

STATE OF MINNESOTA
State/Designer Basic Services Agreement

THIS AGREEMENT, is made by and between the State of Minnesota, acting through its Commissioner of Administration and the Department of Military Affairs, Facilities Management Office, Camp Ripley, 15000 Highway 115, Little Falls, Minnesota 56345-4173, hereinafter referred to as "the State," as party of the first part, and _____, hereinafter referred to as "the Consultant," as party of the second part,

WITNESSED:

WHEREAS, the State is in need of professional design services for Renovation and Addition of Building 15-2, Camp Ripley, Little Falls, MN (DMA Project No. 25101) hereinafter referred to as the "Project," for which funds amounting to \$ _____ (_____ and No/100 Dollars) have been allocated for the Budgeted Cost of Construction of the Project.

WHEREAS, the Consultant represents that it is qualified to provide architectural and/or engineering professional services as required by this Agreement and is duly licensed pursuant to Minn. Stat. §§ 326.02-326.15.

WHEREAS, the Consultant represents and warrants that it will comply with Minn. Stat. Chap. 326 and shall provide the services of licensed architects, engineers, interior designers or other licensed professionals as necessary and required in order to perform the work under this agreement.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that the State will compensate the Consultant in an amount not to exceed \$ _____ (_____ and No/100 Dollars) as total compensation for Basic Services in accordance with Exhibit A and Exhibit B, which are attached and incorporated into this Agreement.

It is further agreed by and between the parties hereto:

ARTICLE I
GENERAL REQUIREMENTS

1.0 End Date: The parties agree to a contract end date of _____.

1.1 Authorized Representatives: For the purpose of administration of this Agreement, the State's Authorized Representative is Jeffrey Wittrock, at telephone 320.616.3176, or his successor. The Consultant shall render all services pursuant to this Agreement under the direction and supervision of the authorized representative or his/her successor. The Consultant's Authorized Representative is _____, at telephone _____, or his/her successor.

1.2 State's Consultant's Responsibilities: Exhibit A, which is attached and incorporated into this Agreement, sets forth specific responsibilities and Instruments of Service for the State and for the Consultant for each phase of the professional services.

1.3 Satisfactory Performances: Time is of the essence under this Agreement. Neither party shall unreasonably delay the progress of the work beyond the time limit set forth in Exhibit A. The Consultant and State shall perform their obligations under this Agreement in a manner which meets the project requirements identified in Exhibit A. The Consultant shall perform in a manner that is consistent with reasonable professional skill and care. The Consultant and the State shall endeavor to satisfy the

Project Schedule. Neither party shall unreasonably impede the other in performance of its obligations. The Consultant acknowledges that the Project Schedule prepared by the State and set forth in this Agreement includes sufficient time allowances for State review and for review by authorities having jurisdiction over the project.

1.4 Personnel: All personnel provided by the Consultant shall be fully qualified and authorized under State or local law to perform the services required by this Agreement. The personnel shall not be employees of the State. The Consultant represents that services required hereunder will be performed directly by the Consultant or through subconsultants under contract with the Consultant which are identified in the List of the Personnel and Subconsultants (Exhibit E), which is attached and made a part of this Agreement. If during the term of this Agreement the State raises objections to any listed person or entity, the Consultant shall propose substitutes to whom the State and Consultant mutually agree. If such substitution causes delay or additional costs to the Consultant, the State shall agree to an equitable adjustment of the Project Schedule, and the Consultant's compensation may be changed by negotiation.

1.5 Cost of Construction:

1.5.1 Budgeted Cost of Construction: The State's Budgeted Cost of Construction is based on the State's program and/or legislative project funding authorizations. The Consultant shall design to meet the State's Budgeted Cost of Construction or subsequent modified Budgeted Cost of Construction as approved by the State.

1.5.2 Responsibility for Estimated Cost of Construction: The Consultant is solely responsible for the accuracy of its construction cost estimates and the State's actions and authorizations are based in whole or in part on that information. In preparing Estimated Construction Cost, the Consultant shall be permitted to include contingencies for design, bidding and price escalation; to recommend what materials, equipment component systems, and types of construction are to be included in the Construction Documents; to recommend reasonable adjustments in the scope of the Project and for no additional fee, to

include in the Construction Documents those bid alternates which have been approved by the State. If the Consultant finds, during the progress of the work, construction estimates may exceed the State's Budgeted Cost of Construction due to factors within the Consultant's control, the Consultant shall revise the design and all documents affected by the design revisions at no additional cost to the State. The State shall promptly review and, if approved, authorize the revisions to the design. In the event bids exceed the final cost estimate, the State, at its option, can require the Construction Documents to be revised as necessary to achieve the agreed upon estimate. This shall be accomplished without additional cost to the State for revising the Construction Documents and the rebid process. In the event bids are below the final cost estimate by fifteen percent (15%) or more and the State had previously agreed to program and/or quality reductions based on the final estimate, the State, at its option, and without additional compensation to the Consultant, will require the Consultant to revise the bid documents to reinstate the program and quality.

1.6 Tests:

1.6.1 Design Phases Testing: The Consultant shall engage and pay directly for topographical survey, investigative soil borings, test pits, water pressure, and for chemical, mechanical, or other tests and reports (collectively "tests and reports") needed to complete the design of the project.

1.6.2 Construction Phase Testing: The State shall engage and pay directly for construction phase tests and reports. The Consultant shall be entitled to rely on the accuracy and completeness of tests and reports provided by the State, subject to any limitations expressly stated by the professionals providing the tests and reports and only to the extent consistent with the ordinary standard of care for the type of professional providing the test, and provided further, that the Consultant is required to notify the State if the Consultant knows or has reason to know of any ambiguities or errors in the tests or reports, or if the Consultant knows or has reason to know of additional information relevant to the tests or reports provided by the State.

1.6.3 Consultant shall engage and pay directly for a certified property survey as required in Exhibit A. The

Consultant shall furnish such services through professionals qualified and authorized to provide such services in the state.

1.7 Indemnification: In the performance of this contract by Consultant, or Consultant's agents or employees, the Consultant must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Consultant's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Consultant may have for the State's failure to fulfill its obligation under this contract.

1.8 State Audits: Under Minn. Stat. § 16C.05, subd 5, the books, records, documents, and accounting procedures and practices of the Consultant and its employees, agents, or subconsultants relevant to this Agreement shall be made available and subject to examination by the State, Legislative Auditor, and State Auditor for a minimum period of six (6) years from the end of this Agreement.

1.9 Ownership of Instruments of Service: Drawings, specifications and other documents, including those in electronic form, prepared by the Consultant and the Consultant's subconsultants are Instruments of Service.

1.9.1 Ownership: Prior to full payment of all sums due the Consultant under this Agreement and upon performance of all the State's obligations under this Agreement, the Consultant shall provide reproducible copies of the latest Instruments of Service and the latest electronic data prepared by the Consultant for the Project to the State and these shall become the property of the State. The Consultant shall retain full rights to electronic data and the Instruments of Service and the right to reuse component information contained in them in the normal course of the Consultant's professional activities. The Consultant shall be deemed the author of such electronic data or

documents, shall retain all rights not specifically conveyed in writing to the State, and shall be given appropriate credit in any public display of such Instruments of Service.

1.9.2 Reuse of Instruments of Service: State acknowledges that (1) the Consultant has prepared the Instruments of Service for construction of the Project with the Consultant's involvement throughout the Project, as contemplated by this Agreement, (2) the Instruments of Service are not in themselves necessarily sufficient for construction of the Project without the Consultant's involvement, and (3) the Instruments of Service are not appropriate for construction of any other project except as provided herein. The Consultant acknowledges that the State will use and rely upon the Instruments of Service and the latest electronic data prepared by the Consultant for this Project, including but not limited to the as-built drawings and specifications in connection with any future repairs, remodeling or maintenance to the Project and of subsequent phases of the Project. If the Consultant is in default or breach of its obligations under this Agreement, the State shall have full ownership rights of the Instruments of Service and all electronic data. If the Consultant is adjudged to be in default or if this Agreement is terminated, the State shall not use the Instruments of Service for completion of this Project by others without the involvement of qualified professionals who shall assume the Consultant's professional obligations and liability for work not completed by the Consultant. To the fullest extent allowed by law, the State releases the Consultant, the Consultant's sub-consultants, and the agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of the State's use of the Instruments of Service other than in accordance with this Agreement.

1.9.3 Transfer of Ownership: Under no circumstances shall the transfer of ownership of the drawings, specifications, electronic data, or other Instrument of Service be deemed to be a sale by the Consultant and the Consultant makes no warranties, express or implied, of merchantability or of fitness for a particular purpose.

1.10 Governing Law, Jurisdiction and Venue: This Agreement is governed by the laws of The State

of Minnesota. In case any dispute or controversy arises between the Consultant and the State, either party may exercise any legal remedies in District Court that may be available to them. The venue for any proceedings is agreed to be either Ramsey County, or the county where the project site is located or work conducted. This selection of venue will be at the discretion of the State. Alternative dispute resolution methods, such as mediation, may be utilized when acceptable to all parties to the dispute or controversy. The Consultant and the State each shall incorporate the requirements of this Section in its agreements with sub-consultants, separate consultants, and contractors and separate contractors in connection with this Project.

1.11 Successors and Assigns: The Consultant binds itself jointly and severally, its successors, executors, administrators, and assigns to the State in respect to all covenants of this Agreement. With the exception of the State-approved consultants and special consultants, the Consultant shall not assign, sublet, or transfer any part of its interest in this Agreement except upon written approval of the State.

1.12 Effective Date:

Pre-Design and Title I (Schematic Design, Design Development, Contract Documents and Bidding phases): Until funds for this Agreement have been encumbered and all approvals made by the Department of Administration, this Agreement shall not be valid or effective, and there shall be no liability upon the State for payment. The Consultant shall have no obligation to commence work until funds have been encumbered and the State's Authorized Representative has provided the Consultant with a written notice to proceed.

Title II: This Agreement will not be valid or effective and the State shall have no liability for payments for the Construction and Post-Construction phases (Title II) until funds for the phases have been encumbered and the State has provided the Consultant with a written notice to proceed signed by BOTH the State's Authorized Representative, named in Paragraph 1.1, and the State's representative as to encumbrance of Construction and Post-Construction Phase funds (Title II Fees), Elizabeth Huebner, or her successor.

