly in charge of the professional Engineering work for the project shall have experience with that type of project and shall be duly licensed to practice under the laws of the State of Georgia and that all

engineering services provided shall be performed under the direct supervision of an engineer, or engineers, licensed to practice under the laws of the State of Georgia.

1.1.7 Engineer shall perform its services in the best way and in the most expeditious and economical manner consistent with the best interests of Owner.

1.1.8 Engineer shall, at its own cost, make good any defects or errors in its services, including but not limited to any defective, incomplete or erroneous plans, Drawings, Specifications or instructions furnished by or through Engineer as soon as Engineer becomes aware of such defects or is notified of such defects. Should Engineer refuse or neglect to make good such defects within a reasonable time (not to exceed five (5) days unless otherwise agreed in writing by Owner) after receiving notice requesting such remedial work, then Owner shall be entitled to make good such defective services at the expense of Engineer. This commitment by Engineer is in addition to, and not in substitution for, any other remedy for defective services that Owner may have under the Contract or at law or in equity.

1.1.9 Engineer may, subject in each instance to the prior written approval of Owner, enter into written agreements with such civil, structural, mechanical, electrical and plumbing or other engineering firms (individually a "Consultant," collectively "Consultants") as Engineer deems necessary or appropriate in order to assist Engineer in providing its services to Owner. Each such agreement shall provide that: (i) each Consultant, to the extent of the services to be provided by it, shall be bound by the terms and conditions of the Contract between Owner and Engineer and shall assume toward Engineer all the obligations and responsibilities which Engineer assumes toward Owner; (ii) each Consultant shall be directly liable, and Engineer shall be jointly and severally liable, to Owner for the performance of such Consultant's services; (iii) each Consultant shall look solely to Engineer for the performance of all of its obligations; and (iv) each Consultant expressly waives any and all liability of whatever nature or kind of Owner. Owner shall not, however, have or be deemed to have any direct contractual relationship with any such Consultant and shall not be obligated to pay, or be liable for the nonpayment of, the fees, costs and expenses of any such Consultant. All such fees, costs and expenses are the obligation of Engineer. To the extent Engineer retains Consultants to perform portions of Engineer's services, Engineer shall be responsible for their work as though it had been performed directly by Engineer. Engineer shall submit a list of all such Consultants in substantially the same form as Exhibit D which is attached and incorporated by reference. The list will be attached to the Project Engagement Letter as an Exhibit and become part of the Contract.

1.1.10 Engineer shall identify for Owner, on a timely basis, all of the types of special consultants (i.e., soil testing, environmental, etc.) which Owner will need to retain and the information and services each such consultant will have to provide to Owner in order for the design and construction of the project to proceed in conformity with the requirements and intent of the contract documents. Engineer shall continuously maintain a cooperative posture with all Consultants and any consultants retained directly by Owner, and shall coordinate their design activities as necessary to provide for a properly integrated, inter-related and complete design. Engineer shall submit a list of all such special consultants in substantially the same form as Exhibit D which is attached and incorporated by reference. The list will be attached to the Project Engagement Letter as an Exhibit and become part of the Contract.

1.1.11 During the development of the drawings, specifications and other work products, Engineer shall consult on a regular basis with Owner and, if then retained by Owner, the contractor under the Contract between Owner and Contractor ("Contractor"), and shall submit to Owner and Contractor various drawings, specifications and other documents under preparation. If Contractor is providing preconstruction services to Owner, Engineer shall consult with Contractor from time to time but Owner shall be obligated to coordinate comments and input from Contractor and Owner,

communicate same to Engineer and make and issue all determinations, instructions and directions.

1.1.12 The term "approval" and its derivatives as used in this Document in reference to owner shall be interpreted to mean either (i) acceptance, in general concept, by Owner of a proposal, or (ii) authorization by Owner to proceed with a particular action, as the case may be. Engineer understands and agrees that any review, approval, comment or evaluation by Owner of any plans, drawings, specifications or other documents prepared by or on behalf of Engineer shall be solely for determining, for Owner's own satisfaction, the suitability of the project, or portions of the project, detailed in such plans, drawings and specifications. Owner's review, approval, comment or evaluation may not be relied upon by Engineer, its Consultants or any other third party as a substantive review in such plans, drawings and specifications or other Engineer work product. Owner, in reviewing, approving, commenting on or evaluating any plans, drawings, specifications or other documents shall have no responsibility or liability for the accuracy or completeness of such documents for any defects or inadequacies or for any failure of such documents to comply with the requirements set forth in the Contract. In no event shall any review, approval, comment or evaluation by Owner relieve Engineer of any liability or responsibility under the Contract.

ARTICLE 2 SCOPE OF ENGINEER'S BASIC SERVICES

2.1 DEFINITIONS; LEGAL REQUIREMENTS

2.1.1 Engineer's Basic Services consist of the services described in Article 1, and Article 2 of this Document and the services described in the Project Engagement Letter, and include, without limitation, all architectural and structural, mechanical and electrical engineering services and all structural, plumbing, fire protection, mechanical and electrical design services, as necessary to produce a complete and accurate set of Construction Documents, as described by and required in Section 2.4. Engineer shall prepare, as part of its Basic Services, such additional details, drawings, specifications addenda and revisions or clarifications to the Drawings and Specifications or other items as may be necessary to (i) demonstrate that the Construction Documents comply with all Legal Requirements, (ii) obtain required building permits or approvals from governmental authorities with jurisdiction over the project, and (iii) provide clarifications to Contractor and subcontractors during the bidding and construction of the project.

2.1.2 The Schematic Design Documents, the Design Development Documents, the Construction Documents, and all drawings prepared in connection with any change in the work shall comply with all applicable laws, statutes, ordinances, codes, orders, rules and regulations of governmental authorities having jurisdiction over the site or the work in effect as of the date of the applicable Project Engagement Letter (collectively, "Legal Requirements"). Engineer shall, at no expense to Owner, promptly modify any such documents which are not in accordance with such Legal Requirements. Engineer shall use its best efforts to obtain at the earliest practicable time, review of the Drawings and Specifications from any governmental agency whose approval of the Drawings and Specifications is required under any Legal Requirements. Engineer shall advise Owner of any aspect of the Drawings or Specifications which, in the opinion of Engineer, may be, or is, the subject of a controversial interpretation of any Legal Requirements. If any such governmental agency requires modifications to the Drawings or Specifications to comply with such Legal Requirements, such modifications shall be made by Engineer at no expense to Owner.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 Engineer, in consultation with Owner and any other persons designated by Owner, shall ascertain Owner's needs regarding time, form, function, location, and economy, including without

limitation, (i) scheduling, (ii) space requirements and relationships, (iii) design flexibility, expendability, constraints and other design criteria, (iv) special equipment, machinery and building systems, (v) site requirements and (vi) budget parameters. Engineer, taking into account such needs and requirements of Owner, shall develop or, at the request of Owner, assist Owner in developing, a written document describing in sufficient detail the requirements for the project ("Program") for the review and approval of Owner.

