

Professional Services Agreement Between Owner and Design/Builder

ARTICLE 1. AGREEMENT

This Agreement is made effective as of the ___ day of _____, 2025, by and between:

1.1 Owner:

Area Cooperative Educational Services
("ACES")
370 James Street
and New Haven, Connecticut 06513

1.2 Design/Builder:

<Name>
<Street Address>
<City, State Zip Code>

for the services provided herein in connection with

1.3 The Project:

ACES ECA Design/Build Design/Build
Performing Audio and Stage Lighting
Project
Education Center for the Arts ("ECA")
55 Audubon Street
New Haven, Connecticut 06510

1.4 Key Milestones. The Design/Builder shall perform the Work in accordance with the following key milestones and completion dates, subject to modification only as provided herein:

- | | | |
|--------------|--|-------|
| 1.4.1 | Final Design Documents | _____ |
| 1.4.2 | Final Construction Documents | _____ |
| 1.4.3 | Commencement of Construction at Project Site | _____ |
| 1.4.4 | Substantial Completion | _____ |
| 1.4.5 | Final Completion | _____ |

1.5 Standard of Care. The Design/Builder shall perform the Work in accordance with the expertise and care exercised by skilled contractors, construction managers, design professionals and consultants performing similar services for projects of comparable type, size and complexity.

1.6 Design/Build Team. In carrying out its responsibilities under this Agreement, the Design/Builder shall use skilled employees, Consultants and Subcontractors with proven experience in projects of comparable type, size and complexity, and holding such professional licenses or registrations required by Applicable Law. The Design/Builder's personnel, Consultants and Subcontractors assigned to the Project are set forth in Exhibit B, changes or additions to which after the execution of hereof shall be subject to the Owner's sole discretion and approval. The Design/Builder shall remove and replace any persons or entities performing the Work on behalf of the Design/Builder that are not satisfactory to Owner.

1.7 Definitions. Terms capitalized in this Agreement are defined as follows and elsewhere in this Agreement.

1.7.1 Applicable Law. All laws, statutes, regulations, ordinances, codes, rules, rulings, decisions and orders of Governmental Authorities relating to the Work.

1.7.2 Construction Proposal. The proposal submitted by the Design/Builder pursuant to § 2.3.2.

- 1.7.3 Consultant.** Any person or entity, other than the Design/Builder or Owner, that provides professional services to the Project pursuant to a direct contract, purchase order or other agreement with the Design/Builder or Owner.
- 1.7.4 Contract Documents.** The documents consisting of this Agreement, all documents incorporated herein by reference, the Construction Proposal and all documents incorporated therein by reference (upon acceptance by the Owner as Amendment No. 1), addenda and Change Orders.
- 1.7.5 Contract Sum.** The amount set forth in this Agreement, including authorized adjustments, which is the total amount payable by the Owner to the Design/Builder for performance of the Work.
- 1.7.6 Contract Time.** The period of time, including adjustments by Change Order, from the Owner's notice to proceed until the date of Substantial Completion of the Work, as established by the procedure set forth in Article 5, and contained in Amendment No. 1.
- 1.7.7 Deliverables.** Instruments of Service, including those in electronic form, created, prepared or produced by the Design/Builder and furnished to the Owner as part of this Agreement, including plans, elevations, sections, details, schedules, diagrams, other graphic or pictorial depictions of the design, location and dimensions of the Work; and written descriptions of the quantitative and qualitative requirements for materials, equipment, systems, standards and workmanship for the Work.
- 1.7.8 Defective Work.** Along with the terms "defect" or "defective" in reference to the Work, shall mean Work or a Deliverable, or any portion thereof, that: (1) is faulty or deficient; (2) does not conform to the Contract Documents, the directives of the Owner, or the requirements of any standard of performance, inspection, reference standard, test, code or approval specified in the Contract Documents; or (3) does not conform to Applicable Law.
- 1.7.9 Governmental Authorities.** Local, county, regional, state and federal governmental bodies, agencies, departments and bureaus having jurisdiction over the Work, or from whom permits, approvals or other consents are required.
- 1.7.10 Instruments of Service.** Any tangible work product, including those in electronic form and reproductions of such tangible work product, prepared by the Design/Builder or its Consultants or Subcontractors of any tier for the Project, including sketches, electronic data, preliminary drawings, outline specifications, calculations, studies, reports, analyses, models, and renderings.
- 1.7.11 Project.** The entire construction project contemplated by the Owner and identified in the Contract Documents, which includes the Work, the services undertaken by the Design/Builder, its Subcontractors and Consultants and any related construction or operations by the Owner, its Consultants or Separate Contractors.
- 1.7.12 Project Site.** The buildings, premises and spaces on which any portion of the Work is performed or used for the performance, or in support of the performance, of any portion of the Work.
- 1.7.13 Subcontractor.** Any person or entity that provides labor, materials, equipment or construction services to the Project on behalf of the Design/Builder pursuant to a direct contract, purchase order or other agreement with the Design/Builder.
- 1.7.14 Substantial Completion.** The point at which the entire Work, or a portion thereof designated by the Owner, is sufficiently complete in accordance with the Contract Documents for the Owner to occupy or utilize for its intended purpose.
- 1.7.15 Work.** All design and construction activities and services, including labor, materials, equipment and other construction services, described in the Contract Documents and such other work reasonably inferable as necessary to produce the results intended by the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

1.8 Interpretation of Contract Documents. Captions, headings, cover pages, and tables of contents contained in the Contract Documents are inserted only for convenience and in no way define, limit or describe the scope, intent or meaning of any provision of the Contract Documents.

- 1.8.1** In the event of conflicts among the Contract Documents, interpretations will be based on the following priority (from most to least controlling): (a) Change Orders, with those of more recent date having precedence; (b) addenda, with those of more recent date having precedence; (c) the

Instructions to Bidders, Summary of Work and other bid documents (“Program”); (d) this Agreement; and (e) the Construction Proposal (upon acceptance by Owner as Amendment No. 1).

- 1.8.2** With regard to any proposal or Deliverables prepared by the Design/Builder and incorporated into the Contract Documents, only the information therein that specifically relate to the scope of the Work are incorporated into and made a part hereof, to the extent not inconsistent with this Agreement, and provided that no other terms in such proposal or Deliverables shall be incorporated herein or be given any force or effect.

ARTICLE 2. SCOPE OF SERVICES

2.1 General Responsibilities. The Design/Builder shall perform all the Work in accordance with the Contract Documents using its best skill and attention in a first-class and workmanlike manner, in observance of the best practices of the applicable professions and trades. The Design/Builder shall be solely responsible for all design and construction means, methods, safety, techniques and procedures within the scope of the Work.

- 2.1.1 Coordination.** The Design/Builder shall be solely responsible for coordinating, supervising and directing all portions of the Work, including those portions performed by its Consultants and Subcontractors. The Design/Builder shall ensure that Deliverables are complete and coordinated, compatible with existing conditions and the intended design. To the extent that any portion of the Design/Builder’s performance hereunder is interdependent upon the services or activities of the Owner or its representatives, Consultants or Separate Contractors on this or any other project, the Design/Builder shall coordinate with such persons or entities so that the Work of this agreement is not impeded by such services or activities. Prior to commencement of the Construction Phase, the Design/Builder shall coordinate with Owner the location of its trailer(s), equipment, materials, lay-down area(s), parking, access to Project Site for deliveries and for its Subcontractors and Consultants. The Design/Builder shall also coordinate all deliveries with Owner so as not to interfere with Owner’s school activities at Project Site.
- 2.1.2 Existing Conditions.** The Design/Builder shall familiarize itself with the Project Site and the conditions in which the Work is to be performed. Where non-destructive field inspections and measurements of existing conditions is needed, the Design/Builder shall make such inspections and measurements as necessary to gain a fuller understanding of the conditions affecting the Work. The Design/Builder shall recommend further investigation of concealed existing conditions if such conditions could impact the Contract Sum, Contract Time or safety of persons in the area. The Design/Builder shall notify the Owner promptly if it observes or is aware that a portion of the design is at variance with the existing conditions, whether or not described in the information provided by the Owner.
- 2.1.3 Meetings.** The Design/Builder shall meet with the Owner and its designees frequently to review progress, to exchange information and to communicate directives necessary for the efficient prosecution of the Work. With prior notice to and approval from the Owner, the Design/Builder shall prepare documentation for and participate in meetings with boards, commissions, committees, gatherings and Governmental Authorities in furtherance of Project approval. The Design/Builder shall be represented at such meetings by persons having knowledge of the matters to be addressed and authorized to act on its behalf at all times. The Design/Builder shall promptly record and distribute written minutes of each meeting.
- 2.1.4 Cost Management and Estimating.** Designs proposed by the Design/Builder shall allow for efficient, simplified and practical management of operating and maintaining materials, equipment and systems, and shall otherwise provide good value to the Owner while meeting the Project requirements. Immediately following execution of this Agreement, if the Contract Sum is not already based on an agreed lump sum, the Design/Builder shall prepare and submit to the Owner a preliminary estimate of the cost of construction. The Design/Builder shall submit updates and refinements of its estimate as the design is developed, no less frequently than monthly. The Design/Builder shall conspicuously identify in each revised estimate any changes from the prior estimate.

- .1 The Design/Builder shall notify the Owner whenever the projected cost of the Work exceeds the budget or the latest approved estimate, and in such circumstances the Design/Builder shall recommend specific value enhancements as alternatives for conforming the Work to the Program and budget, which the Owner may accept or reject in its discretion.
- .2 If the Owner retains an independent estimator, the Design/Builder shall meet with such estimator as necessary to review and reconcile estimates.

2.1.5 Constructability. The Design/Builder shall utilize design and construction practices, details and methodologies that optimize construction feasibility, efficiency in time and cost, and available labor, materials, equipment and building systems. The Design/Builder shall make recommendations to the Owner concerning the advisability of phased design and construction. The Design/Builder shall prepare and submit a logistics plan for the use of the Project Site and its surroundings and a parking plan for utilization of available on-site and off-site parking.

2.1.6 Scheduling. Immediately following execution of this Agreement, the Design/Builder shall prepare and submit to the Owner a schedule for the Work that adheres to the milestone dates set forth herein. The Design/Builder understands and agrees that the Work must be coordinated with the Owner, and that it may not be performed in continuous operation and may need to be adjusted to accommodate Owner event or function. The Design/Builder also understands and agrees that Work shall proceed in areas as they become available, if applicable. Throughout the duration of the Work, the Design/Builder shall prepare, maintain, monitor, refine and update the schedule and submit the schedule no less frequently than monthly. The Design/Builder shall conspicuously identify in each schedule update any changes from the prior schedule.

2.1.7 Reporting and Record Keeping. The Design/Builder shall record and maintain detailed data on the progress of the Work in terms of schedule, costs, safety, and manpower and equipment use. The Design/Builder shall submit to the Owner monthly reports on such data as the Owner may request.

2.1.8 Correction. The Design/Builder shall repair or replace, as the Owner directs, Defective Work and any damage to the Work or to the work of a Separate Contractor that is caused by the Design/Builder or those for whom it is responsible. Costs associated with such repair or replacement, including additional third-party tests and inspections made necessary thereby, shall be borne by the Design/Builder.

- .1 The Design/Builder shall notify the Owner promptly if it observes or is aware of a defect in the Work or an inconsistency between a requirement of the Contract Documents and corresponding field conditions, and shall include a proposal to correct such defect or inconsistency.

2.1.9 BIM. The Owner may require the use of building information modeling (BIM) processes and technologies, in whole or in part, in the design and construction of the Project. The parameters, standards and technological requirements for such approach shall be established as an addendum to this Agreement and, to the extent required, to those of Consultants, Subcontractors and Separate Contractors of any tier. The Design/Builder is not precluded, and may use BIM processes and technologies, in whole or in part, at no additional cost to the Owner. Unless otherwise provided in such addendum, each BIM model shall be deemed an Instrument of Service.

2.2 Design Phase. Upon execution of this Agreement, the Owner authorizes the Design/Builder to perform the portions of the Work described, and the services reasonably necessary to produce the Deliverables required, in this § 2.2; provided, however, that Design/Builder shall not commence any Work under this Agreement unless the Agreement has been fully executed by the parties, Design/Builder has delivered to Owner all documents required under this Agreement, including, but not limited to, insurance certificates, bonds, and all SDS sheets applicable to the Work being performed hereto. The Design/Builder shall not proceed with other portions of the Work without specific, written authorization from the Owner, and the Owner shall have no obligation to compensate the Design/Builder for Work undertaken but not authorized.

- .1 **Program Review and Evaluation.** The Design/Builder shall carefully examine the Program and other information furnished by the Owner to ascertain the requirements of the Project,

and shall provide a preliminary evaluation of the scope of the Work, schedule and budget, each in terms of the other.

2.2.2 Analysis of Alternatives. The Design/Builder shall consider, evaluate and recommend alternative approaches to the Project, including systems, equipment and components thereof, for the purpose of maximizing the Owner's objectives for quality, performance, schedule, maintenance, servicing and life cycle costs, and costs associated with proprietary equipment, materials and/or software.

2.2.3 Design Documents. The Design/Builder shall prepare and submit, at a minimum, a proposed re-stated Program that those Deliverables specified herein that identify and establish detailed design criteria and the scope of the Work. The Design/Builder shall conspicuously identify in such Deliverables any deviations from the Program or previously submitted Deliverables.

- .1 The Design/Builder shall record, evaluate and submit responses to comments received from the Owner or Governmental Authorities in terms of value management, redesign, improvement and correction of Defective Work for subsequent incorporation into the design. If required by the Owner to attain the necessary level of completeness or to correct Defective Work, the Design/Builder shall modify and resubmit the Deliverables.
- .2 The Design/Builder shall not begin to prepare construction documents without the Owner's written authorization.