1.13 Form of General Conditions: American Institute of Architects AIA A201, General Conditions (2017 Edition), as amended by the State for this project and identified as Exhibit I, but solely for the purpose of defining the duties and responsibilities between the Consultant and the State herein. The Consultant shall require each of its sub-consultants to be bound to the Consultant by the same terms and conditions required of the Consultant under this Agreement. With respect to the sub-consultants' work, all sub-consultants shall assume toward the Consultant all the obligations and responsibilities which the Consultant assumes toward the State. A sub-consultant is a person or entity who has a direct contact with the Consultant to perform a portion of consultant services in connection with this Agreement. Nothing in this Agreement shall be deemed to create any rights on the part of any person or entity not a party to this Agreement.

**ARTICLE 2
PREDESIGN PHASE**

2.1 Commencement: The Pre-design Phase shall commence after the State and the Consultant have executed this Agreement and the State has provided the Consultant with written notification to proceed with the work under this Agreement. The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services, which is identified in Article 12 and incorporated by reference. The Instruments of Service, as enumerated in Exhibit A, will analyze facility needs, site analysis, review facility and site design standards.

If the Consultant finds it lacks sufficient information to complete this phase, the Consultant shall notify the State, and the Consultant shall not proceed until the State provides missing information except at the State's written direction.

2.2 Submittals: The Consultant shall submit the completed Pre-design Document to the State for review and approval as enumerated in Exhibit A.

2.3 Special Considerations: Facilitate a Design Charrette during the Pre-Design Phase.

2.4 Authorization to Proceed: The Consultant shall not proceed with the Schematic Design Phase in

Article 3 of this Agreement until the completion of Predesign Phase of this Agreement and receipt of written authorization and direction to proceed from the State's Authorized Representative.

ARTICLE 3 SCHEMATIC DESIGN PHASE

3.1 Commencement: The Schematic Design Phase shall commence with written notification and direction to proceed with the work from the State's Authorized Representative. The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services. The Instruments of Service, as enumerated in Exhibit A, will establish conceptual design for all major architectural and engineering systems, and the Consultant shall prepare a written description of the Project together with Schematic Design drawings, specifications, and other description as necessary to properly convey the scale and relationship of the project components, including, for new construction, site selection, building placement at the site, and response to all related considerations, including but not limited to soil profiles, soil consolidation, ground water level and drainage, and entry/exit relationships to existing buildings.

3.2 Program Evaluation: The Consultant, the State, and state agency clientele shall mutually agree on the program, schedule and budget and shall jointly establish communication procedures for the performance of services. If the Consultant, the State and the state agency clientele are unable to mutually agree on the program, schedule and budget, the State's Authorized Representative shall have final authority to make the decisions.

3.3 Submittals: The Consultant shall submit completed Schematic Design Instruments of Service as enumerated in Exhibit A.

3.4 Authorization to Proceed: The Consultant shall not proceed with the Design Development Phase in Article 4 of this Agreement until the completion of Schematic Design Phase of this Agreement and receipt of written authorization and direction to proceed from the State's Authorized Representative.

ARTICLE 4 DESIGN DEVELOPMENT PHASE

4.1 Commencement: The Design Development Phase shall commence with the written authorization and direction to proceed from the State's Authorized Representative. The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services. The Consultant shall prepare Design Development Instruments of Service based upon approved Schematic Design Phase Instruments of Service and any changes in Project Schedule, Project Program, and Budgeted Cost of Construction to which the State and the Consultant agree. If the Consultant and the State do not reach agreement on change to the Project Schedule, Project Program or Budgeted Cost of Construction, the State's Authorized Representative, based on the contractual responsibility for the Project Schedule, Project Program and Budgeted Cost of Construction, shall have final authority to approve any and all changes. These Instruments of Service, as enumerated in Exhibit A, will illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, construction details, and equipment layouts. The Design Instruments of Service will further describe the major materials and systems and establish their quality levels.

4.2 Submittals: The Consultant shall submit completed Design Development Instruments of Service as enumerated in Exhibit A.

4.3 Authorization to Proceed: The Consultant shall not proceed with the Construction Documents Phase in Article 5 of this Agreement until the completion of Design Development Phase of this Agreement and receipt of written authorization and direction to proceed from the State's Authorized Representative.

ARTICLE 5
CONSTRUCTION DOCUMENTS PHASE

5.1 Commencement: The Construction Documents Phase shall commence with written authorization and direction to proceed from the State's Authorized Representative instructing the Consultant to proceed with the preparation of the Construction Documents. The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services. The Consultant shall prepare such documents from the approved Design Development Instruments of Service. These Instruments of Service, as enumerated in Exhibit A, shall consist of drawings and specifications setting forth in detail the requirements for the construction of the Project. The Consultant shall include or incorporate by reference Exhibit I, the General Conditions of the Contract for Construction, as modified by the State.

5.2 Submittals: The Consultant shall submit completed Construction Documents Instruments of Service as enumerated in Exhibit A.

ARTICLE 6
BIDDING PHASE

6.1 Commencement: The Bidding Phase shall commence with written authorization and direction to proceed from the State's Authorized Representative. The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services.

6.2 Issue for Bids: Upon acceptance of the bidding documents by the State's Authorized Representative, the Consultant shall issue to the State drawings and specifications to post for prospective bidders, assist the State in obtaining proposals from contractors and assist in the awarding of construction contract(s). The State shall provide the Consultant with information listed in Exhibit A.

6.3 Addenda: No changes shall be made in the Project Program or the various documents prepared by the Consultant or material substitution approval after bids have been invited, except upon prior authorization by the State's Authorized Representative. The State shall review and act upon proposed addenda that may be required by the Bidding Phase.

6.4 Submittals: The Consultant shall submit Bidding Instruments of Service as enumerated in Exhibit A.

ARTICLE 7
CONSTRUCTION PHASE

7.1 Commencement: The Construction Phase shall commence with the written authorization and direction to proceed from the State signed by BOTH the State's Authorized Representative, and the State's representative as to encumbrance of Construction and Post-Construction Phase funds (Title II Fees), Elizabeth Huebner or her successor when the official Notice to Proceed is issued to the successful bidder(s). The Consultant agrees to provide services in accordance with Exhibit A, Scope of Services. The Consultant shall administer the construction contract(s) in accordance with the provisions of the Construction Documents and as enumerated in Exhibit A of this Agreement upon receipt of a copy of the Notice to Proceed.

7.2 The Consultant's Authority: The Consultant, as representative of the State during the Construction Phase, shall communicate with the construction contractor(s). All of the State's instructions to construction contractor(s) shall be issued through the Consultant. Unless otherwise directed by the State's Authorized Representative, the Consultant shall have the authority to act on behalf of the State to the extent provided in the general conditions of construction contract(s) and in accordance with Article 7.7 of this contract.

7.3 Construction Observation: The Consultant shall make periodic on-site observations of the Project in accordance with Exhibit A. This shall include twice per month on-site observations by the Architect and once per month minimum by an engineering disciplines. The purpose of the on-site observations will be to observe the progress and quality of the construction work being carried on to determine if the work is proceeding in accordance with the Construction Documents. Unless otherwise stated in Exhibit A, the Consultant shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the work.

7.4 Responsibility for Construction: The Consultant shall not be responsible for construction means, methods, techniques, sequences, procedures or safety precautions and programs in connection with the construction work, and shall not be responsible for a Contractor's failure to carry out the work in accordance with the Construction Documents. However, where the Consultant observes deficiencies in the work or where the Consultant observes Contractor failing to execute the construction work in accordance with the Construction Documents, the Consultant shall promptly notify the Contractor and the State in writing of all such deficiencies and shall inform the State when, in the Consultant's opinion, the work should be stopped. Authority to stop work shall, however, rest with the State.

7.5 Contractor Applications for Payment: Based on the Consultant's observation of the progress of the work for conformance with the Construction Documents and completion to the extent indicated by the Contractor, and evaluations of the Contractor's Applications for Payments, the Consultant shall promptly review and certify the amounts due the Contractor, to the best of the Consultant's knowledge and information.

7.6 Submission Review: The Consultant shall promptly review or take other appropriate action with respect to shop drawings, samples, or other submissions of Contractor for the purpose of checking for conformance with the Consultant's design intent and compliance with the information in the Construction Documents.

7.7 Changes to the Work: The Consultant shall prepare all reasonable changes to Construction Documents as required for the successful completion of the Project as requested by the State, and shall notify the State of additional services, if any, required by the State's request.

7.7.1 Change Orders: The State shall prepare all Change Orders to the construction contract. For purposes of this Agreement, a change order is defined as a Supplemental Agreement. The Consultant shall review all contractor and subcontractor pricing to ensure all labor and material costs are submitted in units of labor, units of materials and their unit

price/cost and ensure overhead and profit percentages are in accordance with the general conditions of the contract Exhibit I.

7.7.2 Contractor Claims: The Consultant shall promptly review, analyze and respond to contractor claims and costs, including delay claims and associated costs, in accordance with the general conditions of the contract for construction Exhibit I - AIA A201 General Conditions (2017 Edition) as modified by the State. (incorporated by reference, and available from the State).

ARTICLE 8 POST CONSTRUCTION PHASE

8.1 Commencement: The Post Construction Phase shall commence with the issuance of the Certificate of Substantial Completion. Consultant agrees to provide services in accordance with Exhibit A and Instruments of Service as enumerated in Exhibit A. The established warranty period for the construction work will begin on the date stated on the Certificate of Substantial Completion.

8.2 Drawings of Record: See Article 11.1.

8.3 Post Construction Warranty Review: The Consultant and its sub-consultants shall provide an aggregate total of 32 person-hours for a one-day review of the warranty performance of the construction as identified in Exhibit A. This review shall take place 10 months following the date of substantial completion. The Consultant shall inform the State promptly and report in writing of its findings during this review. The Consultant shall provide the required administrative services to assure that all defective work shall be corrected to the satisfaction of the State. In the event this review and related administrative services require more than a total of 32 person-hours, or are not related to scope of work that is part of the Consultant's responsibility to address during the progress of scope of work during the Construction Phase, the Consultant shall be eligible for additional compensation for the additional administrative services as an additional service.

ARTICLE 9
CONSULTANT COMPENSATION

9.1 Determination of Compensation: The State shall compensate the Consultant in accordance with the terms and conditions of this Agreement as provided in attached Exhibit B, Consultant Compensation.