2.2.2 The Engineer shall provide a preliminary evaluation of the Program, construction schedule and construction budget requirements of Owner, each in terms of the other, subject to the limitations set forth in Section 5.2.1.

2.2.3 Engineer shall, as part of Basic Services, propose to and review with Owner alternative approaches to the design and construction of the project. Each such alternative shall be consistent with the Program developed by Engineer and Owner pursuant to this Article 2 and Owner's budget parameters of the project. In connection therewith, Engineer shall prepare and exhibit to Owner reasonably detailed and complete floor plans, elevations, concept drawings, preliminary estimates of Construction Cost, and life cycle owning and operating costs for each such alternative (such alternative design selected by Owner, in writing, if any, shall be referred to as the "Accepted Alternative"). In the event Owner, in its sole discretion, does not accept any of the alternatives so proposed by Engineer, Owner may elect to terminate the Contract in accordance with the provisions of Section 8.1.2.

2.2.4 Based on the mutually agreed-upon Program, Owner's construction schedule, final completion date requirements and construction budget requirements, Engineer shall prepare, for approval by Owner, Schematic Design Documents (which, if applicable, shall be based upon any Accepted Alternative selected by Owner in writing) consisting of drawings and other documents illustrating the scale and relationship of project components and outlining the nature of the structural exterior and major basic systems of the project.

2.2.5 At such time as Engineer submits the Schematic Design Documents to Owner for approval, Engineer shall submit to Owner a preliminary estimate of Construction Cost (which estimate shall include such contingency amounts, clearly identified as such, as may be appropriate under the circumstances) based on current area, volume or other unit costs. To the extent Owner shall have retained Contractor at this point in the design process to provide preconstruction services which include providing Owner with cost estimates of the developing design, Engineer shall cooperate with Contractor in preparing its estimates, shall provide Contractor with such information as Contractor may reasonably require in order to provide Owner with Construction Cost estimates. Engineer shall, as part of its Basic Services, modify the Schematic Design Documents in a manner satisfactory to Owner to the extent necessary to bring the design back within Owner's budget if the estimates prepared by Engineer or Contractor indicate that the Construction Cost will likely exceed Owner's budget. The Owner's written approval of the Schematic Design Documents, construction schedule and budget must be obtained by Engineer prior to Engineer beginning any work on Design Development Documents.

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents, construction schedule and budget, Engineer shall prepare, for approval by Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the project as to structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.3.2 As the design is being developed, Engineer shall advise Owner of any adjustments to the preliminary estimate of Construction Cost provided to Owner at the conclusion of the Schematic Design Phase. Based upon the Design Development Documents and such adjustments, if any, in the Program approved by Owner, Engineer shall, with its submittal of the Design Development Documents to Owner, submit for Owner's review and approval a further and more detailed estimate of Construction Cost for the project. The estimate shall include Engineer's best estimate of the cost of each category of the work. If Owner has retained Contractor to provide cost estimating services to Owner, then instead of being responsible for preparing the estimates of Construction Cost, Engineer shall consult and cooperate with Contractor in connection with Contractor's preparation of more detailed estimates of Construction Cost. If and to the extent the estimates of Construction Cost prepared by Engineer or Contractor, as the case may be, pursuant to this Section 2.3.2, exceed the budget established by Owner for the project, Engineer shall, as part of its Basic Services, revise the design of the project to the extent necessary and in a manner satisfactory to Owner to keep the Construction Cost estimates for the project within Owner's construction budget. Owner's written approval of the Design Development Documents; construction schedule and budget must be obtained by Engineer prior to Engineer beginning any work on Construction Documents or Drawings and Specifications.

2.3.3 FIELD VERIFICATION Verify new design for compatibility with existing facility conditions to include, but limited to: Utility system capacities, Life Safety Systems, Structural configurations, Voice/data systems, Utility routing and Security Systems.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents, Owner's construction budget and any further adjustments in the scope or quality of the project or in such construction budget authorized by Owner, Engineer shall prepare, for approval by Owner, Construction Documents consisting of working drawings and specifications setting forth in detail the requirements for the construction of the project in conformity with applicable Legal Requirements ("Drawings and Specifications"). The Construction Documents shall include all Drawings and Specifications, and such content and detail, as are required to obtain required permits and regulatory approvals and shall provide information customarily necessary for the use of such documents by those in the building trades. Engineer shall provide Owner with "in progress" prints and other documents for Owner's review and information at 90% and again at 100% levels of completion. Engineer, as a Basic Service, shall respond to all comments made by Owner as a result of Owner's review and shall either (i) make appropriate revisions or corrections to the Construction Documents or (ii) provide a written explanation, acceptable to Owner, of why no revision or correction is necessary or appropriate.

2.4.2 Engineer shall provide Owner with ongoing pricing information consistent with the then current stage of the evolving Construction Documents. Engineer shall advise Owner of any adjustments to the estimates of Construction Costs provided under Section 2.3.2 that are indicated by changes in requirements or general market conditions and shall update and revise such estimates as necessary to incorporate such changes. Engineer, as a Basic Service, shall revise the Construction Documents to the extent necessary and in a manner satisfactory to Owner to keep the Construction Cost estimates for the project within Owner's construction budget.

2.4.3 Engineer shall, on a timely basis, identify for Owner the governmental permits and approvals that are required for construction of the project and shall assist Owner in connection with Owner's responsibility for filing documents required for such permits and approvals.

2.4.4 If Contractor is providing Owner with cost estimating services, Engineer shall cooperate with Contractor in preparation of its Construction Cost estimates during the completion of the

Construction Documents and shall, as a Basic Service, revise the Construction Documents to the extent necessary and in a manner satisfactory to Owner to keep the Construction Cost within Owners budget if the estimates prepared by Contractor indicate that the Construction Cost is likely to exceed Owner's budget.

2.5 BIDDING OR NEGOTIATION PHASE

2.5.1 If Contractor has not been retained by Owner, Engineer, following Owner's approval of the Construction Documents and of the latest estimates of Construction Cost, shall assist Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

2.6 CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 Engineer's responsibility to provide Basic Services for the Construction Phase commences with the issuance by Owner of a Notice to Proceed under the Contract for Construction and terminates at such time as the final completion of the project has been achieved, Engineer has properly issued to Owner the final Certificate for Payment and Owner has accepted the completed project as evidenced by a written notice delivered to Engineer.

2.6.2 Engineer shall provide administration of the Contract for Construction as set forth below, in the General Conditions of the Contract for Construction, and in the Project Engagement Letter.