2.2.4 Construction Documents. Based on the approved design documents, the Owner's comments and any adjustments to the Program, schedule or budget, the Design/Builder shall prepare and submit, at a minimum, a proposed re-stated Program and those Deliverables specified herein that establish and describe the final scope, relationships, forms, size and appearance of the Work. Such Deliverables shall be detailed, coordinated, constructible, complete, accurate, and suitable for obtaining permits, bidding and constructing the Work. The Design/Builder shall conspicuously identify in such Deliverables any deviations from the Program or previously submitted Deliverables.

- .1 The Design/Builder shall record, evaluate and submit responses to comments received from the Owner or Governmental Authorities in terms of value management, redesign, improvement and correction of Defective Work for subsequent incorporation into the design. If required by the Owner to attain the necessary level of completeness or to correct Defective Work, the Design/Builder shall modify and resubmit the Deliverables.

2.3 Procurement and the Construction Proposal. The Design/Builder shall not commence any Procurement Phase Work without specific written authorization of the Owner. Upon the Owner's written authorization, the Design/Builder shall proceed expeditiously to perform the Work set forth in § 2.3.1.

2.3.1 Procurement. The Design/Builder shall submit a list of recommended bidders to the Owner for review and comment, and shall disclose any relationship, ownership or interest in any bidders. The Owner may in its sole discretion add and remove potential bidders from the Design/Builder's list or expressly reject bidders following the receipt of bids. If such rejection follows submission of the Construction Proposal, the Design/Builder shall be entitled to an equitable adjustment in the Construction Proposal, or in the Contract Sum and Contract Time.

- .1 The Design/Builder shall prepare integrated bid documents that are complete, ready for bid and calculated to facilitate bids and to minimize scope gaps and jurisdictional disputes among trades.
- .2 The Design/Builder shall contemporaneously copy the Owner on all clarifications and addenda issued to bidders.

2.3.2 Construction Proposal. The Design/Builder shall prepare and submit to the Owner a Construction Proposal to perform the Work on the basis of a lump sum or Guaranteed Maximum Price ("GMP").

- .1 The Construction Proposal shall, include and be based upon:
 - (a) A schedule of values, broken down by trade, with separate line items for fees, allowances, and any contingencies;

- (b) All documents describing the Work to be performed;
 - (c) The schedule, clearly setting forth the Contract Time;
 - (d) A statement of all alternates, allowances and unit prices;
 - (e) An updated list of personnel, Consultants and Subcontractors; and
 - (f) Any other information requested by the Owner to evaluate the Construction Proposal.
- .2 If the Design/Builder proposes to perform the Work on the basis of a GMP, the Design/Builder shall include with the Construction Proposal a matrix of the proposed costs of the Work, indicating which costs are included in the Construction Fee, the subcontracts, the Design/Builder's general conditions, or to be furnished by the Owner. If the Owner and Design/Builder agree upon rates at which particular costs of the Work are to be fixed, those rates shall be set forth in the Construction Proposal. Otherwise, all costs of the Work are to be on the basis of the Design/Builder's actual costs.
 - .3 For Work performed on the basis of a GMP, the following costs shall not be reimbursable to the Design/Builder:
 - (a) Salaries and wages of personnel not directly performing the Work.
 - (b) Administrative or general overhead expense.
 - (c) Bonuses, profit sharing, continuing education or other incentive compensation.
 - (d) Discretionary costs not previously approved in writing by the Owner.
 - (e) Interest on capital or other finance charges.
 - (f) Costs resulting from a breach of this Agreement, negligence or willful misconduct of the Design/Builder or those for whom it is responsible.
 - (g) Premiums for insurance not required by the Contract Documents.
 - (h) Excise taxes/ sales and use taxes. The Owner is exempt from the payment of excise taxes imposed by the federal government, and sales and use taxes imposed by the State of Connecticut. The Owner shall provide its tax-exempt certificate(s) to the Design/Builder upon execution of this Agreement.
 - .4 For work to be performed on the basis of a GMP, the Design/Builder may include a contingency in the Construction Proposal for its use to pay for construction costs arising from further development of the Program following the submission of the Construction Proposal. Such further development does not include development that is consistent with the Contract Documents or reasonably inferable therefrom or items that can be accommodated in fixed price bidding. The contingency shall not be used for costs that are not reimbursable.
 - .5 The Owner may accept, reject, or negotiate the Construction Proposal with the Design/Builder as it sees fit. If the Owner accepts the Construction Proposal or a modified version thereof, then it shall be set forth as Amendment No. 1 to this Agreement.

2.4 Construction Phase. The Design/Builder shall not award a subcontract or commence any Construction Phase Work without specific written authorization of the Owner to do so. Upon the Owner's written authorization, the Design/Builder shall award subcontracts and commence and proceed expeditiously to execute the entire Work in accordance with the Contract Documents.

2.4.1 Administration. The Design/Builder shall be solely responsible for and have control over construction means, methods, safety, techniques, sequences and procedures and for coordinating all portions of the Work.

- .1 The Design/Builder may make substitutions to products, materials and equipment referenced in previously submitted Deliverables, or required under the Contract Documents, only with the prior, written consent of the Owner and in accordance with a Change Order. The Design/Builder shall certify in writing that any substitution is equal to or better than the previously submitted product, material or equipment in quality and that it will not result in any additional costs, including, but not limited to, maintenance, service and life cycle costs, and any costs if it is a proprietary product, material or equipment, including, but not limited to, parts, servicing, and licensing.

- .2 Unless otherwise provided in the Contract Documents, the Design/Builder shall provide labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- .3 The Work shall not interfere with continuous and safe operation of the buildings and Project Site. If interference appears possible, the Work involved must be done at a time and in a manner agreed upon by the Owner to reduce such interference. The Design/Builder shall provide the Owner with reasonable notice prior to Work that will impact the use of public and occupied areas, including providing a detailed description of proposed activities and suggestions for minimizing or eliminating any impact on the use of the space.

2.4.2 Permits. The Design/Builder shall apply for, secure, maintain, comply with and renew building permits, licenses and certificates of inspection, use and occupancy, all as necessary for proper execution and completion of the Work. The Design/Builder shall give and maintain records of all notices incidental to the lawful performance of the Work, and shall deliver same to the Owner before the final completion of the Project.

2.4.3 Safety. The Design/Builder shall take every reasonable precaution against injuries to persons or damage to property at the Project Site. The Design/Builder shall prepare a safety plan and shall be responsible for compliance with it by its Consultants and Subcontractors of all tiers.

- .1 The Design/Builder shall immediately notify the Owner of any accident at the Project Site resulting in bodily injury or damage to any property regardless of cause or extent of any bodily injury or damage to property. The Design/Builder shall promptly investigate the circumstances surrounding the accident, including the nature and extent of any injuries or property damage and the names of all witnesses, and shall notify the Owner in writing of such accidents by the close of the next business day following their occurrence.
- .2 In the event of an emergency affecting safety of persons or property, and only until such emergency ceases to exist, the Design/Builder shall immediately take such action without authority or instruction from the Owner as may be reasonable and necessary under the circumstances to prevent threatened damage, injury or loss. The Design/Builder shall notify the Owner of such emergency as promptly as is practicable under the circumstances, but in no event more than 24 hours after such emergency.
- .3 The Design/Builder and its employees, agents, Subcontractors, Consultants, and others directly or indirectly furnishing services, labor, materials or equipment on their behalf shall comply with all EPA, NFPA and OSHA safety standards at all times while working on the Project. If the Design/Builder or any employee, agent, Consultant, Subcontractor, or others performing services on their behalf is found to be in non-compliance of such safety standards, the Owner may, at its sole discretion, remove them from the Project, withhold payment from the Design/Builder and/or terminate this Agreement. The Owner reserves the right to inspect the work site at any time for safety compliance. The Owner may require the Design/Builder and its agents, Subcontractors, Consultants, and others performing services on their behalf to provide a copy of their OSHA 300 log for the three previous years to the Owner for its review.

2.4.4 Hazardous Materials. If the Design/Builder knows or becomes aware of hazardous materials at the Project Site that were not identified in the Contract Documents, it shall immediately stop Work in the affected area and report the condition to the Owner. The Owner shall arrange for testing in the affected area and, if necessary, may direct the Design/Builder to arrange for the removal or safe containment of such material or substance. If the Design/Builder or those working directly or indirectly for the Design/Builder is responsible for the presence of the Hazardous Materials or substances, including, but not limited to, mold, fungi or bacteria at the Project Site, the Design/Builder shall not be entitled to additional compensation or time and shall be solely responsible to the Owner for the removal or safe containment of such materials and any damages

caused by such materials. The Design/Builder shall take all necessary precautions to prevent such materials and damages caused by such materials during the performance of Work hereunder.

- 2.4.5 Required Tests and Inspections.** If testing or inspection of a portion of the Work is required by Applicable Law or by specific request of the Owner in writing or in the Contract Documents, the Design/Builder shall schedule and coordinate such testing and inspection. The Owner shall directly retain and compensate all required third-party testing and inspection entities to the extent required by Applicable Law. If Work for which testing or inspection was required or requested is covered before such testing or inspection is performed, costs associated with uncovering and re-covering the Work for the purpose of performing such testing or inspection shall be borne by the Design/Builder.
- 2.4.6 Submittals.** The Design/Builder shall confer with the Owner and agree upon a schedule of required submittals for the Owner's acceptance. No portion of the Work for which a submittal is required shall be fabricated, manufactured or constructed until the Owner has accepted the respective submittal. Presentation of a submittal for the Owner's review shall constitute a representation that the Design/Builder has examined all materials, field measurements and field construction criteria related thereto, and that it has checked the submittal for dimensional accuracy and coordination with the Contract Documents and contiguous work. Any proposed deviation from the requirements of the Contract Documents shall be conspicuously identified in such submittal. Review or acceptance of submittals by the Owner shall not constitute acceptance of deviations not conspicuously identified or otherwise relieve the Design/Builder of its responsibilities hereunder. The Owner may rely upon professional certification of performance characteristics of materials, systems or equipment that is required by the Contract Documents.
- 2.4.7 Substantial Completion.** Prior to the proposed date of Substantial Completion, the Design/Builder shall deliver to the Owner a punchlist of items of Work remaining to be completed. Prior to such proposed date, the Design/Builder shall coordinate access and turnover of the space with the Owner's physical plant, and submit the following to the Owner: (a) test logs, certificates and minutes of system start-ups or other final tests; (b) manuals and maintenance data for Work under warranty at the time of Substantial Completion; and (c) reports, Deliverables and other documentation required under the Contract Documents to be submitted to the Owner upon completion.
- 2.4.8 Final Completion.** Prior to final completion, and as a condition precedent to final payment, the Design/Builder shall complete the remainder of the Work, including the following:
- .1 Final clean-up, including touch-up of marred surfaces;
 - .2 Delivery of attic stock, spare parts, extra stocks, and similar physical items;
 - .3 Start-up testing of systems and instruction of the Owner's operating/maintenance personnel;
 - .4 Any commissioning of systems that is required by the scope of the Work;
 - .5 Furnish the following documents to the Owner not later than fourteen (14) days after Substantial Completion:
 - (a) as-built documents;
 - (b) O&M manuals, progress and final photographs, specific warranties, workmanship/maintenance bonds, maintenance agreements, final certifications and other documents specified in the Contract Documents to be provided to the Owner;
 - (c) Final releases and lien waivers, in a form acceptable to the Owner from the Design/Builder and its Consultants and Subcontractors for labor, services, materials or equipment furnished to the Project; and,
 - .6 Removal of all equipment and excess materials not installed in the Project.
- 2.4.9 Warranties.** The Design/Builder warrants to the Owner that labor, materials and equipment furnished under the Contract Documents will be of the type and quality required by the Contract Documents, new (unless otherwise required or permitted by the Contract Documents), installed in a workmanlike manner and otherwise in accordance with the Contract Documents, and that the Work will be free from defects not inherent in the quality required or permitted. The Design/Builder shall obtain and deliver to the Owner any specific warranties required by the Contract Documents or

given by Subcontractors or vendors, which warranties shall expressly provide that they are for the benefit of and enforceable by the Owner.

- .1 All warranties shall be in form and content consistent with industry standards and shall be for a period of twelve (12) months from Substantial Completion, or such longer period as required by the Contract Documents. The Design/Builder shall promptly repair, replace or re-execute Defective Work discovered within such period at no additional expense to the Owner.
- .2 The warranties provided hereunder exclude damaged or defective work caused by modifications not performed by the Design/Builder, or by abuse, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

ARTICLE 3. CONSULTANTS AND SUBCONTRACTORS

3.1 Consultants and Subcontractors. All portions of the Work that are performed by Consultants or Subcontractors shall be performed pursuant to written, lump sum agreements. The Design/Builder may retain Consultants and Subcontractors on an hourly basis only with the Owner's prior, written approval. Copies of all subcontracts and consulting agreements shall be provided to the Owner as soon as they are finalized. The Design/Builder shall be responsible for and shall have full directing authority and control over all activities of its Consultants and Subcontractors of all tiers. The Design/Builder agrees that the Owner reserves the right, at its sole discretion, to require the immediate removal from the Project site if any individual employee(s) or agent(s) and those of its Consultants and Subcontractors has exhibited unlawful or inappropriate behavior or conduct towards any of the Owner's students or employees.

3.2 Required Provisions. The Design/Builder shall require its Subcontractors and Consultants to be bound by the terms of the Contract Documents, and to assume toward the Design/Builder all the contractual obligations and responsibilities that the Design/Builder has assumed toward the Owner. The Contract Documents shall control in the event of conflicts or discrepancies between agreements with Subcontractors or Consultants and the Contract Documents.