9.1.1 Total Compensation: The Consultant's total compensation for Basic Services shall be the dollar amount listed in the preamble to this Agreement, immediately before Article 1, and enumerated in Exhibit B, Consultant Compensation.

9.1.2 Reimbursement for expenses identified in Article 9.5 is in addition to compensation for basic services.

9.2 Payments:

9.2.1 Consultant Progress Payments: The State shall pay the Consultant monthly on the basis of monthly invoices submitted by the Consultant, as provided in Section 9.2.2, provided (1) the sum of payments made by the State shall remain in proportion to the amount of work completed by the Consultant and (2) the total payment for any phase shall not exceed the fee for that phase as enumerated in Exhibit B.

9.2.2 Invoices: Payments shall be made upon presentation of valid invoices to the State at the Facilities Management Office, Camp Ripley, 15000 Highway 115, Little Falls, MN 56345-4173, by the Consultant in a format prescribed by the State. Invoices for services provided under this Agreement may be submitted monthly. In accordance with Minn. Stat. § 16A.124, the State agrees to pay the Consultant within thirty (30) days of the receipt of a valid invoice. Payments not made within thirty (30) days after the date of receipt of a valid invoice by the State's, Authorized Representative, unless contested by the State, shall bear interest at a rate one and one-half percent per month unless otherwise provided in Minn. Stat. § 16A.124. Such interest shall begin to accrue thirty (30) days following receipt by the State of a valid invoice for those services.

9.2.3 Subcontractor Payments: In accordance with Minn. Stat. § 16A.1245, the Consultant shall pay

to each subcontractor, within ten (10) calendar days of the Consultant's receipt of payment from the State, the amount paid to the Consultant on account of the subcontractor's work to the extent of the subcontractor's interest therein. If the Consultant does not make said payment to any subcontractor within the specified time, the Consultant shall pay interest to the subcontractor in the amount of one and one-half percent per month, or any part of the month, on any undisputed amount not paid to the subcontractor within ten (10) calendar days of the Consultant's receipt of payment from the State for any undisputed services provided by the subcontractor unless otherwise provided in Minn. Stat. § 16A.1245. To the extent a subcontractor provides for earlier or larger payments, the Consultant shall make payment to the subcontractor as provided for therein irrespective of the date or amount of any payment made by the State.

9.2.4 Payment Withheld: No deduction shall be made from payments to the Consultant on account of penalties, liquidated damages, or other sums withheld from payments to Contractors, provided nothing in this Section shall limit the State's remedies against the Consultant for costs or damages attributable to the Consultant's failure to perform under this Agreement.

9.3 Compensation Adjustments: For each phase of the Consultant's work commenced after an increase or decrease by the State in the Budgeted Cost of Construction, the Consultant's compensation for all remaining phases of the work shall be adjusted to the new Budgeted Cost of Construction, based on the percentage fee shown in Exhibit B, if the **change** in the Budgeted Cost of Construction is greater than fifteen percent (15%). Such adjustments shall not be retroactive for phases already completed. For any phase underway at the time the State adjusts the Budgeted Cost of Construction, the State shall prorate the adjustment of the Consultant's fee for the phase based upon the Project Schedule. The Consultant's fee shall not be decreased or increased should the contract award amount be more or less than the Budgeted Cost of Construction unless such increase or decrease is due to a change in the scope of the Project or the change results in a greater than fifteen percent (15%) difference between the Budgeted Cost of Construction and the award amount.

9.4 Additional Services:

9.4.1 Amendments/Supplemental Agreements:

Amendments/Supplemental Agreements shall be executed for all additional services prior to the Consultant beginning any additional work that would incur a financial obligation to the State. Amendments/Supplemental Agreements resulting from an increase in the scope of work defined in this Agreement are not valid or effective until all Consultant and State signatures are completed, until funds for that purpose are fully encumbered by the State and the State has issued the Consultant a written notice to proceed with the additional work. Until all signatures are received and funds are encumbered, there shall be no liability upon the State for payment of obligation or on the part of the Consultant to commence services on the additional work. Any claim for additional fees shall be made to State immediately and not more than twenty (20) days after the Consultant's knowledge of the occurrence giving rise to the claim. Claims made after twenty (20) days shall not be honored by the State. Program changes requested by agency clientele shall be authorized only when such requests are made to the State's Authorized Representative in writing by authorized agency clientele personnel, and then only when the State's Authorized Representative approves such requests in writing and an Amendment to the contract has been executed.

9.4.1.1 The Consultant is obligated to inform the State when additional fees will occur and request additional fee compensation prior to performing any additional work that would result in an increase in compensation under this contract. The State is not obligated to pay any additional fee compensation on unauthorized work. For purposes of this contract, unauthorized work is defined as work performed without a contract or amendment to the contract.

9.4.1.2 Following execution of the original contract, should there be a disagreement between the Consultant and the State as to whether any services are included in the Consultant's contract or amendments, the Consultant shall continue to perform all services covered in the original agreement and amendments including if required by the State services in dispute.

9.4.2 Additional Services Compensation:

Compensation for Additional Services is to be in addition to compensation for Basic Services. Additional Services provided by the Consultant and the Consultant's subconsultants in the interest of the Project include, but are not limited to, those listed in Exhibit A. Compensation for Additional Services shall be in accordance with Exhibit B.

9.4.3 Revisions to the Scope of the Project: In the event that revisions to the budget or program are required due to factors outside the Consultant's control through the Design Development Phase, the Consultant shall make all revisions necessary as provided in Article 9.3.

9.5 Reimbursable Expenses: Allowable reimbursable expenses are in addition to compensation for Basic Services and include expenses incurred by the Consultant and the Consultant's employees, and sub-consultants for their work on the Project.

Allowable reimbursable expenses paid by the State, at cost, upon presentation of invoices shall include the following:

1. Governmental Plan Review or Permit Fees.
2. Specification and Drawing Reproduction, bid sets only, for Governmental Plan Review and those requested by the State.

9.6 Direct Expenses: Unless otherwise provided in Section 9.5, compensation for direct expenses is included in the Consultant's basic services compensation.

ARTICLE 10
CANCELLATION, TERMINATION BY
ABANDONMENT OR SUSPENSION OR
SCOPE REDUCTION, EXPIRATION

10.1 Cancellation

10.1.1 Cancellation with Cause: If through any cause within the Consultant's control that is not authorized by the State, the Consultant shall fail to submit Instruments of Service and other documents as required herein and according to the stated Project Schedule, or if the Consultant shall violate any of the covenants, agreements, or perform such services in an unsatisfactory manner, the State shall have the right to cancel this Agreement upon seven (7) days written notice to the Consultant. If, upon cancellation, the State incurs additional cost as a result of the Consultant's failure to perform, the Consultant shall be responsible for the amount of such additional costs reasonably incurred by the State. The State shall be entitled to withhold from any payment due to the Consultant, an amount which the State reasonably believes may be its additional costs until such time as the exact amount of such additional cost is determined and the Consultant has rendered payment thereof. Nothing herein shall be construed to require the State to pay interest on any retainage amount held by the State under this Agreement.

10.1.2 Cancellation without Cause: The State may cancel this Agreement at any time without cause upon thirty (30) days written notice to the Consultant. Upon termination, the Consultant will be entitled to payment for authorized services satisfactorily performed through date of cancellation.

10.2 Abandonment, Suspension, or Scope Reduction [NOTE: AIA A201 uses the word "suspension"]

10.2.1 Notice: At any time during the term of this Agreement, the State may abandon the Project entirely, suspend it for an indefinite time, or reduce the scope or quality of the Project upon seven (7) days written notice to the Consultant.

10.2.2 Abandonment or Suspension: In the event that the State abandons the Project entirely or suspends same for more than ninety (90) calendar

days, the Consultant shall only be entitled to compensation for services satisfactorily rendered as of the date of Notice of Abandonment or Suspension. In the event of abandonment or suspension, the Consultant shall remain the Consultant of record and be entitled to continue as the Consultant should the Project be recommenced within twelve (12) months after receipt of written notice.

10.3 Expiration: Subject to Section 1.0, unless otherwise canceled or terminated, this Agreement shall expire when the Consultant has satisfactorily performed all obligations and the State has made payment for same in accordance with this Agreement, but no later than twelve (12) months after Consultant issues the final Certificate of Payment for construction, or no later than five (5) years after the effective date of this Agreement, whichever occurs first.

ARTICLE 11
OTHER CONDITIONS

11.1 Drawings of Record: Consultant shall provide electronic instruments of service for CADD drawings (in both DWG and PDF format) and specifications (in DOC or DOCX format) on optical disks. These electronic instruments of services shall be transmitted to the Department of Military Affairs Authorized Representative, Facilities Management Office.

The Consultant shall, upon final completion of the Project, revise the original drawings and specifications to show all design changes made by Consultant in the drawings, specifications, and addenda. Consultant shall also revise the original drawings and specifications to show as-built conditions reported by the Contractor. Consultant shall not be required to make a detailed survey of the project as-built and Consultant shall not be responsible for the accuracy of the information provided by the Contractor. However, Consultant shall be required to document all supplemental agreement work that has been incorporated into the Project. These drawings and specifications shall be transmitted to the Department of Military Affairs, Facilities Management Office, Camp Ripley, 15000 Highway 115, Little Falls, MN 56345-4173. These documents shall be referred to as Drawings of Record,

and shall be submitted in accordance with Exhibit A, Attachment 7. The State acknowledges that these documents may not be a complete record of as-built condition and that the documents shall be used in accordance with Article 1.9 in this Agreement. The drawing format shall meet the State's guidelines which are identified in Exhibit A.

11.2 Insurance: Exhibit C, which is attached and incorporated into the Agreement, identifies the insurance requirements for this Project. The Consultant shall provide the State with a copy of an insurance certificate(s) indicating compliance with the insurance requirements and limits in Exhibit C.

The Consultant may satisfy such requirements for limits of insurance by presenting evidence that the aggregate value of insurance carried by the Consultant and its subconsultants equal the required amount. The Consultant or its sub-consultants shall pay the insurance premiums.

11.3 Nondiscrimination: The Consultant agrees that during the term of this Agreement it will comply with the provisions of Minn. Stat. § 363A relative to nondiscrimination.