2.6.3 Engineer's Construction Phase duties, responsibilities and authority may be restricted, reduced or modified in the sole discretion of Owner, but shall not be extended or expanded without the written agreement of both Owner and Engineer.

2.6.4 Engineer shall be a representative of and shall advise and consult with Owner during the Construction Phase and from time to time during the correction period described in the Contract for Construction. Engineer shall have authority to act on behalf of Owner only to the extent provided in this Document unless otherwise modified by written instrument.

2.6.5 Engineer shall visit the site in the frequency specified in the Project Engagement Letter to become familiar with the progress, quantity and quality of the work completed and to determine if the work is being performed in accordance with the Contract Documents and applicable Legal Requirements. To the extent the stage of construction or other matters relating to the progress of the work dictate that more extensive site visitation is necessary in order for Engineer to fulfill its obligations, Engineer shall do so, as a part of Basic Services, without any additional request from Owner. Engineer shall keep Owner informed of the progress, quantity and quality of the work. Engineer shall promptly submit to Owner a detailed written report of the results of each visit to the site. Engineer will exercise due care and diligence in discovering and promptly reporting to Owner any defects or deficiencies in the work observed by Engineer, whether being performed by Contractor or any of its subcontractors, or their agents or employees, or any other person and the existence of any hazardous or toxic materials incorporated into the work. Engineer shall perform such visits to the site only with competent personnel who are experienced in such tasks and who are acceptable to Owner.

2.6.6 Engineer shall not have control over or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work. Engineer shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the work.

2.6.7 Engineer shall at all times have access to the work wherever it is in preparation or progress.

2.6.8 Based on Engineer's observations at the site and evaluations of Contractor's Applications for Payment, Engineer shall review, certify and recommend to Owner, for its approval, the amounts properly due Contractor within five (5) days after receipt of Contractor's Application for Payment, and shall, from time to time upon the reasonable request of Owner issue to Owner and/or Owner's lender, if any, such other documents, certificates, instruments and information as may reasonably be requested by Owner or Owner's lender.

2.6.9 Engineer's certification for payment shall constitute a representation to Owner, based on Engineer's observations at the site as provided in Section 2.6.5 and on the data comprising Contractor's Application for Payment, that the work has progressed to the point indicated and that the quality of the work is in accordance with the contract documents.

2.6.10 Engineer shall recommend to Owner the rejection of any work which does not conform to the contract documents. Whenever Engineer considers it necessary or advisable for implementation of the intent of the contract documents, Engineer shall have the responsibility to recommend to Owner the performance of additional inspection or testing of the work whether such work is fabricated, installed or completed. Upon completion of all tests or inspections required under the contract documents and any such special tests and inspections, Engineer shall promptly prepare a written report for Owner (i) summarizing the results of such inspections and tests, (ii) identifying Engineer's recommendations for any changes in the work or any work that should be redone, and (iii) advising Owner of Engineer's reasonable estimate of the schedule and cost implications of the test and inspection results and Engineer's recommendations.

2.6.11 Engineer shall review, and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with information given and the design concept expressed in the contract documents and whether the work will be in compliance with the contract documents. Engineer's action shall be taken within fourteen (14) days, or such other reasonable period as may be mutually agreed upon in writing, so as to cause no delay in the work schedule or in the construction of Owner or of separate contractors. Engineer agrees that said time period is sufficient time, in Engineer's professional judgment, to permit adequate review. Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the contract documents, Engineer shall be entitled to rely in good faith upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the contract documents.

2.6.12 Engineer shall prepare change orders and construction change directives, with supporting documentation and data if deemed necessary by Engineer, as provided in Sections 3.1.1 and 3.3, for Owner's approval. Engineer may authorize minor changes in the work not involving an adjustment in the Contract Sum or the Contract Time which are consistent with the intent of the contract documents. Engineer shall not suspend or delay work in the event Owner and Engineer are in a dispute as to whether certain Engineer's services are considered Basic or Additional Services.

2.6.13 Engineer shall conduct inspections to determine the date or dates of Substantial Completion and final completion. Engineer shall receive, organize and review for completeness and, when satisfactory, forward to Owner written warranties and related documents assembled by Contractor and required by the Contract Documents. Engineer shall issue a final Certificate for Payment only upon compliance with the requirements of the contract documents and final completion.

2.6.14 When Contractor has advised Owner that Substantial Completion of the project has been achieved, Engineer, Owner and Contractor shall inspect the project on a mutually satisfactory date. Promptly thereafter, Engineer shall issue a report ("Punchlist") that describes items identified by inspection or otherwise observed by Engineer which are incomplete or improperly completed, including, without limitation, all administrative requirements and documentary requirements of the Contract for Construction. Substantial Completion shall not be deemed to have been achieved unless and until the items of work remaining to be completed on the Punchlist are reasonably capable of being completed (i) prior to the scheduled date of final completion or (ii) within thirty (30) days, whichever is earlier. Upon Substantial Completion, Engineer shall issue a certificate of Substantial Completion. If required by the Project Engagement Letter, the Punchlist shall also include a per-item estimate of the cost of completing each item listed. When the Engineer determines that Punchlist items have been completed, Engineer, Contractor and Owner shall reinspect the project and Engineer shall prepare such supplemental Punchlists as may be required to enumerate any remaining or new incomplete or improperly completed items of work.

2.6.15 Engineer shall interpret and provide recommendations concerning the performance of Contractor under the requirements of the contract documents. Engineer's interpretations and recommendations shall be made with reasonable promptness or within any time limits agreed upon, but in no event less frequently than monthly.

2.6.16 Interpretations and recommendations of Engineer shall be consistent with the intent of and reasonably inferable from the contract documents and shall be in writing or in the form of drawings.

2.6.17 Engineer shall render written recommendations within a reasonable time on all claims, disputes or other matters in question between Owner and Contractor relating to the execution or progress of the work that are submitted to Engineer for initial recommendations in accordance with the contract documents.

2.6.18 Engineer shall review for accuracy and deliver to Owner when complete, the set of reproducible record Drawings in hard copy and on computer disk showing all significant changes to the Drawings during the Construction Phase, based on Engineer's knowledge and observations, and information provided by Contractor. Engineer in submitting such prints to Owner shall certify, to the best of its knowledge and belief, that all changes made during the performance of the work that were either prepared or reviewed by Engineer are reflected in such prints.

2.6.19 Engineer represents and warrants to Owner that:

1. Engineer is financially solvent, able to pay debts as they mature and is possessed of sufficient working capital to complete the services and obligations required;
2. Engineer is able to furnish all of the plant, tools, materials, supplies, equipment and labor required to complete the services and obligations required and has sufficient experience and competence to do so;
3. Engineer is authorized to do business in the State of Georgia and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction;
4. Engineer is duly authorized to execute and perform the requirements of the contract documents; and
5. Engineer has visited the project and has become familiar with the local conditions under which the services are to be performed and correlated all observations with the requirements of the contract documents.