3.3 Conditional Assignment. The Design/Builder hereby assigns, transfers and conveys to the Owner all of its right, title and interest in and to any subcontract or consulting agreement for a portion of the Work, which assignment shall become enforceable only upon a termination of this Agreement, and only as to those agreements that the Owner expressly accepts by written notification. Any agreements assigned to, and accepted by, the Owner in accordance herewith may, in turn, be assigned by the Owner, in its sole discretion, without recourse to any person or entity, in which event such assignee shall assume the Owner's rights and obligations under the subcontract or consulting agreement.

ARTICLE 4. THE OWNER

4.1 Program. Attached as an Exhibit hereto is the Program setting forth the Owner's programmatic goals, objectives and requirements for the Project, and describing the scope, character, quality levels, performance standards, relationships, forms, size and appearance of the Work. The Program may include budget and time criteria, a conceptual design approach for relevant building systems, flexibility and expandability requirements, possible sequencing, site requirements and an existing facilities assessment.

4.2 Designated Representative. The Owner's Designated Representative(s) for the Project shall be set forth in the Program. The Owner shall inform the Design/Builder when any changes affecting the designation are made.

4.3 Existing Conditions. The Owner shall furnish existing surveys and reports in its possession describing the existing physical conditions at the Project Site.

4.4 Owner's Right to Audit. At any reasonable time and location, during or after completion of the Work, the Design/Builder shall grant access to the Owner and its designee(s) to inspect, audit and copy its documents, data, records and files, electronic or otherwise, relating to the Project. This audit right shall apply to all portions of the Work.

4.5 Separate Contractors. The Owner reserves the right to perform other work, pursuant to a direct contract with the Owner, in connection with the Project using Separate Contractors and to let separate contracts in connection with work on adjoining sites. The Design/Builder shall afford Separate Contractors reasonable opportunity for storage of their materials and equipment and performance of their activities.

4.6 Disruption of Work. The Design/Builder shall reimburse the Owner for costs incurred to Separate Contractors due to failures of coordination, delays, improperly timed activities or Defective Work. The Owner shall be responsible to the Design/Builder for costs incurred because of delays, improperly timed activities, damage to the Work or defective construction by a Separate Contractor.

ARTICLE 5. TIME

5.1 TIME IS OF THE ESSENCE. The Design/Builder acknowledges that time is of the essence to the Owner. The Design/Builder shall proceed expeditiously with adequate forces to complete the design within the time established in § 1.4 and to achieve Substantial Completion of the Work within the Contract Time.

5.2 Delays. The Design/Builder shall promptly notify the Owner in writing of any delays or circumstances that may prevent the Project from being completed within the Contract Time, including recommended mitigation measures and cost impacts to the Work associated with such measures. On direction from the Owner, the Design/Builder shall take action, including adding, increasing or supplementing the workforce, the number of shifts, the days of work and/or overtime operations, to minimize threatened delays to Substantial Completion.

5.2.1 The Owner's receipt and acceptance of a schedule update does not: (a) indicate agreement with the completeness or feasibility of such schedule; or (b) constitute approval of adjustments in the Contract Time, if depicted or assumed therein.

5.2.2 Any change request seeking an extension of the Contract Time or compensation on account of acceleration or delay shall contain a schedule analysis detailing the impact of the delay and such other supporting data that the Owner may reasonably request.

5.3 Compensable Delay. Delays in the Work caused by the wrongful act or neglect of the Owner or Separate Contractors, by a *force majeure* event in § 7.5, or by a change or suspension ordered in the Work shall entitle the Design/Builder to an adjustment of the Contract Time and/or Contract Sum by Change Order, provided that the Design/Builder has complied with the Contract Documents and submitted a change request.

5.3.1 The Owner shall not be responsible for costs that could have been avoided by reasonable means, including backcharging responsible parties, prudent scheduling of the Work, supplementation of labor or equipment, judicious use of overtime or proper administration of Consultants and Subcontractors.

5.4 Inexcusable Delay. The Design/Builder shall not be entitled to an adjustment of the Contract Time or Contract Sum for acceleration or delays resulting from causes other than those set forth in § 5.3, for delays that it could have avoided or mitigated using its best efforts, or for delays that do not extend Substantial Completion of the entire Work.

5.5 Concurrent Delay. If an Inexcusable Delay occurs concurrently with a Compensable Delay, either of which would have delayed Substantial Completion, the Design/Builder shall be entitled to an adjustment of time for the period that the delays are concurrent, but not to additional compensation on account of losses arising from the circumstances that caused the delay, including lost productivity, impact and inefficiency.

5.6 Delay Damages. The Design/Builder's sole remedy for a Compensable Delay is an extension of time as provided herein and additional direct costs resulting from the impacted Work. The Design/Builder and anyone claiming through it shall not be entitled to additional compensation or reimbursement, including Fee, overhead and profit, which are hereby expressly waived.

ARTICLE 6. COMPENSATION AND TERMS OF PAYMENT

6.1 Compensation. Except as modified by Change Order, the Design/Builder's compensation for the Work shall consist only of the amounts set forth herein.

6.1.1 Pre-Construction Phases. The Design/Builder’s compensation for Work performed prior to the acceptance of the Construction Proposal shall be as follows.

	Fee	Basis	Reimbursable Expenses
Design Documents		Fixed	Included
Construction Documents Phase		Fixed	Included
Procurement and Construction Proposal		Fixed	Included

Total

- .1 Reimbursable Expenses shall consist only of the costs reasonably and necessarily incurred by the Design/Builder, its Consultants or their employees, in the proper performance of the Work prior to the acceptance of the Construction Proposal, in accordance with the Owner’s standard reimbursement policy, without additional markup, margin, contribution or fee. Compensation for Reimbursable Expenses in excess of any budgeted amounts set forth above requires the prior, written approval of the Owner.

6.1.2 Construction Phase. The Design/Builder’s compensation for Work performed after the acceptance of the Construction Proposal shall be set forth in the Construction Proposal.

- .1 The Design/Builder shall be solely responsible for scheduling, transport, delivery, receipt, unloading, hoisting, inspecting, inventory, access, securing, storage, protection, layout, and installation of all materials and/or equipment necessary for the Work hereunder. The Design/Builder’s compensation shall include delivery of all materials and equipment to the Project, FOB Destination. The Design/Builder shall protect and secure all materials and equipment furnished to the Project against risk of loss, and Design/Builder shall be solely responsible for care, custody and control of such materials and equipment until Final Completion.
- .2 The Design/Builder shall include all requirements and costs for winter conditions and/or temporary weather protection as may be necessary for its Work hereunder to maintain the schedule in its Construction Proposal, including, but not limited to, any stand-by labor, temporary heaters, fuel, snow and/or ice removal.
- .3 The Design/Builder shall confirm and include compliance with the Mandatory State and Federal Laws set forth in Exhibit G to this Agreement in the Construction Proposal, including, but not limited to, trade classifications and wage rates for the Work hereunder as required by the State of Connecticut, Department of Labor, and any labor agreements applicable to the Project.
- .4 The Design/Builder shall be responsible for all requirements necessary for the Work hereunder, including, but not limited to, electrical power to extent not provided by Owner or others for any reason, portable generators, portable heaters as may be required for winter weather conditions, portable fans as may be required for ventilation, and, task lighting.

6.2 Applications for Payment. The Design/Builder shall submit monthly applications for payment in a form acceptable to the Owner and shall include only those changes memorialized in a Change Order. Prior to the commencement of construction, the Design/Builder shall submit for the Owner’s approval a separate schedule of values allocating the Construction Phase portion of the Contract Sum among the various portions of the Work, reserving separate line items for individual subcontracts, each allowance, and any contingency.

6.2.1 The Design/Builder’s applications for payment shall be accompanied by:

- .1 An itemized statement of all costs during the billing period, including backup;
- .2 Invoices from Consultants and Subcontractors of all tiers;
- .3 Partial releases and lien waivers, in a form acceptable to the Owner;
- .4 A contingency log tracking all used and unused contingencies;
- .5 An allowance log tracking all used and unused allowances;
- .6 A change order log tracking all proposed, pending and approved change orders, and all denied proposed change orders; and,
- .7 Such other data, records and receipts as reasonably requested by the Owner to substantiate costs.

6.2.2 The Design/Builder's submission of an application for payment constitutes its certification that: (a) the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents; (b) the amounts sought are due and earned in accordance with the Contract Documents; (c) the Work is progressing in accordance with the schedule; (d) it has discharged its financial obligations on account of labor, services, materials or equipment furnished to the Project for which the Owner has made payment; and (e) title to all Work covered by the application will be passed to the Owner no later than the time of payment.

6.2.3 Payments shall be made within thirty (30) days after receipt by the Owner. The Design/Builder shall promptly, but in no event later than ten (10) days after payment by the Owner, pay its Consultants and Subcontractors the amounts to which they are entitled.

6.3 Retainage. The Design/Builder's applications for payment shall be subject to retainage of five percent (5.0%). The retainage shall be released upon the achievement of Substantial Completion. Interest shall not accrue or be payable on retainage. Following Substantial Completion, the Owner shall withhold Two Hundred Percent (200%) of the value of incomplete work as shown in the punch list

6.4 Withholding. The Owner may, in its sole discretion, withhold payment from the Design/Builder to the extent necessary to protect the Owner from: (a) loss due to Defective Work, whenever discovered, or to reimburse the Owner for losses for which it is entitled to indemnity from the Design/Builder under the Contract Documents; (b) failure to progress the Work in accordance with the schedule; (c) uninsured loss due to personal injury or damage to the Work or the work of Separate Contractors to the extent of the responsibility of the Design/Builder; (d) Claims of nonpayment by persons or entities that furnished labor, services, materials or equipment to the Project for or on behalf of the Design/Builder for which the Owner has paid the Design/Builder; or (e) persistent failure of the Design/Builder to perform the Work in accordance with the Contract Documents.

6.4.1 The Owner may apply any amounts withheld as it deems proper to satisfy or set off against Claims, secure its protection, complete the Work or compensate itself for losses suffered by reason of the Design/Builder's nonperformance or default.

6.5 Joint Payment. The Owner may make payment by joint check to a Subcontractor or Consultant of any tier, and such payments shall be deemed to have been made on account of the payee and all tiers between the payee and the Owner. Any payment made by the Owner by joint check shall not be construed as a promise to assume the debt of any joint payee, nor as a continuing obligation to make joint payments, nor as an assumption or establishment of a direct contractual relationship with the payee.

6.6 Allowances. Promptly after the actual costs of allowances in the Contract Sum become fixed, the Design/Builder shall submit to the Owner adequate documentation of such actual quantities and/or costs, and the Contract Sum shall be adjusted by Change Order. All savings realized in buying out allowances shall be credited to the Owner in such Change Order.

ARTICLE 7. CHANGES

7.1 Owner Changes. The Owner may, without invalidating this Agreement, add, delete, modify or alter the Design/Builder's services within the general scope of the Contract Documents. If the Design/Builder is requested by the Owner to provide pricing for a requested change or encounters unanticipated conditions that will result in a change in the Contract Time or the Contract Sum, it shall, within ten (10) days and before commencing or performing such services or work, notify the Owner and provide a written summary of the impact of the change on the Project, the Contract Sum and the schedule. Except for emergencies, the Design/Builder shall not undertake any addition, deletion, modification or alteration in the Work without an executed Change Order, Construction Change Directive or written directive for a minor change as provided in this Article 8.

7.2 Change Orders. A Change Order is a writing signed by the Owner and Design/Builder setting forth their agreement as to a change in the Work, Contract Sum and/or the Contract Time, and constitutes a final settlement of all matters relating to the change that is the subject of the Change Order.

7.3 Change Directives. The Owner may direct a change in the Work within the general scope hereof without agreement on the impact of the change, if any, on the Contract Sum or Contract Time, by issuing a Change Directive in writing and signed by the Owner. Upon receipt of a Change Directive, the Design/Builder shall

proceed with such services expeditiously and promptly provide the Owner with its proposed change to the Contract Sum, Contract Time and schedule on account of the Change Directive.

7.4 Change Pricing. All proposed changes and Claims by Subcontractors shall be evaluated and approved by the Design/Builder prior to submission to the Owner. The maximum allowance for overhead and profit of the Design/Builder or a Subcontractor of any tier performing changed work solely with its own forces under a lump sum agreement shall be 10%. Whether the Work is performed on the basis of a GMP or lump sum, the maximum cumulative allowance to the Owner for overhead and profit of the Design/Builder and Subcontractors of all tiers, including the Design/Builder's Construction Fee, for changed work shall be 15%.

7.5 Force Majeure. An entity's non-performance caused by unforeseeable conditions beyond its control and without its fault or negligence by reason of fire, severe flooding, property casualty, riots, labor disputes, delays by authorities having jurisdiction, unusually severe meteorological or seismic activity, the loss of power, communications or utilities to the Project, epidemics, pandemics, quarantines, acts of war, acts or threats of terrorism or governmentally declared emergencies shall not result in a default by the Design/Builder during the period such forces are in effect at the Project Site.

7.6 Continuing Performance. Pending final resolution of a Change Order, Change Directive or Claim, the Design/Builder shall proceed diligently with performance of its contractual obligations and all changes directed by the Owner.

