



QUAY COUNTY GOVERNMENT

300 South Third Street

P.O. Box 1246

Tucumcari, NM 88401

Phone: (575) 461-2112

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AGENDA REGULAR SESSION QUAY COUNTY BOARD OF COMMISSIONERS October 28, 2013

9:00 A.M. Call Meeting to Order

Pledge of Allegiance

Approval of Minutes-Regular Session October 14, 2013

Approval/Amendment of Agenda

Public Comment

Ongoing Business - None

New Business

- I. **Alida Brown, Quay County Health Council**
 - Request Approval of an Application for NMAC Partner Public Awareness Initiatives
- II. **Larry Cooksey, Quay County Undersheriff**
 - Activity Report
- III. **Janie Hoffman, Quay County Assessor**
 - NMAC Board Report
- IV. **Larry Moore, Quay County Road Superintendent**
 - Road Update
- V. **Richard Primrose, Quay County Manager**
 - Request Approval of Re-Roofing Contract with Dekker Perich Sabatini
 - Recommendation regarding Northeast Economic Development Organization (NEEDO) Application for Membership
 - Correspondence



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Veronica Marez, County Clerk
Quay County, NM

VI. Warren Frost, County Attorney

- Request Approval of Amendment No. 1 to Ordinance No. 45 Hospital Gross Receipt Tax

VII. INDIGENT CLAIMS BOARD

- Call Meeting to Order
- Request Approval of Indigent Minutes for the September 23, 2013 Meeting
- Review October Claims Presented by Julie Lafferty
- Adjourn

VIII. Request Approval of Accounts Payable

IX. Other Quay County Business That May Arise During Commission Meeting

X. Request for Closed Executive Session

- Pursuant to Section 10-15-1(H) 7. The New Mexico Open Meetings Act to Discuss Threatened or Pending Litigation
- Pursuant to Section 12-6-5 NMSA 1978 of the Audit Act for Audit Exit Conference

XI. Any Action That May Arise as a Result of Closed Executive Session

Adjourn

Lunch- Time and Location to be Announced

REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS

October 28, 2013

9:00 a.m.

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 28th of October, 2013 at 9:00 a.m. in the Commissioners' Room of the Quay County Courthouse, Tucumcari, New Mexico for the purpose of taking care of any business that may come before them.

PRESENT & PRESIDING:

Brad Bryant, Chairman
Mike Cherry, Member
Sue Dowell, Member
Richard Primrose, County Manager
Veronica Marez, County Clerk

OTHERS PRESENT:

Larry Moore, Quay County Road Superintendent
Cheryl Simpson, Quay County Manager's Office
Larry Cooksey, Quay County Under-Sheriff
Janie Hoffman, Quay County Assessor
Russell Braziel, KTNM Radio
Steve Henson, Quay County Sun
Alida Brown Quay County Health Council

The meeting was called to order by Chairman Brad Bryant. Larry Cooksey led the Pledge of Allegiance.

1. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the minutes from the October 14, 2013 regular commission meeting with the following changes. The minutes will reflect Commissioner Cherry abstained from voting on item number three regarding the purchase of a Type 5 Wildland Unit for Jordan Fire District MOTION carried with all members voting "aye".

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry to approve the agenda with changes moving item 6 to after Executive Session. MOTION carried with all member's voting "aye".

PUBLIC COMMENT: NONE

OLD BUSINESS: NONE

NEW BUSINESS:

1. Alida Brown, Quay County Health Council is going to Administer the County Grant for County. Brown Requested approval of an application for NMAC Partner Public Awareness Initiatives. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve application. MOTION carried with all members voting "aye". A copy of the application is attached and made a part of these minutes.

Jeanne O'Dean, Quay County Resident joined the meeting. Time noted 9:07 A.M.

Larry Cooksey, Quay County Undersheriff presented the monthly activity report

Janie Hoffman, Quay County Assessor reported the following NMAC report.

1. NMAC meetings and conferences calendar is out. NMAC Mid-Winter Conference registration is open at discounted rate.
2. Steve Kopelman is the new Director for NMAC.
3. The Resolution on Hospital Funding was presented to NMAC board.
4. Resolution 2013 concerning the local gross receipts taxes on food was presented.
5. Presentation from Human Services Department on Supplemental Hospital Payments after January 2, 2014.