The representations and warranties of Engineer shall survive the execution, delivery and termination of the Contract.

ARTICLE 3
ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 The services described in this Article 3 ("Additional Services") are not included in Basic Services, and they shall be paid for by Owner as provided in this Document, in addition to the compensation for Basic Services. The services described under Sections 3.2 and 3.3 shall only be performed by Engineer after receiving written authorization or confirmation from Owner. However, Engineer shall be obligated to perform and Owner shall not be responsible to pay, nor shall Engineer be entitled to receive reimbursement or compensation, for any Additional Services described in this Article 3 if such services were required or made necessary (i) due to the fault, in whole or in part, of Engineer, its employees, Consultants, agents, or any such party's failure to perform in accordance with the terms of the contract documents or (ii) in order to obtain a building permit or any approval of the Drawings and Specifications by a governmental authority with jurisdiction over the project. Whenever Engineer reasonably determines that a service being requested by Owner constitutes an Additional Service, Engineer shall notify Owner and provide Owner with an estimate (stated as a not-to-exceed upset amount if Owner so directs) of the cost to Owner. If, and only if, Owner provides written authorization to proceed, Engineer shall proceed with such service and shall be compensated for such Additional Services in accordance with Section 10.4.1, but subject to any upset amount provided by Engineer pursuant to this Section 3.1.1. If Owner does not provide written authorization, Engineer shall not proceed with any Additional Services. If Engineer provides Additional Services without the prior written authorization of Owner, Engineer shall be solely responsible for any cost or expense of such Additional Services.

3.2 CONTINGENT ADDITIONAL SERVICES

3.2.1 Providing services required because of significant changes in the project including, but not limited to, significant change in the size, quality, complexity, Owner's schedule, or the method of bidding or negotiating and contracting for construction.

3.2.2 Except as stated otherwise in the contract documents, preparing Drawings, Specifications, other documentation and supporting data and other services in connection with change orders and construction change directives.

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

3.2.4 Providing services made necessary by the default of Contractor.

3.2.5 Providing services in evaluating an extensive number of claims submitted by Contractor or others in connection with the work.

3.2.6 Providing services in connection with a public hearing, arbitration proceeding or any legal proceeding except: (1) where any of the issues in such hearing or proceeding involve any alleged deficiency in Engineer's services; (2) where the Engineer is a party; and (3) as required under Section 2.4.4 herein.

3.2.7 Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase, except for services required under Section 2.4.2 and 2.5.1.

3.3 OPTIONAL ADDITIONAL SERVICES

3.3.1 Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.3.2 Providing special surveys and environmental studies required for approvals of governmental authorities or others having jurisdiction over the project.

3.3.3 Providing services relative to future facilities, systems and equipment.

3.3.4 Providing services to verify the accuracy of drawings or other information furnished by Owner.

3.3.5 Providing coordination of construction performed by Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by Owner.

3.3.6 Providing services in connection with the work of a construction manager retained by Owner except to the extent already described as a Basic Service.

3.3.7 Providing detailed quantity surveys or inventories of material, equipment and labor.

3.3.8 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

3.3.9 Providing services for planning tenant or rental spaces.

3.3.10 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

3.3.11 Providing services after the final completion of construction.

3.3.12 Providing services of consultants for other than architectural, civil, structural, plumbing, fire protection, mechanical, electrical and other engineering portions of the project provided as a part of Basic Services.

3.3.13 Providing any other services not otherwise included in the contract documents Agreement or not customarily furnished in accordance with generally accepted engineering practice.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 OWNER'S REQUIREMENTS

4.1.1 Owner, shall consult with Engineer and provide such information regarding Owner's requirements for the project as may be reasonably necessary for Engineer to perform its services, including Owner's contemplated objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expendability, special equipment, systems and site requirements.

4.1.2 Owner, shall consult with Engineer to establish and update an overall budget for the project, including the Construction Cost, other costs and reasonable contingencies related to all costs. Engineer acknowledges and recognizes that budgetary matters are of particular concern to Owner and, therefore, agrees as part of its Basic Services to (i) keep Owner informed of the impact of design decisions on Construction Cost; (ii) recommend ways in which to reduce Construction Cost; and (iii) modify or adjust project design to comply with Owner's requirements and concerns in connection with Owner's budget.

4.2 OWNER'S CONSULTANTS

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

4.2.2 Owner, shall furnish the services of geotechnical engineers when such services are reasonably requested by Engineer in writing. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil condition, with reports and appropriate professional recommendations.

4.2.3 Owner, shall furnish the services of other consultants not retained by Engineer as part of its Basic Services, when such services are reasonably required by the scope of the project and are requested by Engineer in writing.

4.2.4 Owner, shall furnish all legal, accounting and insurance counseling services as may be necessary for Owner in connection with the project.

4.2.5 The services, information, surveys and reports required by this Section 4.2 shall be furnished at Owner's expense. Engineer, after review, shall be entitled to rely in good faith upon the accuracy and completeness of the information, surveys and reports.

4.2.6 Owner shall only furnish information or services described in this Article 4 to the extent that any such information or service is necessary, appropriate and reasonably required by Engineer to perform its services, is requested by Engineer in writing and is not part of Engineer's Basic Services.

4.3 FORMS OF CERTIFICATES

4.3.1 To the extent the form of certificate or certifications have not been agreed to prior to execution of this Document and attached as Exhibits, the proposed language of certificates or certifications requested of Engineer or Engineer's Consultants shall be submitted to Engineer for review and approval at least 7 days prior to execution. Approval not to be unreasonably withheld, conditioned or delayed. Owner shall not request certifications that would require knowledge or services beyond the scope of this Document.

ARTICLE 5
CONSTRUCTION COST

5.1 DEFINITION

5.1.1 "Construction Cost" shall mean the total cost or estimated cost to Owner of all elements of the project designed or specified by Engineer. The Construction Cost shall include the cost at current market rates of labor and materials, equipment, supplies, fuel, utilities, transportation and other services used, consumed or incorporated in the construction of the project and all other items specified, selected or specially provided for by Engineer, plus a reasonable allowance for the Contractor's overhead and profit. Construction cost shall also include all costs and expenses that may be necessary, or allocated, in connection with the construction of the project, including, without limitation: (i) contingency amounts for market conditions at the time of bidding and for changes in the work during construction segregated by appropriate category and approved by Owner, (ii) related construction disclosed to Engineer, (iii) rental charges of any necessary machinery or equipment, and (iv) taxes, permits, approvals, inspection fees, testing charges, insurance, document reproduction and other similar "soft costs." Construction Cost does not include the compensation of Engineer and Engineer's Consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of Owner as provided in Article 4. Each of the enumerated costs and any other additional categories or line items as Owner may request shall be identified and segregated from all other costs, so that Owner can readily ascertain the portion of the Construction Cost allocated to each of the foregoing components of total Construction Cost.