11.3.1 Nondiscrimination on account of race, creed, or color prohibited in contract.

The Consultant will comply with the provisions of Minn. Stat. § 181.59 which requires that every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

(1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account

of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

11.4 Tax Information: The Consultant is required to provide the Consultant's social security number or federal and state tax identification numbers. This information may be used in the enforcement of federal and state tax laws. Supplying these numbers could result in action to require the Consultant to file tax return and to pay delinquent tax liabilities. This Agreement will not be approved unless these numbers are provided. These numbers will be available to federal and state tax authorities and state personnel involved in the payment of state obligations. No other dissemination of this information is permitted.

11.5 Affirmative Action: The State intends to carry out its responsibility for requiring affirmative action by its Consultants.

11.5.1 Covered Contracts and Consultants: If the Agreement exceeds \$100,000 and the Consultant employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Consultant must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A Consultant covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

11.5.2 Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the Consultant to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event.

A contract awarded without a certificate of compliance may be voided.

11.5.3 Minn. R. 5000.3400-5000.3600.

11.5.3.A General. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Consultant's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

11.5.3.B Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

1. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Consultant agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The Consultant agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
3. In the event of the Consultant's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes

§ 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

4. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Consultant's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
5. The Consultant must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Consultant is bound by the terms of Minnesota Statutes § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

11.5.3.C Consequences. The consequences for the Consultant's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Agreement by the Commissioner or the State.

11.5.3.D Certification. If applicable, the Consultant hereby certifies that it is in compliance with the requirements of Minnesota Statutes § 363A.36 and Minnesota Rules 5000.3400-5000.3600 and is aware of the consequences for noncompliance. Consultant shall complete and sign Exhibit H, Affirmative Action Certification, which is attached and made a part of this Agreement.

11.5.4 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions: Contractor certifies that neither it nor its principles is presently debarred or suspended by the State, or any

of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the contract award was based. Contractor shall provide immediate written notice to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

11.5.5 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion: Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore Consultant certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Consultant's certification is a material representation upon which the contract award was based.

11.5.6 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion: Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Consultant must certify the following, as required by the regulations implementing Executive Order 12549.

11.5.6A Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the

person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of

Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

11.5.6B Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

11.6 Antitrust Laws: The Consultant hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

11.7 Government Data Practices Act: The Consultant and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the Consultant under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 by either the Consultant or the State.

If the Consultant receives a request to release the data referred to in this Article, the Consultant must immediately notify the State. The State will give the Consultant instructions concerning the release of the data to the requesting party before the data is released.

11.8 Energy Conservation and Sustainability: The Consultant shall predesign and design the project to comply with the State of Minnesota Sustainable *Building Guidelines (MSBG)* – also known as B3 Guidelines. The guidelines are available at the following website: www.msbg.umn.edu/index.html. This requirement applies to all new buildings, additions, and to major renovations. A major renovation is defined as at least 10,000 square feet and/or encompasses the complete replacement of the mechanical, ventilation, or cooling system of the building or a section of the building. During the development of the design, throughout all design phases, the Consultant shall submit all required documentation and enter all project data into the MSBG Tracking Tool located at the following website: www.msbgtracking.com. The Consultant shall enter sufficient data to achieve a “Compliant” status.

11.8.1 All Projects: The Consultant agrees to and shall provide energy efficient design and specify the maximum energy efficient equipment on all projects regardless of the project size or scope. The Consultant shall, through coordination and approval by the State, incorporate sustainable design options into the project.

11.9 E-Verify Certification (In accordance with Minn. Stat. §16C.075)
For services valued in excess of \$50,000, Consultant

certifies that as of the date of services performed on behalf of the State, Consultant and all its subconsultants will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Consultant is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at:

<http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>

All subcontractor certifications must be kept on file with Consultant and made available to the State upon request.

11.10 Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053)

The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

11.11 Subcontractor Reporting:

If the value of this contract may exceed \$500,000, including all extension options, Contractor must track and report, on a quarterly basis, the amount spent with diverse small businesses. When this applies, Contractor will be provided free access to a portal for this purpose, and the requirement will continue as long as the contract is in effect.

11.12 Reports: If the final product of the contract is a written report, the Consultant must file a copy with the State of Minnesota Legislative Reference Library in accordance with the Minnesota Statute 16C.08 Sub. 6. One (1) electronic copy (Word, PDF, URL) to reports@lrl.leg.mn and two (2) print copies to:

Legislative Reference Library
645 State Office Bldg.
100 Rev. Dr. MLK Jr. Blvd.
St. Paul, MN 55155

**ARTICLE 12
OTHER PROVISIONS**

12.1 The following clauses are excluded from this Agreement:

- 11.8 Energy Conservation and Sustainability

12.2 In the event of a conflict between the terms of this Agreement, and its Exhibits, this Agreement shall take precedence. No terms and conditions of the Consultant's proposal will be construed to modify, diminish or derogate the terms and conditions of this Agreement.

12.3 Survival of Terms: The following clauses survive the expiration or cancellation of this Agreement:

- 1.7 Indemnification
- 1.8 State Audits
- 1.9 Ownership of Instruments of Service
- 1.10 Governing Law, Jurisdiction and Venue
- 11.7 Government Data Practices Act

**ARTICLE 13
SCHEDULE OF EXHIBITS**

The following documents are incorporated herein.

- 13.1 Exhibit A** Scope of Services.
- 13.2 Exhibit B** Consultant Compensation.
- 13.3 Exhibit C** State Insurance Requirements.

13.4 Exhibit D Special Conditions for Contract Work Involving Federal Funds.

13.5 Exhibit E List of Personnel and Subconsultants.

13.6 Exhibit F Affidavit of Noncollusion.

13.7 Exhibit G Certification Regarding Lobbying.

13.8 Exhibit H Workforce Certificate.
Exhibit H1 Equal Pay Certification.

13.9 Exhibit I AIA A201 General Conditions (2017 Edition) as modified by the State (incorporated by reference, and available from the State).

13.10 Exhibit J Consultant Performance Evaluation Form (Incorporated by reference. A copy is available at website: <http://mn.gov/admin/government/construction-projects/manuals-guidelines-forms/forms/index.jsp>)

13.11 Exhibit K Project Energy-Utility Savings Form (Incorporated by reference. A copy is available at website: <http://mn.gov/admin/government/construction-projects/manuals-guidelines-forms/forms/index.jsp>)

IN WITNESS WHEREOF the State has caused this Agreement to be duly executed in its behalf and the Consultant has caused the same to be duly executed on its behalf.

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.

SWIFT Purchase Order Number: _____

Certification Signature: _____

Date: _____

2. CONSULTANT:

The Consultant certifies that the appropriate person(s) have executed the Agreement on behalf of the Consultant as required by applicable articles, bylaws, resolutions, or ordinances. The Consultant further certifies that no additions, omissions or other changes have been made to the Agreement.

By: _____
Corporate Signature

Printed Name: _____

Title: _____

Date: _____

By: _____
Corporate Signature

Printed Name: _____

Title: _____

Date: _____

3. STATE AGENCY:

DEPARTMENT OF MILITARY AFFAIRS

Contract approval and certification that state funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.

By: _____

Printed Name: Major General Shawn P. Manke

Title: Adjutant General

Date: _____

4. COMMISSIONER OF ADMINISTRATION,
As delegated to Materials Management Division:

By: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT A
SCOPE OF SERVICES

The State is in need of Architectural, Structural Engineering, Mechanical Engineering, Electrical Engineering, Civil Engineering, Licensed Land Surveyor and Geotechnical Engineering services to design for determining the Renovation and Addition of Building 15-2, Camp Ripley, Little Falls, MN (Project No. 25101).

1.0 Project Overview:

1.0.1 Project Scope: The Department of Military Affairs requests proposals to design a comprehensive renovation and building addition up to 3,500 square feet for Building 15-2: United States Property and Fiscal Office (USPFO) at Camp Ripley, 15000 Highway 115, Little Falls, MN 56345. The original office building was constructed in 1980, and it is currently about 15,000 square feet in size. The structure consists of a brick masonry cavity wall with interior steel supports, steel bar joists, and steel roof deck. The renovation includes a replacement of the mechanical system. The heat for the building presently comes from a separate steam plant that has been determined to be decommissioned at a later time.

1.0.2 Project Budget/Cost of Construction:
The estimated cost of construction is \$5,000,000.00.
The fee for design and construction administration will be a negotiated all-inclusive total fee. For allowable reimbursable expenses, refer to Article 9.5 of the State's Basic Services Agreement posted on the website: <http://minnesotanationalguard.ng.mil/requests-for-proposal/>. It is expected negotiations in connection with the selected firm will occur in a timely and cooperative manner.

1.0.3 Project Schedule:

Phase	Begin	Complete
Pre-design	July 2023	July 2023
Schematic Design	August 2023	August 2023
Design Development	September 2023	October 2023
Construction Documentation	November 2023	March 2024
Bidding	April 2024	October 2024
Construction	November 2024	October 2025
Post Construction	November 2025	October 2026

1.0.4 Required design disciplines: Architectural, Structural Engineer, Mechanical Engineer, Electrical Engineer, Civil Engineer, Licensed Land Surveyor and Geotechnical Engineer

1.0.5 Required specialty design disciplines: None.

1.0.6 Existing infrastructure systems: Capacity upgrades to support the proposed work.

1.0.7 Project Delivery Mode: Design, Bid, Build.

2.0 Responsibilities and Instruments of Service/Deliverables. Basic Services include, but are not limited to, predesign, schematic design, design development, construction documents, bidding, construction administration, and post construction. For required Responsibilities and Instruments of Service/Deliverables see Attachments 1 through 7. All services shall be provided in accordance with the Attachments 1-7 and this Agreement.

