

Mandatory Addendum to the Owner/Architect Contract For Projects Funded in Whole or in Part with State Capital Outlay Funds

The Owner may use any form of agreement mutually agreed upon by the Owner and Architect to contract for the Architect's Services for any project funded in whole or in part with State Capital Outlay Funds provided by the Georgia Department of Education ("GaDOE"); provided, however, that this Mandatory Addendum must and shall be incorporated into the Owner and Architect's selected form of agreement on any such State Capital Outlay Funded project. In the event of a conflict or inconsistency between the terms and conditions of the selected form of agreement and this Mandatory Addendum, the terms and conditions of this Mandatory Addendum shall prevail and govern over conflicting or inconsistent terms and conditions of the selected form of agreement. This Mandatory Addendum shall not be modified without prior written consent of the GaDOE. **THE GaDOE SHALL NOT RELEASE ANY STATE CAPITAL OUTLAY FUNDS FOR AN APPROVED CAPITAL OUTLAY PROJECT IF THIS MANDATORY ADDENDUM IS NOT MADE A PART OF THE OWNER/ARCHITECT CONTRACT.**

1. For purposes of this Mandatory Addendum, notwithstanding terminology used in the Owner/Architect Contract, the following terms are defined to mean:
 - a. "Architect" shall be the architect, engineer, or architect/engineer, whether individually or as a firm or other legal entity, engaged to perform the Architect's Services.
 - b. "Architect's Services" shall be the scope of the Architect's services for the Project set forth in the Contract, including the services and requirements set forth in this Mandatory Addendum.
 - c. "Owner" shall be the Local Board of Education that is engaging the Architect to perform the Architect's Services for the Project.
 - d. "Contract" shall be the form of agreement between the Owner and the Architect, to which this Mandatory Addendum is attached and is a part, and shall set forth the Architect's Services for the Project.
 - e. "Project" shall be the Project for which the Architect's Services are engaged and performed pursuant to the Contract.
 - f. "Program" shall be the Owner's policies, purposes, concepts, goals and objectives, and design, construction, scheduling, budgetary or operational needs, restrictions, or requirements for the Project.
 - g. "Stated Cost Limitation" shall be the maximum amount that the Owner is authorized to spend to construct the Project as determined and established by the Owner.
 - h. "Record Plans and Specifications" shall be the as-built plans and specifications including, but not limited to, actual location of utility lines, and any approved change orders.
2. The Architect agrees not to assign or transfer any interest or rights in the Contract to any person or entity without the advanced written consent of the Owner. The Architect agrees to utilize the design and management team represented to the Owner and agrees that no substitutions, additions, or deletions to this team shall occur without the advanced written consent of the Owner. The Owner agrees to provide a response to the Architect within 14 days of any such request by the Architect.
3. Prior to beginning the "Preliminary Plans and Specifications," the Architect shall first consult in detail with the Owner to determine and understand the Owner's Program. Within 10 days of such consultation, the Architect shall prepare and submit to the Owner a written report detailing and confirming the Architect's understanding of the Owner's Program. The Architect's report must include, but is not limited to, the identification of any design, construction, scheduling, budgetary, operational, or other issues, problems or impediments foreseen by the Architect concerning the Project, the Program, or both. The Architect's report should include proposed solutions or

recommendations, for the Owner's consideration, to resolve, eliminate, minimize or mitigate any such issues, problems or impediments. The Architect's report shall also include any applicable educational specifications and GaDOE requirements.

4. The Architect shall obtain written authorization from the Owner before proceeding with each next stage of Architect's Services, including the "Preliminary Plans and Specifications," the "Check Set Plans and Specifications," and the "Final Plans and Specifications," as defined in "Guidelines for Submission of Documents for Review of Planning, Bidding, and Construction of Educational Facilities" (as may be amended from time to time, always using the most recently published edition).
5. The Architect agrees to comply with all applicable federal, state and local laws, codes and ordinances in the design of the Project. The Architect also agrees to comply with all applicable GaDOE rules and guidelines and to make required submittals in a timely manner to GaDOE's Facility Services Unit. The Architect shall respond to GaDOE's Facility Services Unit review report comments in a timely fashion so as to ensure that the review process may proceed orderly, efficiently and does not impede the Project or the Program.
6. The Architect assumes full responsibility to the Owner for the acts and omissions of the Architect and the Architect's consultants, subconsultants and employees in connection with the Contract, the Project and the Program.
7. The Architect agrees to design the Project within the Owner's budgetary limits and consistent with the Owner's Program for the construction of the Project which shall be referred to as the **Stated Cost Limitation**, as follows:

The **Stated Cost Limitation** for the Project shall be \$ _____, which is composed of:

State Capital Outlay Funds in the amount of \$ _____, and

Required Local Funds in the amount of \$ _____, and

Additional Required Local Funds in the amount of \$ _____.

8. The Architect shall provide reasonably reliable cost estimates to the Owner at the following design stages: (1) Preliminary Plans and Specifications stage, (2) 65% completion stage, and (3) Check Set Plans and Specifications stage (95% completion).
9. In the event the Architect's final project cost estimate (at Check Set Plans and Specifications stage) exceeds the **Stated Cost Limitation** for the Project, the Owner may require the Architect, at no additional cost to the Owner, to consult with the Owner and to revise the design so as to enable the Owner to obtain a final cost for the Project at or below the **Stated Cost Limitation**. The Architect acknowledges and agrees that the **Stated Cost Limitation** shall not be exceeded except as provided herein; provided, however, the Architect further acknowledges and agrees that budgetary limitations are never a justification for breach, disregard or circumvention of sound principles of architectural and engineering design. Therefore, the Architect shall take no calculated risks in the design of the Project. The Architect agrees that, in the event that the Architect determines that the Project cannot be designed so as to be fully and finally constructed within the **Stated Cost Limitation** and in keeping with sound principles of design, the Architect will give written notice of such determination immediately, and in no event more than seven (7) days after the Architect makes such a determination, to the Owner and to the GaDOE Facilities Services Unit.

10. The **Stated Cost Limitation** may be amended by written mutual agreement signed by the Owner and the Architect at any time after the Contract between the Architect and Owner is executed. Prior to such amendment, the Architect shall provide the Owner with reliable and verifiable evidence through either internal-Architect estimates, third party estimates, materials supplier quotes, or other industry best management practices standards to establish that an increase in the **Stated Cost Limitation** is warranted and justifiable. The Owner reserves the right to request additional supporting documentation substantiating the need to increase the **Stated Cost Limitation**. The Owner reserves and has the right, in its sole discretion, to refuse to increase the **Stated Cost Limitation**.
11. All plans, specifications, design calculations, designs, drawings, or other documents or data produced pursuant to the Contract by the Architect, or the Architect's consultants, subconsultants, or employees shall be the sole property of the Owner regardless of the stage in which the development of the design has progressed, and shall be delivered to the Owner upon request. The Owner shall retain all ownership rights with regard to such plans, specifications, design calculations, designs, drawings, or other documents or data produced pursuant to the Contract.
12. The Architect shall provide and maintain Professional Liability Insurance at all times this Contract is in effect and for a period of six (6) years after execution by the Architect of the "Certificate of Final Completion" indicating final completion of the Project, with a minimum level of coverage as described herein below. Said coverage shall be written by an insurer licensed to do business in the State of Georgia and acceptable to the Owner.

Before the Owner executes the Contract, the Architect shall provide the Owner and the GaDOE Facility Services Unit with a valid Certificate of Insurance showing that the Architect is then insured with Professional Liability (Errors and Omissions) Insurance with limits not less than the following:

- a. For Projects with a **Stated Cost Limitation** of more than \$30,000,000:
 - i. For the Architect - \$3,000,000 per claim and \$4,000,000 in aggregate coverage;
 - ii. For the Architect's subconsultant engineers and architects - \$2,000,000 per claim and \$3,000,000 in aggregate coverage; and
 - iii. For other professional subconsultants - \$1,000,000 per claim and \$2,000,000 in aggregate coverage.
- b. For Projects with a **Stated Cost Limitation** of \$20,000,000 up to \$30,000,000:
 - i. For the Architect - \$2,000,000 per claim and \$3,000,000 in aggregate coverage;
 - ii. For the Architect's subconsultant engineers and architects - \$1,000,000 per claim and \$2,000,000 in aggregate coverage; and
 - iii. For other professional subconsultants - \$1,000,000 per claim and \$1,000,000 in aggregate coverage.
- c. For Projects with a **Stated Cost Limitation** of less than \$20,000,000:
 - i. For the Architect - \$1,000,000 per claim and \$1,000,000 in aggregate coverage;
 - ii. For the Architect's subconsultant engineers and architects - \$1,000,000 per claim and \$1,000,000 in aggregate coverage; and
 - iii. For other professional subconsultants - \$1,000,000 per claim and \$1,000,000 in aggregate coverage.

For such period of time that Professional Liability insurance is required for the Project, as set forth above, the Architect shall provide the Owner with an updated or renewed Certificate of Insurance at least annually, or more frequently if requested by the Owner, showing the required coverage and limits of coverage remain in place.

13. The Architect shall carefully inspect the work of the Contractor within 24 hours of the Owner's request, and shall also, **at a minimum, inspect work at the Project site** _____, and in any event, no less frequent than once per month. At least once per month, the inspection shall be performed by an architect or engineer licensed in the State of Georgia. The purpose of such inspections, among other things, shall be to determine the quality and quantity of the work in comparison with the requirements of the contract documents for the Project. In performing such inspections, the Architect shall advise the Owner of: deficient or defective work; real or potential delays in the schedule or the work of the Project; and, requests for payment by the Contractor which could constitute overpayment for work not yet performed or completed. Within three (3) days of each site visit, the Architect shall submit a written report of such site visit which, in addition to the information required by the preceding sentence, shall include and convey any relevant information, comments or recommendations to the Owner.
14. The Architect shall provide Owner a set of "Record Plans and Specifications" within thirty (30) days after execution by the Architect of the "Certificate of Substantial Completion." Such "Record Plans and Specifications" shall include any authorized change orders, actual locations of all utility lines, and any other appropriate information. The drawings shall be presented in a Computer Aided Drafting (CAD) format or other format of the Owner's choice, and the specifications shall be presented in a word processing format of the Owner's choice.
15. The Contract executed between the Owner and the Architect, to which this Mandatory Addendum is a part, shall include a provision for the termination of the Architect's Services (or be deemed to include this Paragraph 15) giving the Owner the rights of (1) termination of the Architect's Services with cause and (2) termination of the Architect's Services without cause. In the event of termination, the Owner shall pay the Architect for the reasonable value of the Architect's Services performed by the Architect prior to the termination. Payment for the Architect's Services rendered prior to termination shall be based on statements properly submitted by the Architect to the Owner and supported by time sheets, invoices and such other supporting documentation that the Owner may reasonably require; provided, however, that in no event shall the total payment to the Architect exceed an amount equal to the percentage of completion of the Architect's Services for the Project at the time of termination.
16. The Architect shall be responsible for the timely submittal and completion of all forms required by GaDOE and shall respond to GaDOE comments on submittals within twenty-one (21) days of receipt of GaDOE comments. Such forms may be obtained from the Facilities Services Unit, Georgia Department of Education, 1670 Twin Towers East, 205 Jesse Hill Jr. Drive, SE, Atlanta, Georgia 30334. At the close of the Project, the Architect shall submit an "**Architectural Certification**" form, as provided by the GaDOE, to the Owner. Unless the Architect's services are terminated by the Owner before final completion of the Project, the completion and submittal of this form is required prior to the Owner's release of the final payment to the Architect.
17. All architectural plans and specifications shall bear the signature and seal of the Architect, which shall be licensed to practice in the State of Georgia. Civil, survey, structural, electrical, and mechanical plans and specifications shall bear the signature and seal of the respective engineer, who shall be licensed to practice in the State of Georgia.

18. A fully executed copy of the Contract between the Owner and the Architect, including a completed copy of this Mandatory Addendum, must be filed with the GaDOE Facilities Services Unit.

OWNER

ARCHITECT

Chairperson, Local Board of Education

Firm:

Date: _____

Date: _____

Superintendent, Local Board of Education

Date: _____