Larry Moore, Quay County Road Superintendent presented the following report:

1. Quay Road L of the School Bus Project will be complete this week.
2. Will be attending the RPO meeting in Mosquero on Wednesday.
3. Crews bladed 40.25 miles
4. Replacing tarps on CAT trucks.

Chairman Bryant requested a recess. Time noted 9:30 A.M.

Return to regular session. Time noted 9:35A.M.

Richard Primrose gave the following County Manager's Report:

1. Requested approval of Architect Services to plan design for Detention Center Roof. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve Contract. MOTION carried with all members voting "aye". A copy of the Contract is attached and made a part of these minutes.
2. Requested a recommendation regarding Northeast Economic Development Organization (NEEDO) Application for Membership. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to deny membership. MOTION carried with all members voting "aye".

CORRESPONDENCE:

1. U.S. Fish and Wildlife Service Endorses Western Association of Fish and Wildlife Agencies Lesser Prairie-Chicken Range-Wide Conservation Plan in 5 states.
2. U.S. Fish and Wildlife Service has extended comment period on Mexican Wolf proposals to December 17, 2013.
3. Presented the Gross Receipt Tax for October.
4. Primrose informed Commissioners meeting is Tuesday November 12, 2013.
5. Presented the monthly RPHCA report.

6. Commissioner Cherry, Larry Moore and Richard Primrose attended the Infrastructure Conference meeting and informed the Commissioners Quay County was one of 10 Counties that had a clean audit and was able to receive for Capital Outlay.

Commissioner Dowell thank Richard Primrose and Cheryl Simpson for a clean audit.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to move Executive Session to discuss threatened or pending litigation to item number 6 on Agenda. MOTION carried.

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry, to go into executive session pursuant to the Open Meetings Act 10-15-1(H)7 NMSA to discuss Threatened or pending litigation. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye". Time noted 10:05 A.M.

-----EXECUTIVE SESSION-----

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry that only pending litigation was discussed during Executive Session and no action was taken. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye".

Return to regular session. Time noted 10:55 am

1. On behalf of Warren Frost, County Attorney Primrose requested Approval of Ordinance 45 Nunc Pro Tunc Hospital Gross Receipt Tax. A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve. MOTION carried with all members voting "aye". A copy of the Ordinance 45 Nunc Pro Tunc, is attached and made a part of these minutes.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to go into session as the Indigent Claim Board. MOTION carried with all members voting "aye". Time noted 10:50 a.m.

-----INDIGENT CLAIMS BOARD-----

Daniel Trujillo, Kubiak & Melton joined the meeting. Time noted 10:55 A.M.

Return to regular session. Time noted 11:00 a.m.

CHECKS WERE REVIEWED.

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to approve the expenditures as presented. MOTION carried with all members voting "aye". A copy of the expenditure report is attached and made a part of these minutes.

Under Other Business: NONE

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell, to go into executive session pursuant to the Open Meetings Act 12-6-5 NMSA 1978 of the Audit Act for Audit Exit

Conference. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye". Time noted 11:05 A.M.

-----EXECUTIVE SESSION-----

A MOTION was made by Sue Dowell, SECONDED by Mike Cherry that only draft audit was discussed during Executive Session and no action was taken. MOTION made with Cherry voting "aye", Dowell voting "aye", Bryant voting "aye".

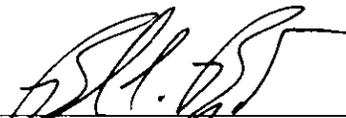
Return to regular session. Time noted 11:25 A.M.

Other Quay County Business That May Arise During Commission Meeting:

A MOTION was made by Mike Cherry, SECONDED by Sue Dowell to pursue legal action against the New Mexico Taxation and Revenue Department regarding the Special Hospital Gross Receipts Tax in the event discussions between Quay County and New Mexico Taxation and Revenue Department fail. MOTION carried with all members voting "aye".

There being no further business, a MOTION was made by Sue Dowell, SECONDED by Mike Cherry to adjourn the regular meeting of the Board of Quay County Commissioners until the next regular meeting set for November 12, 2013, unless sooner called. MOTION carried with all members voting "aye". Time noted 11:30 P.M.