5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Any evaluations of Owner's project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost prepared by Engineer, represent Engineer's best judgment, consistent with the standards set forth in Section 1.1.2. It is recognized, however, that neither Engineer nor Owner has control of the costs of labor, materials or equipment, Engineer's methods of determining bid prices, or competitive bidding, market or negotiating conditions. Accordingly, Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from Owner's project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by Engineer, except as to any variations due to conditions within the control of Engineer. However, Engineer shall revise the contract documents, as a Basic Service, as necessary and in a manner satisfactory to Owner, to bring the design back within Owner's project budget if the bid Construction Cost exceeds Owner's project budget.

ARTICLE 6
OWNERSHIP OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All designs, plans and drawings (and all derivative documents) created pursuant to the contract documents are considered to be services commissioned by Owner. Accordingly, any and all ownership rights (including copyright) in and to the work performed by Engineer and to the documents provided by Engineer and its Consultants for Owner, including the masters of all computer disks, tapes or other such devices used to create the work are vested in Owner. Except as needed to provide services under this Document and the Project Engagement Letter, such designs, plans and drawings, and all derivative documents (i) are to be maintained in confidence, (ii) are not to be disclosed to others without Owner's prior written approval, and (iii) are to be

delivered to Owner on request. Engineer shall advise all of its Consultants, representatives, and agents having access to the information of this obligation of confidentiality and bind such parties to this same obligation. Engineer absolutely assigns any and all rights it may have by law or otherwise in and to the ownership of the documents to Owner. All documents prepared pursuant to the contract documents are and shall remain the property of Owner, whether or not the work covered by those documents is executed. Engineer may retain one or more sets of such documents solely for archival purposes. The completion of customary shop drawings without Engineer's review and approval shall not be deemed a change or modification in a document prepared by Engineer.

ARTICLE 7 DISPUTE RESOLUTION

7.1 SENIOR OFFICERS' RESOLUTION/NON-BINDING MEDIATION

7.1.1 All claims, disputes, events of default or other controversies arising out of, or relating to, this Agreement (hereafter collectively referred to as a "Dispute") shall initially, prior to non-binding mediation, arbitration, or the commencement of legal proceedings, be submitted to a Senior Officer from each party for resolution by mutual agreement between said officers. Any mutual agreement by the Senior Officers shall be final and binding upon the parties.

7.1.2 For purposes of this section, the term "Senior Officer" shall mean, with respect to the Engineer, the Engineer's chief executive officer, president, managing partner, chief financial officer, or any vice president or general manager, and with respect to Owner, the chief executive officer, president, chief financial officer or Facilities Development Director.

7.1.3 Should such Senior Officers fail to arrive at a mutual agreement resolving the Dispute within thirty (30) days after submission of the Dispute, the Owner, at its sole option, may submit the Dispute to non-binding mediation as provided in Section 7.1.3 through 7.1.6 of this Contract. Such non-binding mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. If Owner chooses, at its sole option, to not submit the Dispute to non-binding mediation, Owner may submit such Dispute to Arbitration as provided for in Section 7.2 of the Contract.

7.1.4 If Owner chooses to proceed with non-binding mediation, Owner has thirty (30) days from the date the Senior Officers failed to arrive at a mutual agreement resolving the dispute to submit the Dispute to non-binding mediation before the American Arbitration Association. Owner shall provide Consultant with reasonable notice of its intent to submit the Dispute to non-binding mediation.

7.1.5 The Owner and Engineer shall include a similar non-binding mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar non-binding mediation provision in all agreements with their subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for non-binding mediation as between all parties on the Project, if required by Engineer as the case may be.

7.1.6 The parties shall share the mediator's fee and any filing fees equally. The non-binding mediation shall be held in the place where the Project is located unless another location is mutually agreed upon.

7.2 ARBITRATION

7.2.1 A Dispute where the aggregate amount at issue is equal to or less than \$250,000 that has not been resolved by the Senior Officers in accordance with the terms and provisions of Section 7.1.1 through 7.1.2 hereof or by non-binding mediation at the Owner's option in accordance with the terms and provisions of Section 7.1.3 through 7.1.6 hereof may be submitted to arbitration, at Owner's sole option, in accordance with the terms and provisions set forth in Section 7.2.4 through 7.2.12 hereof.

7.2.2 A Dispute where the aggregate amount at issue is greater than \$250,000, but equal to or less than \$1,000,000, that has not been resolved by the Senior Officers in accordance with the terms and provisions of Section 7.1.1 through 7.1.2 hereof or by non-binding mediation at the Owner's option in accordance with the terms and provisions of Section 7.1.3 through 7.1.6 may be submitted to arbitration, at Owner's sole option, in accordance with the terms and provisions set forth in Section 7.2.4 through 7.2.10 hereof.

7.2.3 If the Owner and the Engineer mutually agree in writing, any Dispute where the aggregate amount at issue is greater than \$1,000,000 that has not been resolved by the Senior Officers in accordance with the terms and provisions of Section 7.1.1 through 7.1.2 hereof or by non-binding mediation at the Owner's option in accordance with the terms and provisions of Section 7.1.3 through 7.1.6 hereof may be submitted to arbitration, at Owner's sole option, in accordance with the terms and provisions of Section 7.2.4 through 7.2.10 hereof. In the event Owner chooses, at its sole option, not to submit any such Dispute to arbitration, both parties shall nevertheless be entitled to avail themselves of any rights or remedies set forth in this Agreement or as otherwise provided at law and/or in equity. With respect to any Disputes that ultimately become the subject of court proceedings, the parties covenant and agree that (i) the venue for such proceedings shall be in any court of competent jurisdiction within the County of Fulton, State of Georgia, (ii) a trial by jury is hereby waived by Owner and Engineer, and (iii) the Owner and Engineer hereby waive any and all claims for punitive damages against the other party. The prevailing party in any judicial proceedings shall be reimbursed by the other party for all costs, expenses and charges, including, without limitation, reasonable attorneys' fees and court costs, incurred by such prevailing party.

7.2.4 All arbitration proceedings shall take place in Fulton County, Georgia, and shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect as of the time of the demand. Owner shall file notice of its demand for arbitration with the American Arbitration Association, and provide reasonable notice to Consultant of its demand to submit the Dispute to arbitration.