ARTICLE 8. INSURANCE AND INDEMNITY

8.1 Design/Builder's Insurance. The Design/Builder shall provide for and maintain insurance in compliance with this Article covering the activities of Design/Builder and anyone for whose acts the Design/Builder may be liable, with the following limits:

8.1.1 Commercial General Liability. The Design/Builder shall maintain commercial general liability insurance covering all operations by or on behalf of the Design/Builder on an occurrence basis against claims for bodily injury (including death), personal injury, and property damage (including loss of use). Such insurance shall provide limits as follows:

- .1 \$2,000,000 Annual General Aggregate
- .2 \$1,000,000 BI/PD Each Occurrence
- .3 \$1,000,000 Products and Completed Operations Aggregate
- .4 \$1,000,000 Personal & Advertising Injury
- .5 \$100,000 Fire Damage (Any One Fire)
- .6 \$10,000 Medical Expense (Any One Person)

8.1.2 Automobile Liability. The Design/Builder shall maintain business auto liability insurance covering liability arising out of any auto (including owned, hired and non-owned autos) as follows:

- .1 \$1,000,000 Combined single limit each accident

8.1.3 Workers Compensation. The Design/Builder shall maintain workers compensation and disability benefits required by law, including coverage and/or endorsement for:

- .1 United States Longshoreman and Harbor Worker's Act, if applicable
- .2 Statutory: Unlimited
- .3 Employer's Liability:
 - (a) \$1,000,000 Bodily injury for each accident
 - (b) \$1,000,000 Bodily injury by disease for each employee
 - (c) \$1,000,000 Bodily injury disease aggregate

8.1.4 Aircraft/Watercraft Liability. The Design/Builder or aircraft/watercraft operator, shall maintain aircraft/watercraft liability insurance (including owned and non-owned aircraft/watercraft) when aircraft/watercraft are used in the performance of the Work, as follows:

- .1 Limits:
 - (a) \$1,000,000 Each occurrence
 - (b) \$1,000,000 Each person
- .2 Coverages:

- (a) Additional insured endorsement
- (b) Blanket waiver of subrogation
- (c) Contractual liability

8.1.5 Contractor's Pollution Liability Insurance. In the event that any disruption, handling, abatement, remediation, encapsulation, removal, transport, or disposal of Hazardous Materials is required, the Design/Builder shall secure, or cause to be secured, pollution liability insurance as follows, in addition to the other coverages contained herein. The policy shall be valid for the duration of the Work and shall be maintained by the Subcontractor performing such work for a period of five (5) years thereafter. The insurance shall be on a claims-made basis and Project specific.

.1 Limits:

- (a) \$2,000,000 Each Occurrence
- (b) \$2,000,000 Each Person

.2 Coverages:

- (a) Bodily injury, sickness, disease, mental anguish, shock, and death.
- (b) Property damage, including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- (c) Blanket waiver of subrogation rights against the Owner, and its officers, employees and agents.
- (d) Contractual Liability.
- (e) Additional Insured Endorsement.

8.1.6 Umbrella/Excess Liability. The Design/Builder shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described herein as follows, which shall be at least as broad as each and every coverage area of the underlying policies. The amounts of insurance required herein may be satisfied by combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in this Paragraph.

- .1** \$5,000,000 Each combined single limit and aggregate limit

8.1.7 Professional Liability (Errors & Omissions). The Design/Builder shall maintain professional liability insurance on a claims-made basis with the following limits:

- .1** \$2,000,000 Each claim and annual aggregate

8.2 General Insurance Provisions.

8.2.1 Certificates of Insurance. For all required insurance coverages, prior to commencing any Work, the Design/Builder shall provide to the Owner a certificate of insurance evidencing the minimum insurance coverages required herein, naming the Owner and others as additional insureds as set forth herein. Coverages will not be canceled, non-renewed, or materially changed without the Design/Builder providing the Owner with thirty (30) days advance written notice.

8.2.2 Insurer Qualification. All required insurance shall be provided through companies authorized to do business in the State of Connecticut with a Best rating of A or better unless otherwise specifically approved by the Owner. A copy of all insurance policies required herein shall be made available for the Owner's review at a mutually convenient time and place within ten (10) days of the Owner's written request.

8.2.3 Insurance Primary. All insurance coverages provided by the Design/Builder and those for whom it is liable shall be primary, and any insurance or self-insurance program carried by the Owner will be considered excess.

8.2.4 No Reduction or Limit of Obligation. By requiring insurance herein, the Owner does not represent that coverage and limits will necessarily be adequate to protect the Design/Builder. The insurance required herein shall not reduce or limit the Design/Builder's contractual obligation to indemnify and defend the Owner for claims made or suits brought that result from, or are in connection with, the performance of this Contract.

- 8.2.5 Additional Insureds.** All insurance coverages provided by the Design/Builder and those for whom it is liable shall, with the exception of workers compensation, defend and include the Owner, its directors, officers, representatives, agents, and employees as additional insureds on a primary basis with respect to work performed pursuant to a CG20 10 (1185) or equivalent endorsement. If the additional insured has other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Design/Builder's insurance shall not be reduced by such other insurance.
- 8.2.6 Duration of Coverage.** All insurance coverages provided by the Design/Builder shall be maintained without interruption during the entire term of this Agreement and for such additional time as may be required herein for specific types of insurance.
- 8.2.7 Continuous Operations.** The Owner and occupants of its buildings will continue their activities and operations at or adjacent to the Project Site during the performance of the Work. Any general liability policies provided by Design/Builder shall not contain any endorsements that exclude property of the Owner that is not deemed to be in the care, custody, or control of the Design/Builder or those for whom it is liable.
- 8.2.8 Retroactive Date and Extended Reporting Period.** If the Owner specifically permits any required insurance to be issued or renewed on a "claims made" form, as opposed to the "occurrence" form, the retroactive date for such claims made coverage shall be no later than the commencement date of the services or Work hereunder and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims (tail coverage) shall be available for at least thirty-six (36) months.
- 8.2.9 Subrogation Waiver.** The Owner and the Design/Builder waive all rights against each other, their agents, officers, directors, employees and those for whom they are liable, for any damage or loss to the extent covered by insurance, and to the extent of actual recovery of insurance proceeds, excluding any applicable deductible.
- 8.2.10 Subcontractors' Insurance.** The Design/Builder shall cause all Subcontractors and their sub-subcontractors to provide and maintain insurance in compliance herewith, using good business judgment in establishing coverage limits and deductible applicable to such insurance, and subject to the Owner's approval. The Design/Builder shall furnish to the Owner copies of certificates of insurance evidencing coverage for each Subcontractor and Sub-subcontractor.
- 8.2.11 Adjustment of Losses.** Any property loss under the policies required hereunder shall be evaluated and adjusted by the Owner's insurance adjuster and made payable to the Owner as trustee for the insureds as their interests may appear, subject to the requirements of any applicable mortgagee clause.
- 8.2.12 Joint Ventures.** If the Design/Builder is a joint venture involving two or more entities, then either each independent entity shall satisfy the limits and coverages specified in this Article or the joint venture shall be a named insured under each policy.
- 8.2.13 Excluded Obligations.** The Owner shall bear no responsibility and shall provide no coverages for any obligations of the Design/Builder, or those for whom it is liable, under any contract, including without limitation rental agreements for equipment used at the Project Site.
- 8.2.14 ISO Forms.** To the extent applicable, the types of insurance shall conform to the minimum terms, conditions, and coverages of the Insurance Service Office (ISO) policies, forms, and endorsements.
- 8.2.15 Deductibles.** No self-insured retention or deductibles shall be in excess of \$50,000, unless otherwise approved in advance by the Owner. The Owner shall not be responsible to reimburse the Design/Builder for any amounts paid by the Design/Builder on account of its deductible.
- 8.3 Indemnification.** To the fullest extent permitted by law, the Design/Builder shall indemnify, defend, and hold harmless the Owner, its agents, officers, directors and employees from and against all claims, losses, liabilities, obligations, costs, fines, penalties, expenses and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys and other professionals and court and dispute resolution costs)

arising out of or resulting from the performance of or lack of performance of the Work, to the extent caused by any breach of contract or negligent act or omission of the Design/Builder or anyone for whose acts or omissions the Design/Builder may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder (with the exception only for any negligence that is prohibited from the scope of this clause by Applicable Law). The Design/Builder's duty to defend the Owner, its agents, officers, directors and employees, shall not extend to claims covered solely by the Design/Builder's professional liability policy required hereunder.

8.3.1 As to any and all claims against the Owner, its agents or employees by any employee of the Design/Builder or anyone for whose acts the Design/Builder may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Design/Builder under worker's or workman's compensation acts, disability benefit acts or other employee benefit acts.

8.3.2 The Design/Builder agrees and does hereby assume, on behalf of the Owner, the defense of any action that may be brought against the Owner, its agents, officers, directors or employees for which the Owner is entitled to a defense and to pay on its behalf, upon demand, any judgment or award entered in any such action.

8.3.3 The Owner reserves the right to retain its own counsel and to charge any reasonable counsel fees to the Design/Builder. The Design/Builder expressly consents to the Owner's selection of legal counsel and waives any waivable conflict.

8.4 Owner's Property Insurance. The Owner shall purchase and maintain property insurance covering its property and the Work on the Project Site in the amount of the completed value upon a replacement cost basis. The property insurance is on an all-risk policy form and includes builder's risk and boiler and machinery coverages. In the event that the Design/Builder or those for whom it is liable, is responsible for such loss, the other provisions of this Agreement shall apply.

8.4.1 A loss insured under Owner's property insurance shall be adjusted by the Owner or its representatives and made payable to the Owner, or otherwise at the direction of the Owner, subject to requirements of any applicable mortgagee clause. The Design/Builder shall pay Subcontractors and Consultants their shares of insurance proceeds received by the Design/Builder, and by appropriate agreements, written where legally required for validity, shall require them to make payments to their subcontractors and subconsultants in a similar manner.

8.5 Bonding. The Design/Builder shall furnish payment and performance bonds with penal sums equal to one hundred percent (100%) of the value of the bonded contract and in a form provided by the Owner. The Owner shall be named as a dual obligee on all bonds posted by Subcontractors. The required bonds shall be provided by a surety company or companies acceptable to the Owner, authorized to transact business within the State of Connecticut, and named in the current listing by the Department of the Treasury of approved sureties (Department Circular 570). Within ten (10) days of the Design/Builder's award of a subcontract for which bonding is required and prior to such Subcontractor's commencement of work, the Design/Builder shall deliver to the Owner the original bonds obtained from the Subcontractor.

ARTICLE 9. TERMINATION OR SUSPENSION

9.1 Suspension. The Owner may suspend the Work in whole or in part for its convenience and without cause, for such period as the Owner may require, upon not less than seven (7) days' written notice to the Design/Builder specifying the extent of the suspension, the effective date, and, if known, the duration of the suspension.

9.2 Termination for Convenience. The Owner may terminate this Agreement in whole or in part for its convenience and without cause upon not less than seven (7) days' written notice to the Design/Builder specifying the extent of termination and the effective date.

9.2.1 In the event of a termination for the Owner's convenience, the Design/Builder shall receive, as its sole remedy, compensation for the portion of the Contract Sum earned prior to the effective date of termination, together with the Design/Builder's reasonable de-mobilization expenses. Under no

circumstances shall the Design/Builder be entitled to additional payment or damages, including, without limitation, anticipated fees or profit, which are hereby expressly waived.

9.3 Termination for Cause. This Agreement may be terminated in whole or in part by the Owner upon seven (7) days' written notice, and by the Design/Builder upon thirty (30) days' written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party and provided such breach is not corrected within said notice period. In the event that a termination by the Owner for cause is ultimately deemed wrongful by a trier of fact, such termination shall be conclusively deemed to be a termination for convenience by Owner.

9.3.1 Sufficient cause for the Owner to terminate hereunder for cause shall exist if the Design/Builder: (a) substantially fails to perform in accordance with the terms of this Agreement; (b) fails to perform its contractual obligations with the diligence that will ensure its completion within the Contract Time; (c) fails to make payment to Subcontractors or Consultants for services, labor, materials or equipment furnished in accordance with their respective subcontract or consulting agreements; or (d) fails to remove a mechanic's lien recorded against the Project or Owner's property by a party claiming entitlement through it, for which payment has been made by Owner.

9.4 Work Completed. In the event of a termination or suspension pursuant to this Article, the Design/Builder shall not be relieved of any responsibilities for the completed portions of the Work, nor shall such termination or suspension relieve any sureties of their obligations to ensure completion of the Work and to pay legitimate Claims arising out of the Work.

ARTICLE 10. DISPUTE RESOLUTION

10.1 Claims. A Claim is a demand or assertion seeking adjustment in compensation, payment of money, extension of time or other relief with respect to, arising out of or relating to the terms of this Agreement. Unless otherwise specifically required by the Contract Documents, Claims by the Design/Builder must be made by written notice within twenty-one (21) days after the circumstances giving rise to such Claim become known, regardless of whether the full effect thereof is then known. It is understood that the failure to provide written notice within this time period will greatly prejudice the Owner, and the failure to submit proper and timely notice shall constitute a waiver and abandonment of the Claim.

10.2 Claim Review. The parties' claim representatives shall meet in good faith within fifteen (15) days of the submission of a Claim to endeavor to resolve the Claim on their own. If the parties are unable to resolve the Claim in this manner, the Claim shall be mediated as set forth below.

10.3 Mediation. As a condition precedent to litigation or arbitration, the parties shall endeavor to settle disputes by non-binding mediation with a mutually acceptable dispute resolution administrator. A demand for mediation shall be made within a reasonable time after the Claim, dispute or other matter in question has arisen. Any such mediation shall be administered and conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise.

10.4 Arbitration. All Claims, disputes and other matters in question between the parties to this Agreement shall be decided by arbitration administered by a mutually acceptable dispute resolution administrator. The Construction Industry Arbitration Rules of the American Arbitration Association shall govern. Any such arbitration may include, by consolidation, joinder and in any other manner, third-parties whose interests relate to the matters in arbitration.

10.4.1 The demand for arbitration shall be made promptly after the occurrence of the event giving rise to the Claim, and in no event later than the date when institution of legal or equitable proceedings based on such Claim, dispute or other matter in question would be barred by the applicable statute of limitation. The venue for arbitration shall be at a locale in New Haven, Connecticut.