3.0 Reference Documents: Services are to be provided in compliance with policies and guidelines identified below.

3.0.1 At a minimum, the documents shall conform to the latest adopted edition of the following Criteria/Standards:

Building Codes

- International Building Code (as adopted by the State)
- Minnesota State Building Codes
- Handicapped Accessibility Standards

Military Construction Criteria and Guides

- NGB Form 420R for the CRTC: 15-2 Renovation (dated Nov, 10, 2022)
- Design Guides 415-1 (Design Guide for Readiness Centers), 415-2 (Design Guide for Logistics Facilities), 415-3 (Design Guide for Aviation Facilities), 415-4 (Design Guide for Training Sites), 415-5 (General Facilities Information Design Guide)
- National Guard Regulations 415-5 (Military Construction – Army National Guard Program Development) and 415-10 (Army National Guard Facilities Construction)
- National Guard Bureau Pamphlets NG Pam 415-5 (Army National Guard Military Construction Program Execution) and 415-12: (Army National Guard Facilities Allowances)
- Unified Facilities Criteria – UFC 4-010-01 (DoD Minimum Antiterrorism Standards for Buildings)
- Unified Facilities Criteria – UFC 1-200-2 (High Performance and Sustainable Building Requirement)

3.0.2 Sustainability, Energy Conservation/High Performance Buildings and Systems:

- 1) Consultant designers shall incorporate ASHRAE 189.1 Standards for sustainable design measures into their designs and costs into their costs estimates.
- 2) In accordance with Minn. Stat. 16B.32 Subdivision 1: Plans for a new building or for a renovation of 50% or more of an existing building or its energy systems, must include designs which use active and passive solar energy systems, earth sheltered construction, and other alternative energy sources where feasible.
- 3) In accordance with MN Statute 16B.32 Subdivision 2: Onsite energy generation from renewable sources: Designs for a new building and/or substantial renovation, must consider meeting at least two percent of the energy needs of the building from renewable sources located on the building site. “Renewable sources” are limited to wind and the sun. The design must include an explicit cost and price analysis of complying with the two-percent (2%) requirement compared with the present and future costs of energy supplied by a public utility from a location away from the building site and the present and future costs of controlling carbon emissions. If the analysis concludes that the building should not meet at least two percent of its energy needs from renewable sources located on the building site, the analysis must

provide explicit reasons why not. Reasons given for not meeting the two-percent requirement must be supported by evidence in the project record.

- 4) In accordance with MN Statute 16B.326: When the project involves new building(s), new HVAC system or replacing a HVAC system, the design must contain an analysis to document the consideration of providing Geothermal & Solar Energy Heating & Cooling Systems.
- 5) During the performance of services, schedule and coordinate with the State's Authorized Representative to identify all viable utility rebate opportunities. Specify equipment that meets or exceeds efficiency standards and qualifications for utility rebate programs. Upgraded equipment specifications that have incremental costs covered by project budget are to be pursued. Specifications are to require that the contractor(s) shall provide necessary documentation, including invoices, required by the utility(s) for the purpose of processing and approving rebate applications, and that the contractor(s) shall work with the State's Authorized Representative to assist the State in obtaining all possible utility rebates on the project.

3.0.3 Indoor Air Quality/Building Environmental Quality: Consultant designers shall provide mechanical designs (and costs into their Predesign) in accordance with "*Building Air Quality – A guide for Building Owners, Facility Managers and Agency Contacts*" (available at the State web site: http://mn.gov/admin/images/RECS-CS-iaq_guide.pdf).

3.0.4 National Pollutant Discharge Elimination System (NPDES).

3.0.5 Telecommunications: Consultant designers shall coordinate with the State, Department of Military Affairs, information technology staff. The State will provide conduit size and box locations to the Consultant for inclusion in design. Design and installation of balance of system (conductors, switchgear, etc.) will be by the State. Refer to "*Building Infrastructure Standards for State Owned Buildings*" (as contained in the State's *Design Guidelines*; available at the State web site: <http://mn.gov/admin/business/vendor-info/construction-projects/manuals-guidelines-forms/guidelines/index.jsp>).

3.0.6 Electronic Instruments of Service: The project design team shall utilize the current version of the Minnesota Department of Military Affairs, Facilities Management Office Revit Standards for Drafting as they relate to this project, to include drawing file naming conventions, level naming conventions, drafting conventions, line types/styles/weights/colors, pattern elements and font types. CADD drawings shall also include a geo-referenced site plan if applicable. The current version of the Minnesota Department of Military Affairs, Facilities Management Office Revit Standards for Drafting are available at no charge from the Project Manager at the Facilities Management Office. The Facilities Management Office shall provide the design team with Revit Architectural, Structural, Mechanical and Plumbing models. For projects involving existing buildings on Camp Ripley, the Owner will provide the coordinate locations for two opposite corners of each building for the design consultant's use in geo-referencing the plans.

Consultant shall provide electronic instruments of service for Revit drawings (in both RVT and Vector Graphics Based Unsecured PDF format) and specifications (in either DOC or DOCX and Text Based Unsecured PDF format) on optical disks (either compact disk/CD, or digital versatile disc or digital video disc/DVD). All Revit drawing files for each discipline, to include all attached raster image files, shall be located within a single directory or folder. Separate directories or folders may be used

for each discipline. Revit drawings for all disciplines should be submitted on a single CD or DVD if possible. These electronic instruments of services shall be transmitted to the Department of Military Affairs Authorized Representative, Facilities Management Office.

- 3.0.7 MINNCOR Industries:** In accordance with MN Statute 16B.335 Subdivision 3c.: “All predesign, design, and construction projects shall include consideration of the State of Minnesota’s correctional industries program, MINNCOR Industries, consistent with section 16B.181, subdivision 2, paragraph (c), in predesign planning and product specifications”. Consultants shall include MINNCOR in their planning efforts. MINNCOR’s web site can be found at <http://www.minncor.com>.
- 3.0.8 Basic Services Agreement:** Consultant shall provide services and instruments of service/deliverables in accordance with the State’s Basic Services Agreement (BSA). The associated services and instruments of service/deliverables have been edited to be project specific.
- 3.0.9 Consultant Performance Evaluation.** The State will evaluate the Consultant’s and/or subconsultants’ performance for work provided.
- 3.0.10 Project Energy/Utility Savings.** The Consultant shall provide designs and specifications that result in maximizing energy savings. Consultant shall complete and submit the “Project Energy/Utility Savings Form” to the State. This form is available online at <http://mn.gov/admin/business/vendor-info/construction-projects/manuals-guidelines-forms/forms/index.jsp>.
- 3.0.11 Specification:** Front-end (Division 00 – Bidding and Contract Requirements and Division 01 – General Requirements) will be provided to the Consultant in MS Word. Electronic deliverables to the State shall be in MS Word and/or pdf.
- 3.0.12** Pre-Construction Environmental Assessment and NEPA Documents will be made available upon request.

Predesign Phase

(See Article 2)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

1.0.1 Program Evaluation: The Consultant shall provide Predesign services, including a review of the following outline of topics, in order to compile the Predesign Document for review by the State.

- A. An analysis of facility needs:
 - 1. Overall organization:
 - a. Function
 - b. Organizational structure
 - c. Sectoring and circulation
 - d. Summary of existing and projected net and gross areas.
 - e. Summary of net area requirements.
- B. Site analysis:
 - 1. Circulation and parking
 - 2. Zoning and codes
 - 3. Utilities
 - 4. Water pressure testing (static and residual)
 - 5. Topography and soils (at this phase or no later than completion of Schematic Design Phase)
 - 6. Environmental site assessment (if available)
- C. Facility and Site Design Standards
 - 1. Codes
 - 2. Life Safety
 - 3. Circulation
 - 4. Security
 - 5. Structural
 - 6. Mechanical
 - 7. Electrical
- D. Building and Site Options
- E. Establish new construction cost estimate
- F. Project Schedule

1.0.2 Facilitate a Design Charrette :

- 1. Location of Charrette: The Consultant shall conduct the charrette at location(s) of the State's choosing. The Consultant shall coordinate and obtain the facility(s) for this purpose.
- 2. Length of Charrette: The charrette shall not be less than 1 days in length where the State and Consultants representatives are in attendance together.
- 3. Charrette Agenda: The Consultant will prepare an agenda to be approved by the State's Authorized Representative at least 2 weeks prior to the start of the charrette.
- 4. Participants: The Consultant shall have all of their sub-consultants that will be responsible

for work on the project in attendance at required times as established in the agenda. The State will invite members of their staff and partners in the overall project. The State will inform the Consultant on their estimated daily attendees.

- 5. Equipment: The Consultant shall provide all the equipment required to conduct the charrette including but not limited to audio/visual and computer equipment.
- 6. Food: The Consultant shall provide "working" lunches for all participants in attendance on each day of the charrette.

1.0.3 Should there be a need for additional services in the performance of this contract, DO NOT perform any work until a contract amendment is in place.

INSTRUMENTS OF SERVICE / DELIVERABLES

1.1.1 Included in the Predesign Document shall be the following elements:

- 1. Predesign Summary Statement
- 2. Site Analysis Report(s)
- 3. Site Options
- 4. Schedule Information
- 5. Building area tabulation
- 6. Construction Cost Estimate based on current area, volume, or other unit cost

1.1.2 Distribute Project Directory of team members to include primary person contact information from design team, State, and facility personnel. Include telephone numbers, facsimile numbers, and email addresses.

Attachment 2 to Exhibit A
Schematic Design (SD) Phase

(See Article 3)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

2.0.1 Coordinate design activities with State and subconsultants. Establish communications hierarchy.

2.0.2 Attend and document meetings with State to review progress of project. Request approvals when appropriate.

2.0.3 Obtain manuals and guidelines from the State's Authorized Representative. Review and incorporate requirements into the project.

2.0.4 Obtain the State's preliminary study and/or scope of work. Review, analyze and evaluate State's program, budget, *Estimated Cost of Construction*, and schedule. Meet and coordinate State & user agency to confirm the program of spaces, square footage requirements and scope of work. Value engineer a revised estimate to align with the program, and obtain approval sign-off from the State.

2.0.5 Review Project Delivery methods with the State's Authorized Representative.

2.0.6 Verify if building is on register of historic places (federal or state). Verify requirements and approval process.

2.0.7 Review requirements and initiate a site survey and geotechnical investigations. Recommend the extent of site survey and soil boring locations.

2.0.8 Verify existing utility infrastructure for adequate capacity and cost upgrades needed to support the proposed building/facility or renovation.

2.0.9 Investigate Sewer Assessment Charges (SAC) and Water Assessment Charges (WAC).

2.0.10 Obtain the Environmental Site Assessment Survey (ESA), from the State Department of Military Affairs, and incorporate findings into the design.

2.0.11 Coordinate and attend meetings with appropriate zoning and code officials. (State and local Building Code officials, Fire Marshal, Accessibility Council, Health Department, municipality, Pollution Control Agency, Federal unit of government).