7.2.5 All demands for arbitration must contain either a statement that (i) the total sum or value in controversy, does not exceed \$1,000,000, or (ii) the total sum or value in controversy exceeds \$1,000,000. If Owner chooses not to proceed with arbitration as set forth in Section 7.2.3, the arbitrators shall not have jurisdiction, power or authority to consider or make findings concerning any Dispute where the amount at issue exceeds \$1,000,000. Similarly, the arbitrators shall not have jurisdiction, power or authority to render monetary awards in excess of \$1,000,000 for any Dispute that was initially submitted to arbitration as a Dispute described in either Section 7.2.1 or 7.2.2.

7.2.6 Notwithstanding anything to the contrary contained in the Construction Industry Arbitration Rules, the method of discovery permitted for any arbitration shall be as follows:

- (i) as to Disputes described in Section 7.2.1, no discovery shall be permitted or performed;
- (ii) as to Disputes described in Section 7.2.2, discovery shall be limited to the exchange of documents relevant to the dispute between the Owner and the Engineer; and

(iii) as to Disputes described in Section 7.2.3, all methods of discovery available under the Federal Rules of Civil Procedure shall be permitted and shall govern the proceedings.

7.2.7 For Disputes described in Section 7.2.1, the arbitration panel shall consist of one (1) individual appointed by the Owner and Engineer. Such individual shall (i) have been selected from the American Arbitration Association's list of potential arbitrators; (ii) have at least 10 years experience in the discipline which is the subject of the Dispute; and (iii) be an attorney whose 10 years of experience has been in the realm of litigating and arbitrating issues which are of the subject of the Dispute. If the Owner and Engineer fail to mutually agree upon an arbitrator within 20 days after receipt of notice to arbitrate given by either party, then the arbitration panel shall be selected by the administrative office of the American Arbitration Association. Such office shall, within 20 days after notice by either party to this Agreement, select a single arbitrator who complies with the requirements otherwise set forth in this Section. The arbitrator selected shall conduct the hearing and render his or her decision within 25 days after his or her appointment.

7.2.8 For Disputes described in Section 7.2.2 and 7.2.3, the arbitration panel shall consist of three (3) individuals selected as follows. Within 20 days after the receipt of a notice to arbitrate given by either party, the Owner and Engineer shall each select an individual from the list of potential arbitrators furnished by the American Arbitration Association who is an attorney with at least 10 years experience in litigating and arbitrating issues which are of the subject of the Dispute. Within 10 days after both arbitrators have been selected, such individuals shall appoint the third arbitrator. Said third member shall likewise be selected from the list supplied by the American Arbitration Association and shall similarly have 10 years experience in the discipline which is the subject of the Dispute, but need not be an attorney. If the first two arbitrators cannot agree upon the third within 10 days after their appointment, they shall be dismissed and two other persons shall be appointed as described above. This procedure shall continue until a full panel results. Once assigned, the panel of arbitrators need not resolve the dispute within any specific time limit, but shall use all reasonable means to render a decision with reasonable dispatch.

7.2.9 No arbitration arising under this Agreement shall include, by consolidation, joinder or any other manner, any person or entity not a party to this Agreement, unless (i) such person or entity is substantially involved in a common question of fact or law, (ii) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, and (iii) such person or entity has consented to such inclusion.

7.2.10 The agreement herein among the parties to arbitrate under certain circumstances shall be specifically enforceable in any court having jurisdiction thereof. Any award rendered by the arbitrator(s) pursuant to any arbitration shall be final and binding upon the parties hereto, and judgment may be entered upon it in accordance with applicable law in any court of competent jurisdiction.

7.3 Except as provided in section 8.2, Engineer shall not suspend or delay work in the event Owner and Engineer are in a dispute.

ARTICLE 8 TERMINATION, SUSPENSION OR ABANDONMENT

8.1 TERMINATION

8.1.1 The Contract may be terminated by either party upon not less than 7 days' written notice should the other party materially fail to perform in accordance with the terms and conditions of the Contract through no fault of the party initiating the termination.

8.1.2 Owner may terminate the Contract without cause upon not less than 7 days' prior written notice to Engineer. In the event the Contract is terminated by Owner other than for cause, Engineer, as its sole and exclusive remedy, shall be entitled to receive compensation at reasonable rates for that portion of Basic and Additional Services properly performed to the date of termination and for any Reimbursable Expenses properly incurred and substantiated as provided for in Article 10 below and in the Project Engagement Letter.

8.1.3 If the project is abandoned by Owner for more than 90 consecutive days, Engineer may terminate the Contract by giving written notice to Owner.

8.2 SUSPENSION

8.2.1 If the project is suspended by Owner for more than 30 consecutive days, Engineer shall be compensated for services properly performed prior to notice of such suspension. When the project is resumed, if Engineer's services cannot be substantially completed in accordance with the schedule described in Section 1.1.2, Engineer's schedule for services and compensation shall be adjusted as mutually agreed to provide for reasonable expenses actually incurred in the interruption and resumption of Engineer's services.

8.2.2 If Owner fails to make payment when due Engineer for services properly performed and expenses properly incurred, Engineer may, if neither payment is made within 30 days after delivery of written notice to Owner, suspend performance of services. Unless payment in full for such services and expenses is received by Engineer within 30 days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Engineer shall have no liability to Owner for delay or damage caused Owner because of such suspension of services.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1 The Contract shall be governed by the law and construed in accordance with internal laws of the State of Georgia exclusive of its conflict of laws rules. Any suits brought in connection with this Contract shall be brought in the Superior Court of Fulton County, Georgia or in the appropriate federal court for the Fulton County Georgia area, and all parties consent to jurisdiction and venue in these courts for purposes of all matters arising out of this Contract.

9.2 Terms in this Document shall have the same meaning as those stated in the General Terms and Conditions of Contract Between Owner and Contractor.

9.3 The Contract shall be binding on the successors of the parties. Engineer shall not assign the Contract without the written consent of Owner; provided, however, that Engineer shall consent to and execute all documents reasonably requested by Owner in connection with the assignment by Owner of the Contract and the Drawings and Specifications for collateral purposes to any lender providing funds to the project. Owner may assign the Contract without the prior consent of Engineer.

9.4 This Document along with the Project Engagement Letter represents the entire and integrated agreement between Owner and Engineer and supersedes all prior negotiations,

representations or agreements, either written or oral. The Contract may be amended only by written instrument signed by both Owner and Engineer.

9.5 Nothing contained in the Contract shall create a contractual relationship with or a cause of action in favor of a third party against either Owner or Engineer.

9.6 Engineer shall not, without the prior written consent of Owner, include representations of the design of the project, including photographs of the exterior and interior, among Engineer's promotional and professional materials. Engineer shall not in any event disclose or publish any of Owner's confidential or proprietary information.

9.7 Every notice, demand or other document or instrument required or permitted to be given under the Contract may be given by either party by depositing the same in the US Mail, first class, addressed to the other as follows:

To Owner: Grady Health System – Facilities Development
80 Jesse Hill Jr. Drive, S.E.