10.4.2 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon in accordance with the laws of the State of Connecticut.

10.4.3 The Design/Builder shall incorporate the dispute resolution provisions of this Article in substantially the same form in its agreements with Subcontractors and Consultants.

ARTICLE 11. MISCELLANEOUS

11.1 Copyrights. The Design/Builder and the Design/Builder's Consultants shall be deemed the authors and owners of their respective designs, architectural works, and Instruments of Service, including the drawings and specifications, and shall retain all common law, statutory and other reserved rights, including copyrights.

11.1.1 The Design/Builder grants to the Owner an irrevocable, nonexclusive license to reproduce, make derivative works of, and use the Design/Builder's designs, architectural works, and Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project. The Design/Builder shall obtain similar nonexclusive licenses from its Consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize contractors, consultants, subcontractors, separate contractors and suppliers to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project and any future renovations, additions and/or other modifications to the Project.

11.1.2 In the event the Owner modifies the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design/Builder from claims and causes of action that arise from such modification. The terms of this paragraph shall not apply if the Owner rightfully terminates this Agreement for cause.

11.2 Notices. Written notices pursuant to this Agreement shall be delivered: (a) by hand, (b) by U.S. Mail, (c) by tracked, overnight delivery, or (d) by courier, and shall be addressed to the designated representatives of the Owner and Design/Builder at the addresses set forth above. Transmissions by e-mail shall not constitute written notice.

11.3 Confidentiality. All information communicated or disclosed by the Owner in connection with each Project shall be deemed confidential and shall not be communicated or disclosed to any third party without the Owner's prior written authorization. Excluded from this confidentiality provision is information required to be disclosed in the performance of the services hereunder, publicly available information, information obtained from third parties or developed independently, or as required by law.

11.3.1 The Design/Builder and its Consultants and Subcontractors of all tiers will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor, including 41 C.F.R. § 60-1.4(b) and the Standard Federal Equal Employment Opportunity Construction Contract Specifications at 41 C.F.R. § 60-4.3 et seq.

11.4 Independent Contractor. The relationship of the Design/Builder to the Owner will be solely that of an independent contractor and nothing contained herein will be construed as creating any other relationship.

11.5 Non-Assignability. Except as permitted herein, the Design/Builder shall not assign this Agreement or the performance of any of its obligations hereunder without the Owner's prior, written consent, which Owner may withhold in its sole discretion, and any unauthorized assignment shall be void.

11.6 Liens. In the event that liens are filed by any party in relation to the services, labor and materials being furnished by or on behalf of the Design/Builder on the Project, the Design/Builder agrees to have said liens discharged by substitution of a surety bond or otherwise, within ten (10) days of receipt of written notice from the Owner. In the event such lien is not so discharged, the Owner shall have the right to discharge said lien and recover from the Design/Builder all costs associated therewith, including the Owner's attorney's fees incurred in having the lien discharged.

11.7 Compliance with Laws. In performing its obligations under this Agreement, the Design/Builder shall comply with all Applicable Law.

11.8 Continuing Duty. Acceptances, approvals, tests or inspections required or performed by the Owner or third parties shall not relieve the Design/Builder from any responsibilities or obligations to properly perform its services hereunder.

11.9 Non-Waiver. Failure to insist upon strict compliance with any terms, covenants or conditions hereof will not be deemed a waiver of such terms, covenants or conditions, nor will any waiver or relinquishment of any

right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time.

11.10 Integration. This Agreement contains the entire agreement between the parties concerning its subject matter and supersedes all oral or written agreements, negotiations, correspondence, documentation, and statements made before its acceptance and execution.

11.11 Severability. Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.

11.12 Interpretation. All parties acknowledge and agree that this Agreement has been freely negotiated and that in any dispute over the meaning, interpretation, validity or enforceability of this Agreement or any of its terms or conditions, there shall be no presumption whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.

11.13 Third Parties. All duties and responsibilities undertaken by the Design/Builder hereunder are for the sole and exclusive benefit of the Owner and the Design/Builder, and not for the benefit of any other party. Nothing herein shall be construed as an intent to create a contractual or third-party beneficiary relationship between the Owner and any of the Design/Builder's Subcontractors or Consultants.

11.14 Setoff. The Owner shall have the right to set off against the Design/Builder's account any damages that may accrue by virtue of Design/Builder's default under this Agreement, or any other agreement with the Owner, in addition to any amounts which are otherwise due and payable by the Design/Builder to the Owner under the terms of this Agreement, without prejudice to any other remedy Owner may have.

11.15 Responsibility. The Design/Builder shall be fully responsible to the Owner for acts and omissions of its employees, Subcontractors, Consultants, and others directly or indirectly furnishing services, labor, materials or equipment on their behalf.

11.16 Counterparts. This Agreement and the Project Designation may be executed in counterparts and by facsimile, each of which shall be deemed an original, but all of which shall constitute the same instrument. Counterparts transmitted via facsimile and/or .PDF shall have the same force and effect as hardcopy originals.

11.17 Titles in Agreement. The titles of the Articles in this Agreement are for ease and reference only, and they shall not be relied upon or cited for any other purposes.

11.18 Governing Law. The law of the State of Connecticut (without giving effect to its conflicts of laws principles) shall govern all matters arising under or related to this Agreement.

ARTICLE 12. LIST OF INCORPORATED DOCUMENTS

The following are incorporated into and made fully a part of this Agreement, as if attached to or repeated herein:

Exhibit A	Program- Owner's Instructions to Bidders and Summary of Work
Exhibit B	Design/Builder's Designated Personnel, Consultants and Subcontractors
Exhibit C	Design/Builder's Hourly Rates/Unit Prices for Labor and Equipment
Exhibit D	Design/Builder's Non-Collusive Bid Statement
Exhibit E	Design/Builder's Qualification Statement
Exhibit F	Select Design/Builder Representations
Exhibit G	Mandatory State and Federal Laws
Amendment No. 1	Design/Builder's Construction Proposal

This Agreement is entered into as of the dates below, made effective as of the date stated in Article 1.

Area Cooperative Educational Services

<Design/Builder>

Thomas M. Danehy, Ed.D.
Executive Director

Name: _____
Title: _____

Duly Authorized

Date: _____

Duly Authorized

Date: _____

Exhibit A

Owner's Instructions to Bidders and Summary of Work

ACES ECA Design/Build Performing Audio and Stage Lighting Project

INSTRUCTION TO BIDDERS

The Area Cooperative Education Services (herein referred to as "ACES") is seeking Design/Build proposals for the ACES ECA Design/Build Performing Audio and Stage Lighting Project (herein referred to as "Project") for its Education Center for the Arts (herein referred to as "ECA") facility located at 55 Audubon Street, New Haven CT.

Sealed Design/Build proposals must be submitted on designated forms and in envelopes clearly marked with the Project title. Bids shall be submitted in triplicate. Bids will be received at ACES administration office at 370 James Street, New Haven, Connecticut, 06513 **until 2:00 P.M. on Thursday, February 20, 2025** at which time they will be publicly opened and read aloud. Bids received late will not be opened. **No responsibility will be attached to any Area Cooperative Educational Services (ACES) representative or employee for the premature opening of a bid not properly addressed and identified.**

Prospective bidders shall examine the "Instruction to Bidders" and "Supplementary Instructions to Bidders" and shall comply and conform strictly to the conditions and instructions contained therein. Note that a **pre-bid conference** will be held at the site on **Friday February 7, 2025 at 11:00 AM.**

The bidding Design/Build must meet the requirements of the Connecticut Department of Administrative Services (DAS) pre-qualified for the Work specified herein at the time of bid submission.

The awarded bidder will be required to furnish a 100% Performance and 100% Labor & Materials Payment Bond written by a surety company licensed to do business in the State of Connecticut. ACES reserves the right to reject any and all bids in whole or in part or may waive any informalities in the bid, if, in its opinion, it is in the best interests of ACES to do so. All bid documents must be completely filled out when submitted. Bids must be firm and may not be withdrawn for a period of 90 days following the bid opening.

Bids may be held by ACES for a period not to exceed ninety (90) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of the bidder prior to awarding the contract.

Design/Build Bid/Proposals shall include the following documents with its submission:

Amendment No. 1 Design/Builder's Construction Proposal including the following information to evaluate Design/Builders Proposal:

- i. Overview of material & equipment included in its proposal. **A list of proposed unit prices for this Work.**
- ii. Manufacturers Literature / Spec Sheets on products, material and equipment proposed.
- iii. Proposed Schedule including the following milestones:
 - Final Design Documents
 - Final Construction Documents
 - Commencement of Construction at Project Site
 - Substantial Completion
 - Final Completion

Exhibit B Design/Builder's Designated Personnel, Consultants and Subcontractors
Exhibit C Design/Builder's Hourly Rates/Unit Prices for Labor and Equipment
Exhibit D Design/Builder's Non-Collusive Bid Statement
Exhibit E Design/Builder's Qualification Statement

It is the Design/Builders responsibility to obtain all necessary State, Municipal and AHJ approvals.

It is the Design/Builders responsibility to provide any required engineered calculations and Professional Engineered stamped documents.

Questions regarding this proposal/bid may be directed to Timothy Gunn of Bear Notch LLC at tgunn@aces.org. All inquiries must be in writing.

ACES is an Equal Opportunity/Affirmative Action Employer
William Rice
ACES Assistant Executive Director of Operations

1. INTENT OF CONTRACT

All Design/Build's bidding this project are advised that it is the Area Cooperative Educational Services (ACES) intent to engage a qualified and competent Design/Build firm possessing the necessary and appropriate manpower, equipment and experience, to perform **Design/Build Performing Audio and Stage Lighting Project** work within the project area at ACES Education Center for the Arts (ECA) Magnet School in the City of New Haven Ct. This Work includes, but is not limited to Design of Performing Audio and Stage Lighting, provide a new and upgraded audio and stage lighting systems to enhance our schools program, work with ACES staff to accomplish meeting the needs of the program, the design and workmanship shall be code compliance and meet industry standards. The work to be performed on property of the City of New Haven that is leased to Area Cooperative Educational Services (ACES). This Work is being funded through a grant from the Connecticut State Department of Education, Interdistrict Magnet School Capital Improvement Grant – RESC, RFP#848, pursuant to Public Act (PA) 22-118, § 314(f).

2. EXPLANATION TO BIDDERS

Any explanation regarding the meaning or interpretation of the Request for Qualification/Proposals (RFQ/P) must be requested in writing within Five (5) days prior to Bid Opening due date. Any such explanation or interpretation shall be made in the form of addenda to the documents and shall be posted on the ACES bid website and the State Procurement website CTsource for all bidders to access. Oral explanation and interpretations made prior to the bid opening, shall not be binding.

3. BIDDER'S UNDERSTANDING

Bidders should visit the work site to ascertain by inspection pertinent local conditions such as location, character and accessibility of the site, availability of facilities, location and character of existing work within or adjacent thereto, labor conditions, etc. The Owner shall make available to all prospective bidders, previous to the receipt of bids, information that he may have related to the RFQ/P. Such information shall be given, however, as the best factual information available without the assumption of responsibility for its accuracy or for any conclusions that the Design/Build might draw there from.

4. BID SURETY REQUIREMENTS

No Bid Surety is required.

5. PREPARATION OF BIDS

(a) Bids shall be submitted on the forms provided or copies thereof, and must be signed by the bidder or his authorized representative. Any corrections to entries made on bid forms should be initialed by the person signing the bid.

(b) PROPOSALS shall be submitted COMPLETE in triplicate. The following documents are to be submitted:

Amendment No. 1 Design/Builder's Construction Proposal including the following information to evaluate Design/Builders Proposal.

- I. Overview of material & equipment included in its proposal. A list of proposed unit prices for this Work.
- II. Manufacturers Literature / Spec Sheets on products, material and equipment proposed.
- III. Proposed Schedule including the following milestones:
 - Final Design Documents
 - Final Construction Documents
 - Commencement of Construction at Project Site
 - Substantial Completion
 - Final Completion

Exhibit B Design/Builder's Designated Personnel, Consultants and Subcontractors

Exhibit C Design/Builder's Hourly Rates/Unit Prices for Labor and Equipment

Exhibit D Design/Builder's Non-Collusive Bid Statement

Exhibit E Design/Builder's Qualification Statement

(c) Not Used

6. SUBMISSION OF BIDS

Bids must be submitted as directed in the Invitation to Bid.

7. RECEIPT AND OPENING OF BIDS

Bids shall be submitted prior to the date and time indicated in the Invitation to Bid. Bids received after the date and time so indicated shall be returned unopened.

8. WITHDRAWAL OF BIDS

Bids may be withdrawn at any time prior to opening upon written request of the bidder. Negligence on the part of the bidder in preparing his bid shall not constitute a right to withdraw bid subsequent to the bid opening.

9. PRESENCE OF BIDDERS AT OPENING

On the date and time, and place so indicated for opening bids, the contents of all bids will be made public for the information of all bidders and other interested parties, who may be present in person or by representative.

10. BIDDERS INTERESTED IN MORE THAN ONE BID

If more than one bid is offered by one party, or by any person or persons representing a party, all such bids shall be rejected. A party who has quoted prices to a bidder is not thereby disqualified from quoting prices to other bidders, or from submitting a direct bid on his own behalf.

11. AWARD OF CONTRACT

The contract shall be awarded as soon as practicable after the bid opening, subject to the reservations the 'Notice To Proceed' hereinafter. Design/Builder's submission will be reviewed and evaluated based on its prior experience, its Design/Build submission, its design, material and equipment proposed, its proposed Schedule and not necessarily exclusively on its price.