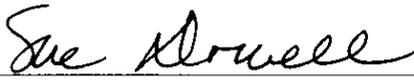
BOARD OF QUAY COUNTY COMMISSIONERS



Brad Bryant, Chairman



Mike Cherry, Member



Sue Dowell, Member

ATTEST: 

Veronica Marez, County Clerk



APPLICATION FOR NMAC PARTNER PUBLIC AWARENESS INITIATIVES

County Information:

County Name: Quay County

Administrative Address: P. O. Box 1246

City, County, State, Zip: Tucumcari, Quay County, New Mexico 88401

Phone Number: 575.461.2112

Web Address: <http://quaycounty-nm.gov/>

Primary Contact: Alida Brown

Title: Quay County Health Council Director

Primary Contract Phone: 575-403-7095

Primary Contract Email: alida@plateautel.net

FEIN: 85-6000238

Current Budget: \$7,419,567

Number of Employees: 72

Narrative:

- 1. Provide an overview of how your county works with community partners, health care providers, hospitals and clinics, and other health resources (please include specifics on county health initiatives and programs).**

Quay County Government has been a major player in assuring access to health care for many years. Two major medical facilities are owned by Quay County:

- Dr. Dan C. Trigg Memorial Hospital is a county-owned acute care hospital, which is managed by Presbyterian Health Services. Trigg Hospital has 21 inpatient beds, an emergency department that not only serves the local community and surrounding areas, but travelers on I-40 and US 54, general surgery, radiology, outpatient rehabilitative services, laboratory services, patient support (Home Health care and Hospice care, Senior Solutions, Social Services and Care Coordination) primary care clinical services, including behavioral health, and podiatry. According to Lance Labine, Hospital Administrator, Dr. Dan C. Trigg Memorial Hospital processes an average of 95 patients per day through its various departments.*
- PMS Quay County Family Health Center is a county-owned Federally Qualified Health Center (FQHC), under the management of Presbyterian Medical Services. This clinic, which works under the Patient Center Medical Home model, provides sliding fee primary care services, breast and cervical cancer program, chronic illness management, among other services. In addition, PMS umbrellas the Quay County Home Visit Program recently instituted to provide home visiting services to Quay County families. Quay County, in partnership with PMS, provides a significant contribution to the safety net for Quay County's healthcare delivery system. According to Becky Wallace, Clinic Administrator, in January 2013, 493 patients were served through PMS Quay Co Family Health Center. YTD in 2013, 21% of patients services in PMS Quay County Family Health Center were uninsured.*

Since its inception in 1991, Quay County Health Council has partnered with Quay County Government. Quay County Government was instrumental in the development of the volunteer Quay County Health Council, whose mission is to improve the health and well-being of all Quay County residents. The Health Council works to assess health needs of Quay County residents, prioritize

those needs, engage community partners in meeting those priorities, and evaluates the results of those efforts. The Health Council maintains a close relationship with Quay County Government in identifying critical health needs and finding solutions. Over the years, the Quay County Health Council was instrumental in bringing the following services to Quay County:

- PMS Quay County Family Health Center, in partnership with Quay County Government
- Early Head Start, in partnership with Eastern Plains Community Action Agency
- USDA Free School Food Program, in partnership with Tucumcari Public Schools
- School-based Mental Health Services, in partnership with Tucumcari, House, Logan, and San Jon Schools. This program is now funded by those school districts.
- Increased opportunity for physical activity
 - Annual 5 K Fun Run, in partnership with Quay County Extension Office
 - Strong Seniors, in partnership with Quay Co Extension Office and Mesalands Community College
- School Alcohol-free Zone Act, in partnership with Representative Brian Moore in 2005
- Trainings over the years in a number of areas, including domestic violence, first-responder mental health emergency response, early childhood safety, among others.
- Ten Quay County Community Wellness Fairs, in partnership with the entire community, including the medical community.
- In the past two years, the Health Council has partnered with Dr. Dan C. Trigg Hospital to bring Medical Nutrition Therapy services to those Quay County residents who have been diagnosed with diabetes. This program received start-up funding from the New Mexico Department of Health through a FLEX grant.
- Within the past year, the Quay County Health Council has partnered with NM Children Youth and Families Department to bring the Parents As Teachers Home Visiting program to Quay County residents. This program is being implemented under the umbrella of Presbyterian Medical Services.

2. Describe the number of individuals your county impacts, and the geographic areas served including a listing of communities served.