2.0.12 Coordinate scope of work with State's hazardous material abatement designer (if applicable).

2.0.13 Set up CAD system per Paragraph 3.0.6 of Exhibit A above.

2.0.14 Determine special requirements for but not limited to: mechanical, electrical, civil, voice/data communications (rough-in), structural systems and fire suppression systems.

2.0.15 Review specialty design requirements (i.e. anti-terrorism/force protection, security, laboratory, food service, alternative energy, technology, etc.). Determine specialty construction impact on the project schedule.

2.0.16 Obtain list of material/manufacturer preferences and concerns from State and facility.

2.0.17 Identify cost and schedule issues and impact: i.e., long lead times for certain material deliveries, training schedules, phasing, hazardous material abatement time, security procedures.

2.0.18 Conduct a preliminary materials research and note materials that may require long lead times and pose schedule difficulties. Provide information on life-cycle costs of proposed materials.

2.0.19 Format Budget, Estimated Cost of Construction & Schedule in order to track the history of costs and comparisons to the initial scope of work through future design phases.

2.0.20 Cost Estimates are to include inflation to midpoint of construction and unique costs such as contractor downtime to work inside a secure facility, phasing costs, SAC/WAC charges, etc.

2.0.21 Collect, analyze and organize information to prepare submittal documents. (Note: The same submittals are to be updated and submitted for subsequent DD and CD design phases).

Attachment 2 to Exhibit A
Schematic Design (SD) Phase

(See Article 3)

Consultant Responsibilities and Instruments of Service

**INSTRUMENTS OF SERVICE /
DELIVERABLES**

2.1.1 Submit electronic (pdf and dwg files) and two copies of Schematic Design report and documents to the State's Authorized Representative for review & approval. The submittals below are to be updated for subsequent phase submittals:

2.1.2 Drawings:

- Cover Sheet with drawing index
- Site Plan – with all utilities & zoning requirements
- Site Analysis Plan
- Design Concept Plan
- Phasing Plan(s)
- Preliminary Code Plan(s) and Code Record
- All preliminary Demolition Plans
- All preliminary floor plans
- Principal exterior elevations (noting materials)
- Major building sections
- Preliminary mechanical, electrical and equipment and phone/data room plans. For DD submittal, note size and headroom requirements for all major mechanical, electrical, communication and data equipment per the *Building Air Quality Manual* and *Design Guidelines*.

2.1.3 Documents (8 ½ x 11 format –bound):

- Submittal Cover letter.
- Statement of project concept.
- Statement of key project issues as they relate to project scope, cost & schedule, including identification of risk factors, quality control and salient project features.
- Building area tabulation showing comparison to Predesign/study.
- Statement of preliminary site & building systems
 - Site criteria and selection systems/utilities
 - Building envelope
 - Structural system
 - Mechanical systems
 - Preliminary Energy analysis summary
 - Alternative energy uses & associated systems
 - Preliminary Life-cycle cost comparisons of major systems (envelope, structural, mechanical, piping, electrical)
 - Commissioning Plan
- Sustainable design goals and strategies
- Estimated Cost of Construction
- Statement of Value Engineering
- Preliminary bar chart schedule, with critical path and dates noted. Include all State agency, State's Authorized Representative, legislative, quality

project and criteria review times. Include State's hazardous material abatement schedule.

- Primary materials being proposed.
- Submit Schematic Design Documents to the Minnesota State Historical Society (if applicable)
- *Design Guidelines* item variance requests

2.1.4 Update Project Directory of primary person contact information from design team, State, user agency. Include phone numbers, fax numbers, email addresses.

2.1.5 Distribute all meeting minutes. Record decisions.

2.1.6 Recommendations of existing systems upgrade based on life-cycle cost analysis.

2.1.7 Provide the State a site survey and/or geotechnical soil borings and report. Minimum requirements are to include legal description, property lines, topographic contours, benchmarks, all utilities, any easements, adjacent roads & highways, foliage/landscaping, existing buildings with heights and materials.

2.1.9 Provide a statement that the existing utility infrastructure systems have/do not have sufficient capacity to support the added/upgraded systems that are proposed for the project.

2.1.10 Submit a Preliminary Application for Plan Review to the State Division of Building Codes and Standards.

2.1.11 Submit SD Phase deliverables:

- Project Summary with Cost Estimate, Tabulation of spaces and square footages
- Issues and risks to budget and schedule
- Narrative of major systems
- SD Plans, Specs – outline version

Attachment 3 to Exhibit A
Design Development (DD) Phase

(See Article 4)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

3.0.1 Continue to administer the project work and coordination with agency, facility, State's Authorized Representative and design team to develop the design. Confirm space program with State/user agency.

3.0.2 Update the Estimated Cost of Construction and building program and areas and submit in table format showing comparisons to original Predesign or study and to Schematic Design. Value Engineer as needed to maintain project cost. Determine bid items.

3.0.3 During DD, the site design is refined, the plans, sections, elevations, etc. are drawn to scale, principle dimensions are noted, the structural system is laid out, and major mechanical and electrical components and distribution routes are located. Critical interior spaces are drawn and elevated for review, and preliminary specifications assembled.

- Coordinate space needs of mechanical, electrical, data/communication equipment rooms to be adequate in size and location.
- Coordinate layout of all building systems with each discipline.
- Identify utility needs for the project, and investigate the availability of needed services.
- Determine the need for on-site wells, sewage systems, storm drains, etc. and report these needs to State.
- Meet with the State's Authorized Representative to review equipment and maintenance access.

3.0.4 Obtain and review State's response/comments to SD documents and incorporate comments into the design.

- 3.0.5** Update the project schedule to include:
- critical paths
 - long lead times
 - state review times
 - quality control review times (estimate approx. 1 month review time and 2 wks to incorporate changes).
 - construction phasing down time/remobilization

3.0.6 Meet with MINNCOR Industries to determine potential products that can be specified to be provided.

3.0.7 All data, communications and information technology, including infrastructure and devices, are to be designed and specified under this contract and under the direction of the State's Authorized Representative.

3.0.8 Meet with and coordinate the State's intentions regarding Furniture, Fixtures and Equipment (FF&E).

3.0.9 Coordinate scope of work with State's hazardous material abatement designer (if applicable).

3.0.10 Schedule and conduct meetings to present, confirm and finalize material and finish selections with the State's Authorized Representative.

3.0.11 Submit a preliminary application to the Department of Labor & Industry for code review and inspections. Meet with the authority having jurisdiction on codes. Meet with the Department of Health having jurisdiction on sewer systems and Supportive Living Facilities/nursing homes.

**INSTRUMENTS OF SERVICE /
DELIVERABLES**

3.1.1 Meeting minutes.

3.1.2 Letter response that all SD review comments will be / have been incorporated into the documents. Provide written explanation for any review comments not incorporated into the documents. Confirm elements, scope, cost and schedule, and any adjustments, with the State.

3.1.3 Updated Schematic Design Instruments of Service/Deliverables, paragraphs 2.1.1 through 2.1.4. Updates to program areas, scope, cost and schedule are to be a tabulated comparison.

3.1.4 DD submittal shall also include the following: Review distribution and number of electronic (pdf and dwg files) and bound copies with State.

- Room finish schedules indicating materials.
- Materials/Finish Color schedules.
- Preliminary Project Manual with outline specifications for all disciplines including bidding requirements, conditions of the contract, etc.
- List of products to be provided by MINNCOR Industries.
- Civil Plans showing any new or increased utilities, on-site wells, retention ponds, hydrants, manholes, etc.
- Architectural interior plans and elevations of critical and special interior spaces.
- FF&E (Furniture, Fixtures & Equipment) Plans
- Catalog cut-sheets of finish equipment and fixtures.
- Technology and data/communication plans.
- List of products qualifying for utility rebates with expected rebate amounts.

Attachment 3 to Exhibit A
Design Development (DD) Phase
(See Article 4)
Consultant Responsibilities and Instruments of Service

- Selection of alternative energy systems.
- Selection of alternates for bidding.
- 3-dimensional representation of the project. Include perspectives (interior and exterior), models and computer generated 'walk-throughs'.

3.1.5 Written request identifying independent construction testing services required.

3.1.6 Submit a set of updated plan drawings to the State's Authorized Representative in sufficient detail to determine scope and cost of hazardous material abatement required in order to accommodate the work. (Abatement work to be done under separate contract). (if applicable)

SAMPLE

Attachment 4 to Exhibit A
Construction Documents (CD) Phase

(See Article 5)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

4.0.1 Continue to administer the project work and coordinate with State's Authorized Representative and design team to finalize the design.

4.0.2 Update and confirm space program, scope, cost and schedule with State's Authorized Representative.

4.0.3 Obtain and review State's DD review comments on submittal documents and incorporate comments into CDs.

4.0.4 Review progress of documents in meeting with State's Authorized Representative at 50% and 90% stage of completion.

4.0.5 Prepare final drawings, specifications, conditions of the contract and bidding requirements based on approved DD documents and in sufficient detail for bidding and construction of the project.

4.0.6 Review specifications to avoid sole source manufacturers and provide designs to obtain more competitive bidding while remaining compatible with existing installations. Assist the State in preparing sole source approval documentation prior to 50% completion.

4.0.7 Schedule final code review meeting with the Authority having Jurisdiction and schedule meeting with Dept. of Health for review of projects involving sewer work. Prepare final building code analysis and update the Code Record and Code Plan(s).

4.0.8 Finalize the Estimated Cost of Construction; value engineer as required to maintain allocated and approved budget.

4.0.9 Identify construction and special testing needs and communicate to the State's Authorized Representative. Quality assurance testing shall be indicated in each specification division; defining the type of test and method; test frequency; test pass/fail tolerance; and action required for failed tests.

4.0.10 Conduct final review of the State's *Design Guidelines* for inclusion into documents.

4.0.11 Review HARDWARE /keying with the State's Authorized Representative prior to publishing for bids.

4.0.12 Obtain from the State's Authorized Representative and edit the Division 00 Sections and related Construction Contract forms to be included in the Project Manual. Assign a Section number and list the documents in the Table of Contents.

4.0.13 Coordinate with the State/facility manager to schedule a Pre-bid conference. Attend and document the conference.

4.0.14 For projects exceeding \$1,000,000 construction cost, schedule a time period for a Quality Control Review (i.e. by RediCheck International) on 100% construction documents by an independent third party.