12. NOTICE TO PROCEED

The Owner will issue a Notice to Proceed to the Design/Build within TBD days after awarding the contract. The Design/Build shall commence work within 7 days thereafter and work diligently to complete the work in this contract. Failure to start the work or to perform the contracted work shall, in the sole opinion of the Owner, constitute a basis for a "Breach of Contract" and may result in termination of the contract.

13. REJECTION OF BIDS

The owner reserves the right to accept or reject any or all proposals in whole or in part, for any reason whatsoever, if it is deemed to be in the best interest of the Owner. Including but not limited to the right to reject the low bidder, or unit prices when deemed in the best interest of the owner, and to negotiate with the lowest qualified bidder.

14. CONTRACT, BONDS AND INSURANCE

- (a) The Bidder to whom award is made shall enter into a written contract with Area Cooperative Educational Services (ACES) within the time specified in the Proposal.
- (b) A 100% Performance Bond and a 100% Labor and Material Bond shall be furnished at the time of signing the formal agreement.
- (c) The Design/Build shall secure and maintain such insurance policies as are required in the contract documents and furnish its certificate of Insurance documents with it executed contract agreement.

15. OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATION (OSHA)

All Design/Builds bidding this project are notified that all work performed under this contract shall be in conformance with all current and applicable OSHA requirements.

16. PRIVATE PROPERTIES

It is the Design/Builds responsibility to properly protect private properties at all times and to restore any disturbed areas to their pre-existing condition, or better. Any areas of private property that are damaged by the Design/Build's actions shall be repaired by the Design/Build at no cost to Area Cooperative Educational Services (ACES).

17. TIME FOR COMPLETION

The Work under this Contract (Work Authorization) shall be completed no later than August 25, 2025. Work on site can proceed after completion of the school year which is expected to be on or around June 16, 2025. The Design/Build shall commence work within seven (7) days from the issuance of a Notice-to-Proceed and work diligently to complete the work in this contract unless otherwise amended in writing by the Owner or his designee.

SUMMARY OF WORK

PART 1 - GENERAL

The following are incorporated into and made fully a part of this Agreement, as if attached to or repeated herein:

Professional Services Agreement Between Owner and Design/Builder

Exhibit A Program- Owner's Instructions to Bidders and Summary of Work

Exhibit B Design/Builder's Designated Personnel, Consultants and Subcontractors

Exhibit C Design/Builder's Hourly Rates/Unit Prices for Labor and Equipment

Exhibit D Design/Builder's Non-Collusive Bid Statement

Exhibit E Design/Builder's Qualification Statement

Exhibit F Select Design/Builder Representations

Exhibit G Mandatory State and Federal Laws

Amendment No. 1 Design/Builder's Construction Proposal including:

- i. Overview of material & equipment included in its proposal. A list of the Design/Builders proposed unit prices.
- ii. Manufactures Literature / Spec Sheets on products, material and equipment proposed.
- iii. Proposed Schedule including the following milestones:
 - Final Design Documents
 - Final Construction Documents
 - Commencement of Construction at Project Site
 - Substantial Completion
 - Final Completion

Current Prevailing State of Connecticut Wage Rates.

1.1 PROJECT DESCRIPTION

- A. Project Identification: The project consists of a **Performing Audio and Stage Lighting Project** and related Work at ACES ECA Inter-district Magnet School.

Project Location:

- Education Center for the Arts (ECA) 55 Audubon Street New Haven, CT.

Owner: Area Cooperative Educational Services ("ACES")

- B. **Work Included:** The scope of work for this project generally includes, but is not limited to, the following major elements:

1. Design and Provide **Performing Audio and Stage Lighting Project** with all related work, including but not limited the equipment listed below, all electrical work, supports, all labor, materials, tools and equipment necessary to complete the Work herein required and for a complete scope that meets all code and State & Local requirements.
2. The Design/Builder shall work with ACES staff to accomplish meeting the needs of the program and the selection of the final equipment. The following is a list of equipment that is anticipated for this project.
 - ETC ColorSource CYC or equal (Quantity: 8) include all necessary power supplies and data cables
 - ETC MiniStaror equal (Quantity: 4) include all necessary power supplies and data cable
 - Black Scrim (FR or IFR) 40'w x 16'h with webbing & grommets top finish, and chain hem bottom finish
 - Black Curtains (Quantity: 2) - 25% fullness (IFR) 12'w x 18'h w/ webbing & grommets top finish and chain hem bottom finish + light/medium duty "walk-along" track & hardware + Installation
 - 4k Laser Video Projector with mount, control hardware & cable and Installation
 - Full Sound System Replacement:
 - Midas M32 Digital Mixer
 - FOH Speakers + Mounts (Quantity: 2 [Stereo Pair])
 - Overhead Monitors + Mounts (Quantity: 2)
 - Amps
 - Digital Interface
 - Cables/Connectors (Some or all existing cable infrastructure may be suitable for reuse)
3. The Work shall be in compliance with all State of Connecticut school construction guide lines.
4. Patch & Repair all walls and ceilings damaged by this Design/Builder as required.
5. The Work shall be of the highest quality installation and exceed the standard of workmanship expected for this Work.
6. The Design of the **Performing Audio and Stage Lighting Project** shall meet or exceed all required applicable codes, fire ratings, applicable ASTM standards, any Authority having Jurisdiction (AHJ) requirements and the manufacturers requirements and recommendations. If there is a conflict between requirements, the stricter requirement shall govern.
7. Obtain and Pay for all Building and obstruction permits required with the City of New Haven or State Agencies.
8. Provide protection of all existing electric, equipment and piping in Work area.
9. Selective demolition of all existing materials that needs to be replaced.
10. Remove all job-related debris material from jobsite in a timely manner. All cost for Dumpsters is to be included in Design/Builder cost proposal.
11. Design/Builder shall keep the premises clean at all times.
12. Provide ACES with a minimum Two (2) year workmanship & material warranty and the any manufacturer's warranty as applicable.
13. This project is a prevailing wage rate project and must meet all CHRO requirements
14. All Work as specified in the General Requirements & Terms

1.2 DESIGN/BUILDER USE OF PREMISES

- A. Design/Builder shall coordinate its' Work activities with the Owner on a daily basis and advise the Owner of its scheduled activities two weeks in advance.
- B. General: Limit use of the premises to construction activities; allow for Owner Occupancy and use by the public to the remainder of the building.
- C. Confine operations to Work area and access ways as possible. As much as possible and without damage to the finishes, doors, and related building systems, access the project via the service doors designated by the Owner. Design/Builder Staging Area is expected to be on the northern backside of the Building.
- D. Keep driveways and entrances serving the premises clear and available to the Owner and the Owner's employees at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.
- E. Shall Maintain existing egress patterns, exit doors and means of egress during construction, which will include the provision of temporary walkways, sideways, or other means necessary to provide adequate life safety for the building occupants, particularly at exit ways which must continue to remain open and serviceable while adjacent construction activity occurs.

- F. Use of the Existing Building: Maintain the existing building in a weather tight condition throughout the construction period. Repair damage caused by construction operations. Take all precautions necessary to protect the building and its occupants during the construction period. Keep the Facility (Building and Grounds) clean on a daily basis. Perform a final cleaning of Work area(s) and adjacent areas effected by Design/Builders Work activities. Repair any damage to the Facility caused by Design/Builders Work activities, including but not limited to landscaping, roads and curbs, lighting, etc.....
- G. Contract shall at its expense make all permanent connections and tie-ins during time that will not affect the operations of the school.

1.3 OWNER OCCUPANCY

- A. Full Owner Occupancy: The Owner will occupy the site and existing building during the scheduled school year. **During summer break the school will be partially occupied.** Cooperate with the Owner during construction operations to minimize conflicts and facilitate owner usage. Pre-schedule construction operations with the Owner for coordination of demolition operations and the location of dumpsters and construction staging areas. Perform the Work so as not to interfere with the Owner's operations.
- B. Design/Builder shall supply all temporary ventilation and prevent unnecessary noise. Design/Builder shall take precautions to minimize the impact of its operation on the school. Design/Builder agrees to perform work that interferes with the School during off hours or weekends and holidays at no additional cost to ACES.

1.4 SPECIFICATION

- A. To be prepared by the Design/Builder

1.5 TYPE OF CONTRACT

- A. Project will be constructed under Design/Build Agreement
- B. Design/Builder Qualifications: An experienced contractor specializing in Structural Work with a minimum of 5 years of installing similar types of roofs. In addition, the contractor must prove experience in similar type and monetary value. Contractor must have sufficient resources to perform the **Performing Audio and Stage Lighting** at the school while meeting the project deadlines. Design/Builders that cannot comply with these qualifications will not be considered for the project.

1.6 WORK SCHEDULES

- A. All work shall be completed on or before the date stated in section 17 TIME FOR COMPLETION. Coordinate all work and exact dates with the ACES Facilities Department.
- B. Design/Builder shall coordinate its Work and schedule activities with the ACES ECA School calendar. Unless given written permission by ACES Facilities Department no Work activities by the Design/Builder shall be performed during the following ACES activities: Graduation Ceremony, and Special Events (ACES will give the Design/Builder Five days' notice of such events).
- C. If the deadlines cannot be met then the Design/Builder must provide temporary services to the portions of the site that is not in operation until work under this contract is complete.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION

Exhibit D

Design/Builder's Non-Collusive Bid Statement

ACES ECA Design/Build Performing Audio and Stage Lighting Project

Area Cooperative Educational Services (ACES)
370 James Street
New Haven, CT 06513

The undersigned bidder, having fully informed himself regarding the accuracy of the statement made herein, certifies that:

The bid has been arrived at by the bidder independently and has been submitted without collusion with, and without any agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition, and,

The contents of the bid have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid.

The undersigned bidder further certifies that this statement is executed for the purposes of inducing Area Cooperative Educational Services (ACES) to consider the bid and make an award in accordance therewith.

Legal Name of Bidder

Business Address

Signature and Title of Person Authorized to Sign

(Print Signer's Name)

Date Telephone

Exhibit E

Design/Builder's Qualification Statement

ACES ECA Design/Build Performing Audio and Stage Lighting Project

DATE _____

DESIGN/BUILDER _____ TAX ID # OR SS # _____

Failure to complete this qualification statement, the intentional withholding of pertinent information or the making of false statements may be considered grounds for rejection of your bid.

Structure of Company

Corporation Co-partnership Individual LLC Joint Venture

Other Type _____

Date of Incorporation or Establishment : _____

Certified MBE Contractor: Yes No

Certified WBE Contractor: Yes No

If you answer "Yes" to any of questions 2, 3, or 4, supply details on separate sheet.

1. Has your organization or any of its affiliate firms been the subject of any of the following actions in the past five years **including** any government agency * or private work:

a. Been suspended, debarred, disqualified, or otherwise been declared ineligible to bid? Yes ____ No ____

b. Been barred from bidding or denied a contract as a result of failure to meet statutory affirmative action or MBE/LBE requirements? Yes ____ No ____

c. Been prevented or barred from bidding for any other reason? Yes ____ No ____

d. Been denied a contract despite being the low bidder for any other reason? Yes ____ No ____

e. Had liquidated damages assessed against it upon completion of a contract? Yes ____ No ____

f. Been defaulted on any contract? Yes ____ No ____

g. Had a contract terminated? Yes ____ No ____

* Government agencies include city, state and federal public agencies, quasi-public agencies, authorities and corporation, public development corporations and local development corporations.

2. In the past five years, has your organization or any current or past key people or affiliate firms been a party to any lawsuits from public or private construction projects?

Yes ____ No ____

If “yes”, indicate in the explanation whether your organization, key people or key firm were plaintiffs or defendants.

3. Claims and Suits: Has your organization ever failed to complete any work awarded to it?
Yes ____ No ____

4. On a separate sheet, list all comparable or larger projects your organization has in progress, giving the name of the project, owner, architect, contract amount, percent complete and scheduled completion date. Also, state total worth of work in progress and under contract.

5. On a separate sheet, list all comparable or larger projects your organization has completed in the past five years, giving the name of the project, owner, architect, contract amount, date of completion and percentage of the cost of the work performed with your own forces.

a. State average annual amount of construction work performed during the past five years.

6. List all willful or serious violation of any Occupational Safety and Health Act (OSHA) or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the bid, provided such violations were cited in accordance with the provisions of any State Occupational Safety and Health Act or Occupational Safety and Health Act of 1970. Indicate whether these were abated within the time fixed by the citation or whether the citation was appealed. If appealed list the status or disposition.

7. List your current Insurance MOD rate: _____

8. Has your organization has been pre-qualified with the State of Connecticut, Department of Administrative Services (CT DAS) as meeting their requirements to perform work on this project. Yes ____ No ____

9. Financial Information

a. Please attach your firm’s most current financial statement (audited if available).

Current Assets \$ _____

Fixed Assets \$ _____

Other Assets \$ _____

TOTAL ASSETS \$ _____

Current Liabilities \$ _____

Long Term Liabilities \$ _____

TOTAL LIABILITIES \$ _____

CURRENT NET WORTH \$ _____

b. Other

Net Working Capital \$ _____	Total Assets	\$ _____
Debt to Equity \$ _____	Annual Sales	\$ _____
Backlog \$ _____	Net Worth	\$ _____
Cash \$ _____	Underbilling to Equity	\$ _____

c. Bank References: _____

Line of Credit \$ _____

d. Bonding References:

Bonding Company: _____

Bonding Agent: _____

Bonding Capacity: _____

Bond Rate: _____

e. Credit References:

I certify that to the best of my knowledge the information given in response to each question is full, complete and truthful.

I acknowledge that ACES as Owner may, by means it deems appropriate, determine the accuracy and truth of the statements made in this application.

I recognize that all the information submitted is for the express purpose of inducing ACES as Owner to award the Agreement.

I authorize ACES as Owner to contact any entity named in the application for purposes of verifying the information supplied by the applicant.