Quay County New Mexico is a very rural (considered frontier) county located on the far eastern sided of the state. It is a county of shrinking population and one that struggles with providing economic opportunity for its residents. Recent drought conditions have further challenged Quay County's economic well-being. Quay County population in the 2012 estimated census was 8,769, which is down from 10,115 in 2000. The population is 58% rural and 42% urban. Incorporated communities include Tucumcari (5204 population), which is the county seat, Logan(1042), San Jon (216) , and House (68) villages.

Areas of medical concern are noted in the leading causes of death. All of these causes of death are responsive to increased disease management, which will be helped through increasing number of insured Quay County residents:

- Heart Disease
- Cancer
- COPD
- Stroke
- Suicide
- Chronic Liver Disease & Cirrhosis.

Related to outcomes that can at least in part be attributed to a high rate of uninsured, Quay County's rate of Years of Potential Life Lost (before age 75 yrs.) is 14,171 per 100,000 compared to only 8,074 for the state. Residents reported 6 poor physical health days (in the last 30 days) compared with 4 for New Mexico and 5 poor mental health days compared with 4 for New Mexico. Health Police and Research Solutions (partnership between Robert Wood Johnson Foundation and University of Wisconsin) found Quay County to be ranked last in New Mexico in health outcomes, including health morbidity and mortality, along with health

behaviors, clinical care, social and economic factors, and physical environment. Quay County Board of Commissioners believes that these poor health outcomes can be positively affected by increased health insurance coverage. Currently, 24% of Quay County residents under 65 yrs. of age have no health care coverage.

The good news is that in estimates provided by Health Policy and Research Solutions (<http://hprsolutionsllc.com>) 727 adults age 18 – 64 yrs will be newly eligible for insurance under Medicaid Expansion. Most residents of Quay County who are now without medical insurance will be covered either through Medicaid or with subsidized premiums through the NM Health Insurance Exchange. It is also estimated statewide that 85% of those newly eligible for health insurance coverage are unaware of their new status. In addition, national studies have shown that these newly eligible are often not familiar with most basic insurance terminology, such as premiums, co-pays, and deductible. Quay County Board of Commissioners is very interested in working with partners within the county and statewide to reach out to these newly eligible residents and, over time, see a positive turn in health outcomes for Quay County residents.

3. Describe the proposed public awareness initiatives; these can include public events, community outreach, County Commission presentations, as well as any proposed additional events during the enrollment period. Include proposed date, time, and location, partners for the events, methods of marketing the events, and estimated number of attendees.

Community Outreach:

Date	Time	Location	Partners	Marketing	Attending
Nov – Dec 2013		Agency staff outreach	Quay Co Health Council, Income Support Office, Tucumcari Housing Authority, Mental Health Resources, Quay Co Medical Clinic, PMS Quay County Family Health Center, Logan Family Practice, PMG Clinic, Dr. Saltz, Turquoise Health & Wellness	NM Exchange Information to be provided to clients, along with flyers to be posted	50
Nov – Dec 2013		Newsletter outreach	Small Business Development Center, Quay County Extension Office	Newsletters	250
Nov 2013 – May 2014		NM Health Insurance Exchange Updates and reminders	Quay Co Government website, Quay Co Extension Office, Small Business Development, Quay Co Health Council, state advocacy groups	Social media, website, email blasts	750

Community Outreach: Events

These events will take place in the venue where there is public access to computers, except for the introductory presentation at the Quay County Board of Commissioners meeting in December. The event will include a presentation by the partners listed and then the opportunity for folks attending to access the NM Exchange website to explore options and sign-up for insurance.

Date	Time	Location	Partners	Marketing	Attending
12/16/2013	9:00 am	Board of County Commissioners meeting	Quay Co Health Council	Media announcement & website	10
1/14/2013	9:00 – 10:00 am	Tucumcari Public Library, Tucumcari NM	Quay Co Health Council Income Support Office Quay Co Extension Service	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	10
2/4/2013	6:30 – 8:30 pm	Logan Public Schools, Logan NM	Quay Co Health Council Income Support Office Quay Co Extension Service	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	10
2/18/2013	6:30 – 8:30 pm	House Public Schools House NM	Quay Co Health Council Income Support Office Quay Co Extension Service	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	10
3/11/2013	6:30 – 8:30 pm	San Jon Public Schools San Jon NM	Quay Co Health Council Income Support Office Quay Co Extension Service	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	10
4/15/2013	6:30 – 8:30 pm	Mesalands Community College, Tucumcari NM	Quay Co Health Council Income Support Office Quay Co Extension Service, Mesalands Community College Community Educ. Dept.	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	25
4/26/13	7:30 am – 1:30 pm	Quay Co Wellness Fair, Tucumcari NM	Quay Co Health Council Income Support Office Quay Co Extension Service	Radio, newspaper ads, flyers, radio talk show, social media, email, Quay Co Government website	350