Atlanta, Georgia 30335
Attention: Director – Facilities Development

With a copy to Fulton-Dekalb Hospital Authority (D/B/A Grady Health System)
80 Jesse Hill Jr. Drive, S.E.
P.O. Box 26083
Atlanta, Georgia 30335
Attention: Administration

To Engineer: _____

Attn: _____

With a copy to: _____

Attn: _____

The foregoing shall not be deemed to preclude the use of other means of notification other than oral or to invalidate any notice properly given by any such other means than oral.

9.8 No course of dealing or failure of Owner to enforce strictly any term, right or condition of the Contract shall be construed as a waiver of such term, right or condition.

9.9 No right or remedy conferred upon or reserved to Owner is exclusive of any right or remedy in the Contract or by law or at equity but shall be in addition to any right or remedy provided in the Contract or at law or equity.

9.10 Every paragraph, part, term or provision of the Contract is severable from the others. If any paragraph, part, term or provision of the Contract is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining

paragraphs, parts, terms and provisions of the Contract shall not be affected but shall remain in full force and effect.

9.11 Engineer's and Owner's obligations under the Contract which by their nature would continue beyond the termination, cancellation or expiration of the Contract, shall survive termination, cancellation or expiration of the Contract.

9.12 Neither Owner nor its partners, officers, shareholders, directors, principal, agents or representatives shall have any personal liability for any matters arising out of or related to the Contract, it being understood that in the event of any judgment in favor of Engineer, Engineer's sole recourse shall be against the interest of Owner in the site and the project.

9.13 In no event shall Owner be liable for consequential, incidental or special damages, including, without limitation, any delay damages, lost opportunity damages or lost profits, incurred by Engineer or any of its subconsultants, subcontractors, employees, agents or representatives.

9.14 Engineer agrees to comply with the following provisions, to the full extent that this Agreement is subject thereto: Executive Order No. 11246, Executive Order No. 11625, Executive Order No. 12138, Section 503 of the Rehabilitation Act of 1973, the Vietnam-Era Veteran's Readjustment Assistance Act of 1974, the Illinois Human Rights Act, the Indiana Civil Rights Law, the Michigan Civil Rights Act, the Ohio Fair Employment Practice Law, the Wisconsin Fair Employment Act, the rules, regulations and relevant orders of the agencies enforcing said Orders and Statutes or charged with administering affirmative action/non-discrimination requirements applicable to government Engineers or subengineers, and any other applicable Federal, State, or local law imposing obligations on government engineers or subengineers.

Monetary amounts, contractual or purchasing relationships, and/or the number of Engineer's employees, determine which provisions are applicable.

ARTICLE 10 PAYMENTS TO THE ENGINEER

10.1 DIRECT PERSONNEL EXPENSE

10.1.1 Direct personnel expense is (i) if the employee is salaried, the annualized salary paid the employee, exclusive of taxes, insurance, fringes, and benefits, divided by 2080 or (ii) if the employee is paid hourly, the hourly wage paid the employee, exclusive of taxes, insurance, fringes, and benefits.

10.2 REIMBURSABLE EXPENSES

10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and shall mean the reasonable expenses incurred by Engineer and Engineer's employees and Consultants in the interest of the project, as identified in the following subparagraphs.

- (a) Out-of-pocket expenses of Owner authorized transportation expenses in connection with authorized out-of-town travel (not to exceed the per them per person set forth in the Project Engagement Letter and not to include first-class or business-class air fare); long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the project (invoices for such approval and/or permit fees shall be provided to Owner and paid directly by Owner).

- (b) Out-of-pocket expenses of reproductions, postage and handling of Drawings, Specifications and other documents which are not required to be delivered to Owner as a Basic Service.
- (c) If authorized in advance by Owner in writing, expense of overtime work requiring higher than regular rates.
- (d) Out-of-pocket expenses of renderings, models and mock-ups requested by Owner.
- (e) Expense of additional insurance coverage or limits, including professional liability insurance, requested by Owner in excess of that required to be carried pursuant to Article 12.

Requests for reimbursable expenses must be accompanied by the appropriate receipts, logs, or forms documenting each particular expense. The backup documentation must indicate the date on which the expense was incurred and how the expense pertained to the project. On bills or receipts which reference expenses chargeable to more than one project, e.g., long distance phone bills, those expenses which pertain to the particular pay request should be clearly indicated.

10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

10.3.1 Provided that a statement of services rendered and all required supporting documentation is received by Owner not later than the 10th day of the month, payments for Basic Services shall be made within 45 days following submittal by Engineer of a statement of services rendered and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in the Project Engagement Letter. Statements not received by this date will not be processed for payment by Owner until the following month. With each invoice for payment, Engineer shall furnish the following documents (or such other documentation as may be required under the laws or customs of the State of Georgia to protect Owner from mechanics' or similar liens or claims regarding payments made to Engineer) all in form satisfactory to Owner and its lender, if any:

1. A waiver of lien legally sufficient to waive any mechanics' lien claim Engineer may have for the work performed by it for which payment is requested. A final waiver of lien shall be submitted with the final payment application.
2. A sworn statement listing the names of any Consultant or other persons furnishing labor or materials in connection with Engineer's services by contract with Engineer. These statements shall state the amount of each such contract and the amount paid by Engineer to the Consultant or other person.
3. A legally sufficient waiver of lien from each Consultant or other person furnishing labor or materials listed on Engineer's sworn statement who is to receive payment pursuant to the current invoice.

Engineer understands and agrees that payments made to Engineer may be made through a construction disbursement escrow established with a title insurance company providing title insurance for the site and project or other escrowee selected by Owner or any lender providing funds to the project. Engineer agrees to provide such reports, lien waivers and releases, certificates and other documents as may reasonably be requested by the lender, Owner or such escrowee in connection with any such construction disbursement escrow and to otherwise

cooperate fully in establishing and providing for disbursements under any such construction disbursement escrow.

Pay requests submitted by Engineer for work performed and billed on an hourly basis must be supported by time sheets showing the time period covered by the pay request, the hours spent on the project by each individual referenced in the pay request during the particular pay period, and the individual's job classification. If the time sheets show multiple pay periods, the specific pay period(s) referenced in the pay request must be clearly indicated. These policies apply to extra service payments on lump sum contracts as well as basic service payments on hourly contracts.

10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

10.4.1 Provided that a statement of services rendered is received by Owner not later than the 10th day of the month, payments for Engineer's Additional Services and for Reimbursable Expenses shall be made within 45 days following submittal of Engineer's statement of services rendered or expenses incurred together with any supporting documentation as Owner or its lender may reasonably require. Statements not received by this date will not be processed for payment by Owner until the following month.