_____/_____
 Name (print) Date

_____/_____
 Signature Title

STATE OF _____)
) ss: _____
 COUNTY OF _____) (city/town)

On this the ____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of _____, a corporation, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as _____. In witness whereof I hereunto set my hand.

Notary Public
My Commission Expires: _____

Exhibit F

Select Design/Builder Representations

ACES ECA Design/Build Performing Audio and Stage Lighting Project

The Design/Builder covenants, represents and warrants that, at all times during the term of the Agreement:

§ 1 It will perform and complete each of the tasks assigned to it on a timely basis (time being of the essence herein) in accordance with the description of the services set forth in the Design/Build Documents, such services shall be provided in accordance with the Standard of Care as defined in Section 1.5 of the Agreement, and it shall be fully responsible for all services provided hereunder, whether such services are provided directly by the Design/Builder, or by Contractors, Subcontractors, Sub-subcontractors, or design professionals or consultants retained by the Design/Builder. The Design/Builder, Subcontractors, and design professionals and consultants retained by the Design/Builder to perform services hereunder shall be qualified to do so and shall perform such services and provide all Project deliverables in accordance with the Standard of Care.

§ 2 The performance of the Work or any services hereunder will not in any way violate or infringe the rights of third parties, including proprietary information and non-disclosure rights, or any trademark, copyright, patent, or intellectual property rights;

§ 3 It shall be bound by, and at its own cost, comply with all federal, state and local laws, rules, regulations, ordinances, codes and orders applicable to the Agreement or the performance of services thereunder, including, but not limited to, the Occupational Safety and Health Act of 1970, and, to the extent applicable, it has and shall maintain all necessary permits and licenses from governmental, public and other authorities necessary or useful to perform the services hereunder. All Work required to be done by persons licensed under applicable governmental requirements and codes shall be performed only by such licensed persons under the laws of the State of Connecticut. The Design/Builder shall be responsible for the prevention of accidents to workmen engaged by the Design/Builder performing services hereunder. The Design/Builder shall be liable to ACES for all losses, costs and expenses attributable to any acts of commission or omission by Design/Builder, its employees and agents resulting from failure to comply including but not limited to any fines, penalties or corrective measures.

§ 4 The Design/Builder is an entity duly created and validly existing, or properly registered to do business, under the laws of the State of Connecticut and each other jurisdiction where the ownership of its property or the conduct of its business requires qualification and is properly licensed by all necessary governmental, public and other authorities having jurisdiction over the Design/Builder and the Project. Further, the Design/Builder will preserve and maintain its existence as an entity duly organized and validly existing under the laws of the State of Connecticut, and remain (or become) qualified to do business and in good standing in each other jurisdiction where the nature of its business or the ownership of its property makes such qualification necessary;

§ 5 The Design/Builder is financially solvent, able to pay all its debts as they mature, and possessed of sufficient working capital to perform all obligations under the Agreement. Similarly, the Owner covenants, represents and warranties that, at all times during the term of the Agreement, it has funding sufficient to satisfy its payment obligations under the Agreement. No claim, action, proceeding or investigation against or involving the Design/Builder is currently (or has been within the past five (5) years) pending or, to the best knowledge of the Design/Builder, threatened, that reasonably could have a material adverse effect on the Design/Builder's ability to faithfully perform its obligations under the Agreement;

§ 6 The Design/Builder is experienced and skilled in the construction of projects of this type, magnitude and complexity described in the Contract Documents, that it is familiar with special problems and requirements of construction of the type required for this Project and in the location of the Project Site, and that it will provide a complete and fully operable system(s) and Work product as indicated by and reasonably inferable from the Contract Documents that it has included the cost for such in its Construction Proposal;

§ 7 The Design/Builder is able to furnish all tools, materials, supplies, equipment and labor required to complete the Work and perform all obligations under the Contract Documents, and it has sufficient experience and competence to do so; and,

§ 8 The execution of the Agreement has been authorized by all necessary corporate action and the person executing this Agreement on behalf of the Design/Builder is authorized to do so.

Exhibit G

Mandatory State and Federal Laws

ACES ECA Design/Build Performing Audio and Stage Lighting Project

§ 1.0 The Design/Builder and each of its Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder shall comply with all applicable laws, regulations, executive orders, statutes, codes and ordinances regarding equal employment opportunity and affirmative action programs.

§ 1.1 The Design/Builder acknowledges and agrees that the following requirements and provisions are mandated by the State of Connecticut (the “Authority”) in connection with the Project and further agrees to include the text of this Section 1.1 in all Project contracts, subcontracts and purchase orders with respect to the Project and to require its Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder to do the same with respect to sub-subcontracts and purchase orders.

During the performance of the Agreement, the Design/Builder agrees and covenants as follows:

§ 1.1.1 The Design/Builder will not discriminate or permit discrimination against any person or group of persons because of race, creed, color, religion, age, marital status, sexual orientation, national origin, ancestry, sex, mental retardation, gender identity or expression, mental disability, or physical disability, including, but not limited to, blindness, unless it is shown by the Design/Builder that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Design/Builder will take affirmative action to ensure that applicants with job-related qualifications are employed, and that employees are treated during employment, without regard to their race, creed, color, religion, age, marital status, sexual orientation, national origin, ancestry, sex, mental retardation, gender identity or expression, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Design/Builder that such disability prevents performance of the work involved. 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 Design/Builder agrees to post in conspicuous places, available to employees and applicants for employment, appropriate notices setting forth the provisions of this nondiscrimination clause.

§ 1.1.2 The Design/Builder will, in all solicitations or advertisements for employees placed by or on behalf of the Design/Builder, state that it is an “affirmative action-equal opportunity employer” in accordance with regulations adopted by the Connecticut State Commission on Human Rights and Opportunities (the “Commission”) and that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, age, marital status, sexual orientation, national origin, ancestry, sex, mental retardation, gender identity or expression, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Design/Builder that such disability prevents performance of the work involved.

§ 1.1.3 To the extent applicable, the Design/Builder will send to each labor union or representative of workers with whom a collective bargaining agreement or other contract or understanding has been entered into, appropriate notice(s) (including but not limited to notices provided by the Commission) advising said labor union or workers’ representative of the Design/Builder’s commitments under any applicable nondiscrimination laws, including, but not limited to, Connecticut General Statutes Sections 4a-60 and 4a-60a, and shall post copies of such notice(s) in conspicuous places available to employees and applicants for employment.

§ 1.1.4 The Design/Builder will comply with all provisions of any applicable nondiscrimination laws and the regulations and relevant orders of the United States Secretary of Labor and the Commission, including

but not limited to each provision of Connecticut General Statutes Sections 4a-60, 4a-60a, 4a-60g, 46a-56, 46a-68b, 46a-68c, 46a-68d, 46a-68e and 46a-68f and with each regulation or relevant order issued by the Commission pursuant to the Connecticut General Statutes, including without limitation, Sections 46a-56, 46a-68e and 46a-68f, as amended, and Sections 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies.

§ 1.1.5 In the event of the Design/Builder's non-compliance with the nondiscrimination clauses of the Agreement or with any of such rules, regulations, or orders, the Agreement may be canceled, terminated or suspended in whole or in part and the Design/Builder may be declared ineligible for further Authority-assisted construction contracts and such other sanctions may be imposed and remedies invoked as provided by regulations, or as otherwise provided by law.

§ 1.1.6 The Design/Builder agrees to provide the Commission with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Design/Builder as relate to the provisions herein and Sections 4a-60, 4a-60a, and 46a-56 of the Connecticut General Statutes.

§ 1.1.7 The Design/Builder agrees that neither it nor its Consultants or Subcontractors will discharge, expel or otherwise discriminate against any person because he has opposed any unfair employment practice or because he has filed a complaint or testified or assisted in any proceeding under Section 31-127 of the Connecticut General Statutes. The advertisement of employment opportunities will be carried out in such a manner as not to restrict or discriminate against individuals because of their race, color, religious creed, age, sex, national origin or ancestry, except in the case of a bona fide occupational qualification or need.

§ 1.1.8 The Design/Builder certifies that it understands the obligations of Sections 1.1.1 through 1.1.7 of this Exhibit G and will maintain a policy for the duration of the Agreement to assure that the Agreement will be performed in compliance with the nondiscrimination requirements of Section 1.1 of this Exhibit G, and acknowledges such understanding of these obligations by entering into this Agreement.

§ 1.1.9 The Design/Builder and each of its Contractors, Subcontractors, and Consultants engaged by the Design/Builder will include the provisions of Sections 1.1.1 through 1.1.9 (and such provisions are deemed to be included by incorporation) in every contract, subcontract, sub-subcontract or purchase order entered into for the Project, unless exempted by regulations or orders of the Commission; so that such provisions will be binding upon each contractor, subcontractor, sub-subcontractor, supplier and vendor. The Design/Builder shall take such action with respect to any such contract, subcontract, sub-subcontract, or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if the Design/Builder becomes involved in, or is threatened with, litigation with a contractor, subcontractor, sub-subcontractor, or vendor as a result of such direction by the Commission, the Design/Builder may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

§ 1.2 The Design/Builder shall aggressively solicit the participation of legitimate Minority (as defined below) owned business enterprises ("MBE") and Connecticut Department of Administrative Services ("DAS") certified small business enterprises ("SBE") as bidders, contractors, subcontractors and suppliers of materials. In furtherance of the foregoing, the Design/Builder agrees that MBEs and SBEs will be given meaningful participation in the Work. Without limiting the generality of the foregoing, the Design/Builder acknowledges and agrees that a minimum of (i) twenty-five percent of the Stated-funded portion of the Work will be set aside for award to SBEs and (ii) six and twenty-five hundredths percent (6.25%) of the State-funded portion of the Work will be set aside for award to MBEs. The Design/Builder shall use and demonstrate good faith effort to meet these set asides. The Design/Builder will take, without limitation, the following actions, as appropriate, to achieve the purposes of this Section 1.2:

§ 1.2.1 Actively and affirmatively solicit bids for contracts from qualified MBEs and SBEs, including circulation of solicitations to Minority contractor associations;

§ 1.2.2 Ensure that plans, specifications and requests for proposals or other means of securing contracts for the Work will be made available in sufficient time for review by prospective MBEs and SBEs;

§ 1.2.3 Where economically and technically feasible, divide the contract Work into smaller portions to enhance participation by MBEs and SBEs;

§ 1.2.4 Encourage, where economically and technically feasible, the formation of joint ventures, partnerships, and other similar arrangements among contractors to ensure that the stated MBE and SBE goals are met;

§ 1.2.5 Consult with and use the services of governmental agencies and their consultants and contractors' associations in connection with its efforts to fulfill the stated goals;

§ 1.2.6 Ensure that approved progress payments to MBEs and SBEs are made on a timely basis after receipt of such payments from the Owner; and

§ 1.2.7 Document and maintain a record of all contract and subcontract bid solicitations and results thereof.

§ 1.3 Determination of the Design/Builder's good faith efforts shall include, but shall not be limited to, the following factors: the Design/Builder's employment, contracting, and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of MBEs and SBEs.

§ 1.4 The Design/Builder shall, if and as applicable, develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

§ 1.5 The Design/Builder agrees to comply with the regulations referred to in this Exhibit G as they exist on the date of the Agreement and as they may be adopted or amended from time to time during the term of the Agreement.

§ 1.6 For the purposes of this Exhibit G:

§ 1.6.1 "Minority" or "Minorities" shall mean: (1) Black Americans, including all persons having origins in any of the Black African racial groups not of Hispanic origin; (2) Hispanic persons of Mexican, Dominican, Puerto Rican, Cuban, Central or South American culture or origin, regardless of race; (3) women; (4) Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, and Indian subcontinent or the Pacific Islands; or (5) American Indian or Alaskan native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification;

§ 1.6.2 "MBE" shall mean a business that is owned, operated and controlled by one or more Minority persons. For the purpose of this definition the term "owned" shall mean that one or more Minority persons own 51% or more of each class of stock, if any, or assets and are entitled to receive 51% or more of the net profits (or losses) of the business. For the purposes of this definition, the term "operated and controlled" shall mean that one or more Minority persons have the day-to-day responsibility for running and making all important decisions (including but not limited to the management and policies) affecting the business enterprise;

§ 1.6.3 "Agreement" includes any extension or modification of the Agreement;

§ 1.6.4 "Design/Builder" and the "Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder" include any successors or assigns of the Design/Builder and the Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder, as applicable;

§ 1.6.5 "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally

associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

§ 1.6.6 “good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;

§ 1.6.7 “good faith efforts” shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

§ 1.6.8 “marital status” means being single, married as recognized by the State of Connecticut, widowed, separated or divorced; and

§ 1.6.9 “mental disability” means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's “Diagnostic and Statistical Manual of Mental Disorders,” or a record of or regarding a person as having one or more such disorders.

§ 1.7 The Design/Builder shall disclose in writing to the Owner any claims involving the Design/Builder and/or any of the Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder that might reasonably be expected to materially adversely affect the business, operations, assets, properties, financial stability, business prospects, or ability to perform of the Design/Builder and/or any of the Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder in connection with the Project. The Design/Builder shall provide such written disclosure promptly and in no event more than ten (10) days after the Design/Builder becomes aware of or should have become aware of such claims. For purposes of this paragraph, “claims” shall mean and refer to all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.

§ 1.8 The Design/Builder represents and warrants that has not failed and shall not fail to maintain eligibility for Connecticut public works contracts based on a failure to file affirmative action plans as required by Executive Order No. 11246, of September 28, 1995, as supplemented from time to time, and all of the regulations, rules and orders promulgated thereunder; Chapter 814c of the Connecticut General Statutes, the Human Rights and Opportunities Law, as amended from time to time, and all of the regulations, rules and orders promulgated thereunder.