4. Explain dissemination strategies for NMHIX materials. Explain your capabilities for website promotion, newsletters, social media, and email blasts. *NMHIX materials will be used at each of the scheduled events throughout Quay County. In addition, these materials will be used for outreach to agency staff and the public, including placement in traditional community locations for information dispersal, such as the Tucumcari Library, post offices in outlying communities, the four Quay County school districts, Tucumcari Housing Authority, behavioral and medical health clinics. Quay County Government has a website, as does the Quay County Extension office. Both of these will be used to provide current information regarding Medicaid Expansion and NM Health Insurance Exchange. These entities and Small Business Development and the Quay County Health Council use Facebook and email blasts extensively, and will partner in getting information out into the communities.*

5. Estimate the quantity of NMHIX materials needed for your events and for additional activities.

NMHIX materials needed include brochures, posters, and media releases and ads. 250 posters (50 in Spanish) will be adequate to paper the county with information. 1000 (150 in Spanish) brochures will be used both at specific events and be provided in the traditional sites used for information dissemination in each community.

6. Provide a budget for your proposal with line items and explanation.

Media:

Event advertisement: radio

2 ads per month x 7 months @ \$11 = \$154.00 + \$12.51 tax \$166.51

1 ad per week (Spanish program) x 26 weeks @ \$6 = \$156.00 + \$12.68 tax \$168.58

Morning Talk Show: 2 times per month x 7 months NO COST

Event advertisement: Newspaper

4 ads @ \$103.50 = \$414.00 + \$33.64 tax \$447.64

Unpaid media: Community Calendar and event coverage NO COST

Printing:

Flyers to advertise community events 8.5" x 11" color x

50 per event x 6 events x \$.23 = \$69 + \$5.61 tax \$ 74.61

Supplies:

Doorprize and give-aways: Quay County Wellness Fair April 26, 2014 (expected attendance 500) \$250.00

Mileage:

Tucumcari – Logan (50 miles round trip) x 2 trips x \$.505 per mi. \$ 50.50

Tucumcari – San Jon (50 miles round trip) x 2 trips x \$.505 per mi. \$ 50.50

Tucumcari –House (90 miles round trip) x 2 trips x \$.505 per mi. \$ 90.90

Project Coordination:

6 events and preparation x 8 hrs x \$25 \$1200.00

Non-event outreach x 20 hrs. x \$25 \$500.00

TOTAL REQUESTED: \$2999.24

7. Provide any additional information you would like to submit for consideration.

AIA[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Fifteenth day of October in the year Two Thousand Thirteen
(*In words, indicate day, month and year.*)

BETWEEN the Architect's client identified as the Owner:
(*Name, legal status, address and other information*)

Quay County Government
300 South 3rd St.
3rd Floor
Tucumcari, NM 88401

and the Architect:
(*Name, legal status, address and other information*)

Dekker/Perich/Sabatini
7601 Jefferson NE Suite 100
Albuquerque, NM 87109

for the following Project:
(*Name, location and detailed description*)

Quay County Detention Center Re-Roofing
300 South 3rd St.
Tucumacari, NM 88401

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

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User Notes:

(1516463929)

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9	TERMINATION OR SUSPENSION
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12	SPECIAL TERMS AND CONDITIONS
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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1. Initial Information:
(Paragraph deleted)

The project consists of the removal and replacement of the existing roofing system on the Quay County Detention Center Building at 300 South Third Street in Tucumcari N.M. The roof of the one story building is configured to form several separate roofing areas that total approximately 14,650 s.f. See project description in attachment B, Executed Fee Proposal.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To be determined.