10.5 PAYMENTS WITHHELD

10.5.1 No deduction shall be made from Engineer's compensation other than for the cost of changes in the work for which Engineer, in whole or in part, is responsible or from Engineer's failure, in whole or in part, to properly perform its duties and obligations.

10.6 ENGINEER'S ACCOUNTING RECORDS

10.6.1 Engineer shall keep and maintain, in accordance with Generally Accepted Accounting Principals, complete and accurate records (including supporting data and documents) of all Reimbursable Expenses and expenses pertaining to goods or services provided on a time and material or cost-plus basis which were incurred in connection with the project. Such records shall include without limitation, payroll records, time cards, change orders, bidding documents, insurance certificates, computer records, cancelled checks, purchase orders and subcontracts, third-party confirmations, invoices, and all other documents, that support the claimed expenses for the project. Engineer shall retain such records for the duration of the Contract and for a period of three years after final payment and shall make all such records available to Owner at mutually convenient times.

ARTICLE 11 BASIS OF COMPENSATION

The Owner shall compensate Engineer as set forth in the applicable Project Engagement Letter.

ARTICLE 12 INDEMNIFICATION/INSURANCE

12.1 To the fullest extent permitted by law, Engineer agrees to defend, pay on behalf of, indemnify, and hold harmless Owner, their subsidiaries and their agents, directors, officers, trustees, employees and volunteers (collectively referred to as "Indemnitees") from and against any and all claims, demands, suits, damages, losses, and expenses including but not limited to

reasonable attorney's fees and court costs, which may be alleged, claimed, or recovered against Indemnitees arising out of, resulting from, or in any way connected to the performance or nonperformance of the services under the Contract, whether as a result of breach of contract, tort or otherwise, including but not limited to any such claim, demand, suit, damage, loss or expense attributed to personal injury, sickness, disease, death, or injury to or destruction of property, including loss of use, caused in whole or in part by the negligent acts or omissions of Engineer, any subcontractor, agent, or anyone directly or indirectly employed by Engineer or anyone for whose acts Engineer is, or may be, liable or any other person or persons including but not limited to Owner or their agents and employees. Engineer's obligations of indemnification shall exclude only those matters in which the claim, demand, suit, damage, loss or expense arises out of allegations of the sole negligence of Owner, or any of their respective agents, servants and employees.

12.2 Engineer shall provide insurance as set forth in Schedule A which is attached to this Document and incorporated by reference.

12.3 Owner and Engineer waive all rights against each other and any of their subcontractors, suppliers, and the agents and employees of any of them for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Section or other property insurance applicable to the work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. Owner and Engineer shall require their subcontractors, suppliers, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property.

12.4 Neither party nor their respective subcontractors, suppliers, agents, employees or representatives shall be deemed an employee of the other party, and each party shall indemnify, hold harmless, and defend the other party and its subcontractors, agents, employees and representatives from and against any liability of the indemnifying party for compensation under any applicable state or Federal worker's compensation law, including worker's compensation and/or employer's liability claims of employees.

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

OWNER:
By: FULTON-DEKALB HOSPITAL
AUTHORITY (D/B/A GRADY HEALTH
SYSTEM)

ENGINEER:
Company Name
Company Address

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

SCHEDULE A

Engineer's Minimum Insurance Requirements

Compliance by the Engineer with the insurance requirement set forth herein shall not relieve the Engineer from liability for amounts in excess of the required limits of insurance.

The types of insurance and minimum limits required hereunder are:

- a) Worker's Compensation Insurance with statutory limits, as required by the State of Georgia.
- b) Employer's Liability Insurance with limits of not less than \$1,000,000 to any one person;
 - (1) USL&H, FELA, Jones Act & Continental Shelf Act endorsements, if applicable.
- c) Commercial General Liability Insurance, written on an occurrence form including explosion, collapse, and underground:

\$1,000,000	Each Occurrence (BI & PD Combined Single Limit)
\$2,000,000	General Aggregate (Per Project)*
\$1,000,000	Personal Injury and Advertising Liability
\$1,000,000	Products & Completed Operations
\$1,000,000	Contractual Liability to cover all Liabilities assumed under this contract.

*If the Engineer cannot provide the aggregate limit per project, an Owners Engineer Protective Liability must be secured by the Engineer at Engineer's cost in the name of the Fulton-DeKalb Hospital Authority (d/b/a Grady Health System) (Owner) for a minimum limit of:

\$1,000,000	Each Occurrence and
\$2,000,000	Annual Aggregate.

- d) Automobile Liability Insurance covering all owned, non-owned, and hired automobiles used in connection with the Engineer's work with combined single limits for Bodily Injury and Property Damage of not less than \$1,000,000 per accident.
- e) Professional Liability Insurance, if applicable, with limits of not less than \$5,000,000 each occurrence.
- f) Aircraft Liability Insurance, if applicable, \$5,000,000 each occurrence.
- g) Pollution Liability Insurance (i.e., asbestos, lead abatement, etc.), if applicable, for at least \$5,000,000 each occurrence.
- h) Umbrella Liability Insurance excess of all the above required coverages with a minimum limit of \$10,000,000 each occurrence.

Fulton-DeKalb Hospital Authority (d/b/a Grady Health System) (Owner) shall be included as an additional insured under all coverages (except workers' compensation and employers' liability) as required by this contract and such additional insured status shall be specifically identified on the certificate of insurance.

All policies are required to be endorsed to indicate that policies provide primary coverage without right of contribution by any insurance carried or self-insured by Owner. A waiver of subrogation in favor of Owner shall also be endorsed to the policies.

Prior to commencement of work, the Engineer shall deliver to Owner's Project Manager, insurance certificates evidencing that the required insurance is in force with insurance companies satisfactory to Owner (Minimum A.M. Best A-VII). All certificates of insurance required hereunder shall specifically state that there shall be no material change in, or cancellation of, the policy or policies evidenced except upon 30 days prior written notice via certified mail to Owner and that 30 days prior to the renewal date. The Engineer shall furnish Owner with updated or replacement certificates of insurance that clearly evidence continuation of coverages in the same manner, limits and protections as required by Owner and Owner's Agent.

Such insurance as required shall be kept in force by the Engineer continuously during the life of this contract and for a period of not less than 90 days after the date of final completion; additionally, the Completed Operations insurance required herein under shall be kept in force by the Engineer for a period of not less than three (3) years after the date of final completion.

Property Insurance

Builder's Risk coverage is provided under the Hospital's comprehensive property program. This coverage provides protection for the Hospital, construction manager and all levels of subcontractors, as their interest may appear. The Builder's Risk coverage is currently subject to a \$25,000 per occurrence deductible. Engineer shall be responsible for the first \$10,000 of each and every loss which is subject to the \$25,000 deductible.