§ 1.9 Without limiting the Design/Builder's other obligations under the Agreement in any way, the Design/Builder shall be and remain in compliance with the Americans with Disabilities Act of 1990 (as amended from time to time, the “ADA”), to the extent applicable, during the term of the Agreement.

§ 1.10 Without limiting the Design/Builder's other obligations under the Agreement in any way, the Design/Builder (i) shall comply with the statewide Violence in the Workplace Prevention Policy pursuant to Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999; (ii) shall comply with Executive Order No. Fourteen of Governor M. Jodi Rell, promulgated April 17, 2006; (iii) shall comply with Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973; (iv) shall comply with Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971; (v) covenants and agrees to undertake such actions as the Authority, or other governmental authority may prescribe to ensure the participation of MBEs in connection with the Project and the Work; and, (vi) shall, if and to the extent required by the Authority, or other governmental authority, prepare, file, revise from time to time, and implement an affirmative action plan in connection with the Project and the Work.

§ 1.11 The Design/Builder represents and warrants to, and covenants with, the Owner that neither it nor any of its Contractors, subcontractors, suppliers, design professionals and consultants engaged by the Design/Builder currently are, or shall be at any time during the performance of the Agreement be: (i) in violation of any laws relating to terrorism or money laundering (collectively, the “Anti-Terrorism Laws”), including without limitation, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism

(the “Executive Order”) and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the “USA Patriot Act”) or (ii) a “Prohibited Person,” which is defined as follows: (A) a person or entity that is listed in the Annex to, or is otherwise subject to, the provisions of the Executive Order; (B) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (C) a person or entity with whom the Owner is prohibited from dealing with or otherwise engaging in any transaction by any Anti-Terrorism Law, including without limitation, the Executive Order and the USA Patriot Act; (D) a person or entity who commits, threatens or conspires to commit or support “terrorism” as defined in Section 3(d) of the Executive Order; (E) a person or entity that is named as a “specially designated national and blocked person” on the then-most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or at any replacement website or other replacement official publication of such list; and/or (F) a person or entity who is affiliated with a person or entity listed in items (A) through (E) above.

§ 1.12 The Design/Builder covenants and agrees that, at any time and from time to time during the performance of the Agreement, the Design/Builder shall deliver to the Owner, within ten (10) days after receipt of a written request therefor, a written certification or such other evidence reasonably acceptable to the Owner evidencing and confirming the Design/Builder’s and its Contractors’, subcontractors’, suppliers’, design professionals’ and consultants’ engaged by the Design/Builder compliance with Section 1.11 of this Exhibit G.

§ 1.13 The Design/Builder expressly acknowledges receipt of the Connecticut State Elections Enforcement Commission’s notice advising State contractors of State campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

§ 1.14 Upon execution of the Agreement, without further acknowledgement of the parties, the Design/Builder shall assign to the Owner all right, title and interest in all causes of action it may have under Section 4 of the Clayton Act, 15 U.S.C. Section 15, or under Chapter 624 of the Connecticut General Statutes arising out of or related to the purchase of services, property or intangibles of any kind pursuant to a public purchase contract or subcontract.

§ 1.15 The Design/Builder certifies and warrants under the penalty of perjury that neither it nor any of its Consultants, Subcontractors or any other entities performing services hereunder is subject to state or federal debarment based on published debarment lists, including, but not limited to, under the Federal Davis Bacon Act or State Debarment List pursuant to Section 31-53a of the Connecticut General Statutes, as amended. The Design/Builder agrees and covenants that no contract shall be awarded to any firm, corporation, partnership or association in which such persons or firms have an interest until the expiration date listed has passed.

§ 1.16 Pursuant to Section 31-40m of the Connecticut General Statutes, the Design-Builder agrees and covenants that any person who supplies any toxic substances as defined in Section 31-40j of the Connecticut General Statutes, shall provide the following information:

- a. The genetic or basic chemical name of the toxic substance.
- b. The level at which exposure to the substance is determined to be hazardous.
- c. If known, the acute and chronic effects of exposure of hazardous levels.
- d. The symptoms of such effects.
- e. The appropriate emergency treatment.
- f. Proper conditions for safe use and exposure to such toxic substance.
- g. Procedures for cleanup of leaks and spills of such toxic substance.
- h. A label on each container of any such substance which states, in a clearly legible and conspicuous form, that a toxic substance is contained therein.

The Design/Builder shall provide this information to the Owner, along with chemical data (SDS) sheets if the products meet the toxic substance criteria, immediately upon discovery of such toxic substances.

§ 1.17 Pursuant to Section 31-53b of the Connecticut General Statutes, the Design/Builder shall furnish proof to the Labor Commission with the weekly certified payroll form for the first week each employee begins work on the Project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration (OSHA). This provision applies to all public building projects where state funds are involved and the total construction cost is \$100,000 or more. The Design/Builder shall also furnish proof, and shall cause its Subcontractors to furnish proof, that any plumber or electrician subject to the continuing education requirements of section 20-334d, who has completed a course of at least ten hours in duration in construction safety and health approved by the federal OSHA five or more years prior to the date such electrician or plumber begins work on such public works project, has completed a supplemental refresher training course of at least four hours in duration in construction safety and health taught by a federal OSHA authorized trainer.

§ 1.18 Pursuant to and in accordance with Section 31-52(b) of the Connecticut General Statutes, the Design/Builder agrees and covenants, in the employment of labor to perform the work specified herein, that preference shall be given to citizens of the United States, who are, and continuously for at least three months prior to the date hereof have been, residents of the labor market area, as established by the Labor Commissioner, in which such work is to be done, and if no such qualified person is available, then to citizens who have continuously resided in the county in which the work is to be performed for at least three months prior to the date hereof, and then to citizens of the state who have continuously resided in the state at least three months prior to the date hereof.

§ 1.19 Pursuant to and in accordance with Section 31-53(a) of the Connecticut General Statutes, the Design/Builder agrees and covenants that the wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Section 31-53(a), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

§ 1.20 The Design/Builder agrees and covenants that it shall perform background checks on all of its employees, agents and persons under its control, including but not limited to, its subcontractors prior to any such individuals having access to the Project site. Such background checks shall include a disclosure of any and all felony criminal convictions, including but not limited to, any sex offender registry postings. The Design/Builder shall use a firm to perform the background checks, such firm shall be approved by ACES which approval shall not be unreasonably withheld. The reasonable cost of each background check shall be a Cost of the Work. Individuals who have an unsatisfactory background check shall be denied access to the Project site by the Design/Builder.

§ 1.21 The Design/Builder acknowledges and understands that the Project is being funded, in whole or in part, by a Connecticut State Department of Education (CSDE) Interdistrict Magnet School Capital Improvement Grant-RESC (the "Grant") pursuant to P.A. No. 22-118, § 314(f). The Design/Builder agrees and covenants that if the Project Site ceases within ten (10) years of the date of such Grant to be used as a facility for which such Grant was made, an amount equal to the amount of such Grant, minus ten per cent (10%) per year for each full year which has elapsed since the date of such Grant, shall be repaid to the State of Connecticut and that a lien shall be placed on such Project Site in favor of the State of Connecticut to ensure that such amount shall be repaid in the event of a such change in use, provided if the Project Site for which such Grant was made are owned by the State of Connecticut, a municipality or a housing authority, no lien need be placed.

AMENDMENT No. 1 PROPOSAL FORM

THIS FORM MUST BE RETURNED AND SIGNED
OR THIS BID MAY BE REJECTED

ACES ECA Design/Build Performing Audio and Stage Lighting Project

ARTICLE 1. TO: **Area Cooperative Educational Services (ACES)**

Bid of _____
Firm Name

Date _____

In compliance with your Invitation to Bid, the Undersigned proposes to provide all labor, materials, equipment, haulage, services and incidentals and all Work necessary for, or incidental to the satisfactory completion of work required for the **ACES ECA Design/Build Performing Audio and Stage Lighting Project located at 55 Audubon Street, New Haven, CT.**, in accordance with the Contract Documents at the prices stated below.

The Undersigned acknowledges receipt of the following Addenda:

Addendum No. _____ Date: _____

Addendum No. _____ Date: _____

Addendum No. _____ Date: _____

In strict accordance with the all the Contract Documents in consideration of the following amount(s) attached hereto on the SCHEDULE OF BID ITEMS, and agrees that, upon written acceptance of this bid, he will within five (5) days of receipt of such notice execute without modifications to the formal contract agreement with the Owner and that he will provide the required Bonds and Insurance. The undersigned agrees that, if awarded the Contract, he will commence the work within 7 calendar days after the date of receipt of written Notice-to-Proceed, and that he will complete the work within the duration stated in the contract documents.

BASE BID FOR DESIGN/BUILD WORK

The Undersigned agrees to perform all Design/Build Work as indicated in the RFQ/P and described in Addenda thereto, for the lump sum price of:

_____ Dollars (\$_____).

(written)

The amount of the bid is the total of the following:

ACES ECA Design/Build Performing Audio and Stage Lighting Project

Description of Work	Bid Price
Performing Audio and Stage Lighting Project Design	\$
Permits / Approvals	\$
General Conditions, including Insurance, Permits, Submittals, Close-Out, etc.....	\$
Payment & Performance Bond	\$
Provide ETC ColorSource CYC or equal (Quantity: 8) include all necessary power supplies and data cables	\$
Provide ETC MiniStar or equal (Quantity: 4) include all necessary power supplies and data cable	\$
Provide Black Scrim (FR or IFR) 40’w x 16’h with webbing & grommets top finish, and chain hem bottom finish	\$
Provide Black Curtains (Quantity: 2) - 25% fullness (IFR) 12’w x 18’h w/ webbing & grommets top finish and chain hem bottom finish + light/medium duty “walk-along” track & hardware	\$
Provide 4k Laser Video Projector with mount, control hardware & cable and Installation	\$
Full Sound System Replacement	\$
	\$
	\$
	\$
SUB-TOTAL BASE BID	\$
Design/Builders Contingency – 5% of Sub-Total Base Bid	\$
Total Lump Sum Price	\$

CONTRACT

If notified of the acceptance of this Bid within ninety (90) calendar days of the time set for opening of bids, the Undersigned agrees to execute as-is the Professional Services Agreement Between the Owner and Design/Builder. The Design/Build accepts this Agreement without any additional modifications and execute and return this Agreement to ACES within five (5) calendar days of the receipt of such notification and in accordance with this Bid and the Contract Documents

REFERENCES

Provide references for Three (3) projects of similar scope and complexity:

Reference #1

Project Name..... _____
Construction Value.....\$ _____
Contact Name..... _____
Phone Number..... _____

Reference #2

Project Name..... _____
Construction Value.....\$ _____
Contact Name..... _____
Phone Number..... _____

Reference #3

Project Name..... _____
Construction Value.....\$ _____
Contact Name..... _____
Phone Number..... _____

CONTRACT SECURITY

The Undersigned agrees if awarded the Contract, to execute and deliver to the Owner at time of Contract signing, Performance Bond and Labor and Materials Payment Bond (Form A311 as issued by the American Institute of Architects) in amounts equal to 100 percent of the Contract Sum, as set form in the Instructions to Bidders of the Project Specifications.

CONTRACT INSURANCE

The Undersigned agrees if awarded the Contract, to deliver to the Owner at the time of the Contract signing an Insurance Certificate per the requirements of the contract agreement.

TIME OF COMPLETION

The Undersigned further agrees, if awarded the Contract and upon receipt of the fully executed Agreement, will immediately commence with the Work under this contract and complete all Work within the specified duration

LABOR WAGE RATE

The Undersign is aware and has taken into consideration in its Bid submission that this Project is Prevailing Wage Rate and shall comply with the Connecticut’s prevailing wage laws pursuant to Connecticut General Statutes §31-51. By submitting a proposal, Design/Build acknowledges that it has informed itself of the proper prevailing wages and the correct classification for its industry. Design/Builds shall provide certified payrolls and pay scale verification as required by the Connecticut Department of Labor.

DECLARATION

The Undersigned hereby declares that he or she has carefully examined the Invitation to Bid, the Instruction to Bidders, the Contract Agreement, has visited the actual location of the Work, has consulted his sources of supply, has satisfied himself as to all quantities and conditions, and understands that in signing this Bid, he waives all right to plead any misunderstanding regarding the same.

The Undersigned understands that his or her competence and responsibility and that of his proposed Consultants and Subcontractors, time of completion, as well as any other factors of interest to the Owner, will be a consideration in making the award. The Owner reserves the right to reject any or all bids, to accept or reject alternate bids and unit prices and to waive any informality or irregularity concerning the bids received as it may be in his or her interest to do.

_____ ARTICLE 2. (Legal Name of Bidder)

[Seal, if bid is by a corporation]

_____ (Address of Bidder)

By _____ ARTICLE 3. (Authorized Officer)

General Instructions:

Proposals are to be:

- * Submitted in triplicate unless otherwise indicated in the specifications.
- * Submitted using the blank proposal forms furnished.
- * Submitted in a sealed opaque envelope utilizing the enclosed label, with the bidder's name and address in the upper left-hand corner.
- * Made out and signed in the corporate, or other, name of bidder. In addition, an authorized person must fully and properly execute the bid.

Proposals received later than the time and date specified will not be considered.

Amendments to or withdrawal of proposals received later than the time and date set for the opening will not be considered.

Bidders or their representatives may be present at the bid opening.

Area Cooperative Educational Services (ACES) may require further information and references on any individual or company placing a bid prior to the awarding of a bid.

ACES reserves the right to amend and/or cancel the bid invitation prior to the time and date of the bid opening.

ACES reserves the right to correct an award erroneously made as a result of a clerical error on the part of Area Cooperative Educational Services (ACES).

Design/Builder shall include in its submission all the documents listed in Exhibit A.

Area Cooperative Educational Services (ACES)