4.0.15 Certify Construction Documents for bidding and construction.

4.0.16 Obtain the State's sign-off on plans and specs.

**INSTRUMENTS OF SERVICE /
DELIVERABLES**

4.1.1 Meeting minutes.

4.1.2 Letter response that all SD & DD review comments have been incorporated into the documents. Provide written explanation for any review comments not incorporated into the documents. Confirm elements, scope, cost and schedule.

4.1.3 Updated Schematic Design and Design Development Instruments of Service/Deliverables. Updates to program areas, scope, cost and schedule are to be a tabulated comparison. Provide two total cost estimates; one by Construction Specifications Institute (CSI) division and one by bid item. Submit 50% and 90% complete documents.

4.1.4 Submit electronic (pdf and dwg files) and two copies of Construction Documents to the State's Authorized Representative for review & approval.

4.1.5 Written responses to regulatory/legal reviews or inquiries (i.e., code officials, Health Department, Pollution Control Agency, Municipality, Federal agency).

4.1.6 Include Sustainable design elements/products incorporated into the project.

Attachment 4 to Exhibit A
Construction Documents (CD) Phase

(See Article 5)

Consultant Responsibilities and Instruments of Service

4.1.7 Provide the State written documentation justifying code items in excess of criteria.

4.1.8 Edit the State's Division 00 front end documents as directed (Advertisement for Bids, Bid Proposal Forms, etc.)

- Provide total cost estimate by Construction Specifications Institute (CSI) division and by bid item.
- Substantial Completion date and liquidated damages
- Alternates and Unit Prices including descriptions/definitions
- Include allowances (if applicable)
- Complete Bid Request Form for Targeted Group Goal requirement
- Security requirements for contractors

4.1.9 Submit 100% complete set of documents (plans & specs) to third party. Incorporate third party Quality Control Review comments into documents. Submit documentation of review and comments.

4.1.10 Submit a 100% completed set of documents to the Minnesota State Historical Society. Provide written documentation of the review and comments to State. (if applicable)

4.1.11 Include all design professionals' CERTIFICATION SIGNATURES on drawings and on a signature sheet in the Project Manual.

Bidding Phase

(See Article 6)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

5.0.1 Accurate and complete construction documents prepared in order to receive accurate bids with a minimum of change orders. Approval for bidding will be dependent upon:

- a. the appropriate level of completion of contract documents and
- b. A/E Estimated Cost of Construction being in conformance with the State's allocated construction cost.

5.0.2 Coordinate with State's Authorized Representative to schedule a Pre-bid conference for publishing in the ad for bids; coordinate date and time with user Agency and State's Authorized Representative.

5.0.3 Reproduce Bid Documents (drawings and specifications) as specified in 5.1.2.

5.0.4 Contact contractors in the project area to increase interest in the project.

5.0.5 Respond to contractor inquiries, review manufacturer/supplier requests for prior approvals/substitutions with State's Authorized Representative and prepare addenda as needed. (See Article 6.3 of BSA)

5.0.6 Conduct a Pre-bid conference.

5.0.7 Attend bid opening, review bids and provide State with written recommendation to award or not to award the contract to a particular bidder.

5.0.8 Prepare and submit to the State complete sets of documents.

INSTRUMENTS OF SERVICE / DELIVERABLES

5.1.1 Provide the State's Authorized Representative copies of all addenda that document bidding activity.

5.1.2 Provide the bid documents to the Agency for upload into the State's Online bidding site and submit the following number of complete sets of bid documents including contract and bidding forms as follows:

- (2) State's Authorized Representative (one full size and one half-size set)
- (1) Each Facility

(2) Division of State Building Codes and Standards or designated code authority having jurisdiction. Submit Final Application for Plan Review. Include Code Plans and Code Record with Contract Documents.

- (1) Local/ municipal code official
- (1) Minnesota Department of Health
- (1) Fire Marshal (w / jurisdiction)
- (1) Minnesota State Historical Society and/or State Historic Preservation Office (SHPO) (if applicable).
- (1) MINNNCOR for bidding of furniture and/or millwork. (If project has significant scope of furniture or millwork).

Others as required for project review/approval.

5.1.3 Respond, in writing, to review comments received from State Building Codes & Standards, Fire Marshal, Department of Health, Local Code Authority, Pollution Control Agency, or other regulatory authority.

5.1.4 Assist the State's Authorized Representative in preparing Pre-bid conference and conduct (if applicable).

5.1.5 Assist in determination of award of project.

5.1.6 If low bid proposal amount exceeds Estimated Budgeted Cost of Construction/available funds; provide redesign and rebid to bring project within budget. Coordinate changes or value engineering with the State's Authorized Representative.

5.1.7 Submit updated one half-size set and compact disk(s) (pdf and dwg files) containing Construction Documents that include all Addenda, changes or clarifications that were made/issued during the bidding period.

Construction Phase

(See Article 7)

Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

6.0.1 Using the State's Pre-construction Conference Form, schedule, coordinate and conduct a Pre-Construction conference.

6.0.2 Administer the construction contract according to the terms, conditions, and provisions of the contract documents. Interpret the requirements of the contract documents. Advise the State concerning performance of the Contractor. Respond to Contractor questions.

6.0.3 Represent, advise, and consult with the State. Communicate with construction contractor(s) on behalf of the State. Communicate State's instructions to construction contractor(s).

6.0.4 Observe construction and keep State informed of progress. Evaluate and record work progress. Perform construction observation visits at times appropriate to the stage of the work. Provide site visits and necessary work in order to interpret and clarify designs to the contractor. Immediately inform State of any nonconforming work.

6.0.5 Monitor events (weather, material delivery, etc) that may prompt a delay in the project. Validate Contractor Delay Claims per AIA Doc A201.

6.0.6 Review and certify contractor's periodic (monthly) pay requests.

6.0.7 See Division 01 for contractor closeout submittals required prior to final payment.

6.0.8 Schedule and conduct recurring and special construction progress, status, and coordination meetings.

6.0.9 Prepare documentation for all clarifications and changes in the construction work. Record reason for change (Reason and Justification) using the following categories:

- Consultant Coordination
- State's Request
- Unforeseen conditions
- Value added quality

Prepare independent Cost Estimate, and Negotiation Memorandum on forms provided by the State.

6.0.10 Designers of record are to hold pre-installation conferences with the contractor(s) on critical systems/assemblies.

6.0.11 Schedule and Conduct an *above ceiling inspection* prior to installation of the ceiling. Mechanical and Electrical subconsultants are to inspect all installations for conformance to the contract documents.

6.0.12 Maintain changes for electronic Drawings of Record.

6.0.13 Conduct substantial completion inspection of the construction.

6.0.14 Coordinate and video tape building systems training sessions with the State and facility manager.

6.0.15 Coordinate and conduct final inspection.

6.0.16 Review Operations and Maintenance Manuals and warranties for completeness.

INSTRUMENTS OF SERVICE / DELIVERABLES

6.1.1 Conduct and distribute meeting notice, agenda and minutes.

6.1.2 Issue Clarifications, responses to RFIs and/or RFPs as required to achieve the intent of the design.

6.1.3 Construction observation reports [one per visit per discipline (architectural, civil, structural, electrical, mechanical, etc.). Document work progress relative to the schedule. Distribute a schedule of site visits by subconsultants.

6.1.4 Notify the State of any claims related to additional time or cost submitted by the contractor. Review & recommend any time extension claims. Make interpretations and recommendations to the State on additional costs, delay claims, time extensions, nonconforming work, and stop work notice. Respond to contractor regarding these issues.

6.1.5 Timely response & return of contractor shop drawings and submittals.

6.1.6 Submit contractor's Request for Payment after being certified by Consultant A/E of Record.

6.1.7 For each meeting, provide and distribute Meeting notice, agenda and handouts.

Attachment 6 to Exhibit A

Construction Phase

(See Article 7)

Consultant Responsibilities and Instruments of Service

6.1.8 Obtain all documentation from the construction contractor for utility rebates and provide to the State's Authorized Representative.

6.1.9 Verify receipt of closeout submittals prior to approving final payment to the contractor.

6.1.10 Verify pricing submitted by contractor is detailed with units of material and labor. i.e.

Material: 118 LF of ¾" copper piping X \$2.05 LF

Labor: 8 hrs X \$65 /Hr

6.1.11 Prepare and issue:

- Proposal requests (PR's).
- Supplemental Instructions (SI's).

6.1.12 Final inspection punch list and Certificate of Substantial Completion.

6.1.13 Updated electronic specifications and drawings of record.

6.1.14 Drawings and Documents to be submitted for this phase are the same SD, DD, CD submittals only with all information finalized.

6.1.15 Submit building systems training videos for future staff training needs.

SAMPLE

Attachment 7 to Exhibit A
Post Construction Phase
(See Article 8)
Consultant Responsibilities and Instruments of Service

RESPONSIBILITIES & SERVICES

to be made. Forward copies to the State's Authorized Representative, and the prime contractor.

7.0.1 Coordinate and collect information for warranty and operational manuals. Review Operations and Maintenance Manuals for completeness.

7.0.2 Receive and review as-built drawings and specifications from the contractor. Verify that all addenda, supplemental agreement (change order) work, and supplemental instructions, are included.

7.0.3 Incorporate all as-built changes onto electronic drawings and specifications.

7.0.4 The REVIT drawing format shall meet State's Guidelines in Exhibit A, Paragraph 3.0.6.

7.0.5 Schedule and conduct a ten month pre-expiration warranty inspection.

7.0.6 The one year warranty period begins on the date of Substantial Completion.

**INSTRUMENTS OF SERVICE /
DELIVERABLES**

7.1.1 Submit shop drawings, Operation and Maintenance Manuals, and warranties, to the State.

7.1.2 Verify that the State has received material stock, as specified, from the contractor.

7.1.3 Submit Electronic (pdf and dwg files) and hard copy documents as follows:

- **Record Drawings and Specifications**
 - Incorporate all Supplemental Agreements (change orders) into the plans and specifications.
 - Incorporate contractor's as-built changes into the plans and specifications.
- Submit one (1) electronic and one (1) hardcopy of the Record drawings and specifications to the State's Authorized Representative.
- **Operations and Maintenance Manuals.** Submit the following to the State's Authorized Representative:
 - Two (2) hard copies of Operations and Maintenance Manuals.
 - Two (2) electronic compact disks (CDs).

7.1.4 Written report of final and ten month inspections from architects and engineers of record. For ten month inspection, include summary of corrections

EXHIBIT B
CONSULTANT COMPENSATION

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT B
CONSULTANT COMPENSATION

BUDGETED COST OF CONSTRUCTION: \$5,000,000.00.

CONTRACT ARTICLE	PHASE	% OF PHASE	AMOUNT NOT TO EXCEED FEE
Article 2	Pre-Design Phase	100%	
TOTAL FEE FOR SERVICE			<u>\$0.00</u> % *
Article 3	Schematic Design Phase	15%	\$0.00
Article 4	Design Development Phase	20%	\$0.00
Article 5	Contract Documents Phase	60%	\$0.00
Article 6	Bidding Phase	5%	\$0.00
TOTAL FEE FOR TITLE I (TYPE B) SERVICES			<u>\$0.00</u> % *
Article 7	Construction Phase	95%	\$0.00
Article 8	Post Construction Phase	5%	\$0.00
TOTAL FEE FOR TITLE II (TYPE C) SERVICES			<u>\$0.00</u> % *

Refer to the Contract for detailed description of Reimbursable Expenses and Direct Expenses.

* The final fee percentages will be used for determination of equitable fee adjustment(s) as per Article 9.3 of the Basic Services Agreement.

EXHIBIT C
INSURANCE REQUIREMENTS

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT C
INSURANCE REQUIREMENTS

A. The Contractor shall not commence work under the Contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. The Contractor shall maintain such insurance in force and effect throughout the term of the Contract.

B. The Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

1. **Workers' Compensation Insurance:** Except as provided below, the Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, the Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** amounts are as follows:

\$100,000 - Bodily Injury by Disease per employee
\$500,000 - Bodily Injury by Disease aggregate
\$100,000 - Bodily Injury by Accident

If Minnesota Statute 176.041 exempts the Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, the Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes the Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

2. **Commercial General Liability Insurance:** The Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed under the Contract. Insurance **minimum** amounts are as follows:

\$2,000,000.00 - per occurrence
\$2,000,000.00 - annual aggregate
\$2,000,000.00 - annual aggregate - Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal & Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
State of Minnesota, named as an Additional Insured, to the extent permitted by law

3. **Commercial Automobile Liability Insurance:** The Contractor is required to maintain insurance protecting the Contractor from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this Contract, and in case any work is subcontracted the Contractor will require the subcontractor to maintain Commercial Automobile Liability. Insurance **minimum** limits are as follows:

\$2,000,000 - per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

4. **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance:** This policy will provide coverage for all claims the Contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to the Contractor's professional services required under this Contract.

The Contractor is required to carry the following **minimum** amounts:

\$2,000,000 - per claim or event

\$2,000,000 - annual aggregate

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a higher amount, the Contractor shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Contractor to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and the Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by the Contractor to fulfill this requirement.

C. **Additional Insurance Conditions:**

- The Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of the Contractor's performance under this Contract;
- If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota;
- The Contractor is responsible for payment of Contract related insurance premiums and deductibles;

- If the Contractor is self-insured, a Certification of Self-Insurance must be provided the State;
 - Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of B.4. above;
 - Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus), Financial Size Category (FSC) VII or better and must be authorized to do business in the State of Minnesota; and
 - An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.
- D. The State will reserve the right to immediately terminate the Contract if the Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to State's authorized agent upon written request.
- E. The Contractor is required to submit Certificates of Insurance acceptable to the State of MN as evidence of insurance coverage requirements prior to commencing work under the Contract.

EXHIBIT D
SPECIAL CONDITIONS FOR CONTRACT WORK
INVOLVING FEDERAL FUNDS

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT D
SPECIAL CONDITIONS FOR CONTRACT WORK
INVOLVING FEDERAL FUNDS

This Contract is incidental to the implementation of a Federal program and the Federal funding for this Contract is provided in whole or in part through a master cooperative agreement between the National Guard Bureau and the Minnesota Department of Military Affairs. Accordingly, Contractor is required to comply with and incorporate into its contracts with any subcontractors the following provisions in the performance of the Contract.

1. Reporting.

Contractor covenants and agrees to furnish all information and reports requested and needed by for the Minnesota Department of Military Affairs in order for the State to meet its requirements under the Federal program pursuant to Federal law and agreements.

2. Rights in Copyright and Data.

Contractor covenants and agrees to:

a. Grant the Government a royalty-free, nonexclusive and irrevocable right to:

(1) Reproduce, publish, or otherwise use for Federal purposes any work that is subject to copyright and that the Contractor develops, or acquires ownership of, under this Contract; and

(2) Authorize others to reproduce, publish, or otherwise use such work for Federal purposes.

b. Grant the Government the right to:

(1) Obtain, reproduce, publish, or otherwise use data produced under this Contract; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

c. Include in each subcontract it makes the requirements described in:

(1) Paragraphs a(1) and (2) of this Section, to provide for Government rights in any works subject to copyright that the subcontractor develops, or acquires ownership of, under this Contract; and

(2) Paragraphs b(1) and (2) of this Section, to provide for Government rights in any data that the subcontractor produces under this Contract.

3. Access to Records.

a. Contractor covenants and agrees to provide for access to any of the Contractor's books, documents, papers, and records that are directly pertinent to Contract, to enable and support audits, examinations, excerpts, and transcriptions. Contractor will provide access to those records for all of the following and their duly authorized representatives:

(1) Minnesota Department of Military Affairs;

(2) National Guard Bureau, including Inspector General for National Guard Bureau; and

(3) The Comptroller General of the United States.

b. Audit services contract for performance of an audit required by the Single Audit Act, as implemented by OMB in Subpart F of 2 CFR Part 200. Contractor covenants and agrees to provide for the access to audit documentation described in 2 CFR 200.517(b).

4. Records Retention.

a. Contractor covenants and agrees to provide for retention of all records that are directly pertinent to Contract for 3 years after Department of Military Affairs make final payment and all pending matters are closed.

b. Audit services contract for performance of an audit required by the Single Audit Act, as implemented by OMB in Subpart F of 2 CFR Part 200. Contractor covenants and agrees to provide for the retention of audit documentation described in 2 CFR 200.517(a).

5. Equal Employment Opportunity.

During the performance of this Contract, Contractor covenants and agrees to:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in

whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

6. Contract Work Hours and Safety Standards Act.

Contractor covenants and agrees to:

a. Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

c. Withholding for unpaid wages and liquidated damages. The Minnesota Department of Military Affairs shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such Contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

d. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

7. Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

a. Contractor covenants and agrees to take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when subcontracting.

b. Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; and

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

8. Byrd Amendment Anti-Lobbying Requirements.

a. Contractor covenants and agrees to comply with the restrictions on lobbying in 31 U.S.C. 1352, as implemented by DoD at 32 CFR part 28, and submit all disclosures required by that statute and regulation.

b. Contractor covenants and agrees to comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.

c. If Contractor is a nonprofit organization described in section 501(c)(4) of title 26, United States Code (the Internal Revenue Code of 1968), Contractor may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., chapter 26). If Minnesota Department of Military Affairs determines that Contractor has engaged in lobbying activities, Minnesota Department of Military Affairs will cease all payments to Contractor under this and other contracts and terminate the Contract unilaterally for material failure to comply with the award terms and conditions.

d. Contractors who apply or bid for an award of \$100,000 or more must sign and submit Attachment X (Certification regarding Lobbying) to the Minnesota Department of Military Affairs prior to Contract execution.

9. Debarment and Suspension.

This clause is applicable to contracts for an amount equal or exceed \$25,000. Contractor covenants and agrees to comply with Subpart C of 2 CFR 180, as supplemented by Subpart C of 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) at www.sam.gov to verify subcontractor eligibility to receive subcontract resulting from this Contract. The Contractor shall not solicit offers from, nor award contracts to subcontractors listed in EPLS. This verification shall be documented in the Contractor's Contract files, and shall be subject to audit by the Minnesota Department of Military Affairs.

10. Clean Air and Water Requirements.

This clause is applicable to contracts for an amount greater than \$150,000. Contractor covenants and agrees to:

a. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401 7671q) and standards, orders, or regulations issued under this act.

b. Comply with applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. 1251 1387) and standards, orders, or regulations issued under this act.

11. Procurement of Recovered Materials.

Contractor covenants and agrees to comply with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6962, and Executive Order 12873, when purchasing the items designated in Environmental Protection Agency (EPA) regulations in 40 CFR Part 247, Subpart B with respect to work performed under the Contract.

12. Fly America Act Requirements.

Contractor covenants and agrees to comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the "Fly America Act," and implementing regulations at 41 CFR 301–10.131 through 301–10.143. The law and regulations require that U.S. Government financed international air travel of passengers and transportation of personal effects or property must use a U.S. Flag air carrier or be performed under a cost sharing arrangement with a U.S. carrier, if such service is available.

13. Cargo Preference for United States Flag Vessels.

The Contractor covenants and agrees to comply with the following requirements of the Department of Transportation at 46 CFR 381.7, in regulations implementing the Cargo Preference Act of 1954:

a. Pursuant to Public Law 83–664 (46 U.S.C. 55305), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this Contract, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.

b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph a of this section must be furnished to both Minnesota Department of Military Affairs and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

14. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials (Buy America Preference)

The Contractor covenants and agrees to comply with the following requirements:

(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. "construction materials" excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and

furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

15. Wage Rate Requirements. RESERVED

16. Copeland Act Prohibition on Kickbacks. RESERVED

17. Patents and Inventions. RESERVED

SAMPLE

EXHIBIT E
LIST OF PERSONNEL AND SUBCONSULTANTS

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT E
LIST OF PERSONNEL AND SUBCONSULTANTS

The Consultant will accomplish the complete work described in EXHIBIT A, Scope of Services, with the following personnel:

Personnel:

Subconsultants:

SAMPLE

EXHIBIT F
AFFIDAVIT OF NONCOLLUSION

**Consultant Services for the Renovation and Addition of
Building 15-2, Camp Ripley, Little Falls, MN
(Project No. 25101)**

SAMPLE

EXHIBIT F
AFFIDAVIT OF NONCOLLUSION

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to Project No. _____ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: _____

Authorized Representative (Please Print): _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this _____ day of _____

Notary Public

My commission expires: _____