.2 Substantial Completion date:

To be determined.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

Init.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$1,000,000 per claim; \$2,000,000 aggregate

.2 Automobile Liability

\$1,000,000 combined single limit

.3 Workers' Compensation

\$500,000 per claim; \$500,000 policy limit

.4 Professional Liability

\$1,000,000 per claim; \$1,000,000 aggregate

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

Init.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 AS BUILT/SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of Roof Plan Drawings and details. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, typical construction details, and outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

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§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. Award method to be determined by the Owner.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 If directed by the Owner, Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 If directed by the Owner, Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

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- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect’s decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(Paragraph deleted)

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Not Provided	
§ 4.1.2 Multiple preliminary designs	Not Provided	
§ 4.1.3 Measured drawings	Not Provided	
§ 4.1.4 Existing facilities surveys	Not Provided	
§ 4.1.5 Site Evaluation and Planning (B203™–2007)	Not Provided	
§ 4.1.6 Building information modeling	Not Provided	
§ 4.1.7 Civil engineering	Not Provided	
§ 4.1.8 Landscape design	Not Provided	
§ 4.1.9 Architectural Interior Design (B252™–2007)	Not Provided	
§ 4.1.10 Value Analysis (B204™–2007)	Not Provided	
§ 4.1.11 Detailed cost estimating	Not Provided	
§ 4.1.12 On-site project representation	Not Provided	
§ 4.1.13 Conformed construction documents	Not Provided	
§ 4.1.14 As-Designed Record drawings	Not Provided	
§ 4.1.15 As-Constructed Record drawings	Not Provided	
§ 4.1.16 Post occupancy evaluation	Not Provided	
§ 4.1.17 Facility Support Services (B210™–2007)	Not Provided	

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§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Not Provided	
§ 4.1.20	Telecommunications/data design	Not Provided	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Not Provided	
§ 4.1.22	Commissioning (B211™-2007)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED® Certification (B214™-2007)	Not Provided	
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Not Provided	
§ 4.1.28	Structural Engineering	Not Provided	
§ 4.1.29	Mechanical Engineering	Not Provided	
§ 4.1.30	Electrical Engineering	Not Provided	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;

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- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Three (3) visits to the site by the Architect over the duration of the Project during construction
- .3 One (1) inspection for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) inspection for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish utility locations for the site of the Project, and a written legal description of the site.

(Paragraph deleted)

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

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.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of

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the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

(Paragraphs deleted)

§ 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

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User Notes:

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§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect

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for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Thirty Six Thousand Six Hundred Dollars (\$36,600.00)

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Exhibit A – Dekker/Perich/Sabatini 2013 Hourly Rates

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as otherwise stated below:

N/A

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

As Built / Schematic Phase	Twenty	percent (20	%)
Design Development Phase	Fifteen	percent (15	%)
Construction Documents Phase	Forty-Five	percent (45	%)
Bidding or Negotiation Phase	Five	percent (5	%)
Construction Phase	Fifteen	percent (15	%)

1.5% % per month, or maximum rate allowed by law, whichever is greater.

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

N/A

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

- .3 Other documents:

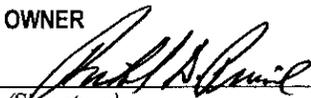
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

Exhibit A – Dekker/Perich/Sabatini 2013 Hourly Rates

Exhibit B – Executed Fee Proposal (executed 10/14/2013)

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

OWNER

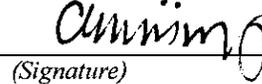


(Signature)

Richard Primrose, County Manager

(Printed name and title)

ARCHITECT



(Signature)

Christopher Gunning, Principal

(Printed name and title)

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ORDINANCE NO. 45
NUNC PRO TUNC

ADOPTING A SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF QUAY COUNTY that on July 22, 2013 the Quay County Commission adopted Ordinance No. 45, which inadvertently omitted Section 2 of this Ordinance. This Ordinance *Nunc Pro Tunc* shall for all purposes be considered to have been passed in its current form on July 22, 2013.:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in this county for the privilege of engaging in business in this county an excise tax equal to one-eighth of one percent (.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "special county hospital gross receipts tax".

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No special county hospital gross receipts tax shall be imposed on the gross receipts arising from:

- A. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. Direct broadcast satellite services.

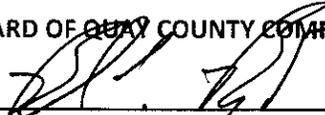
Section 4. Dedication. Revenue from the special county hospital gross receipts tax is dedicated to finance the current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county in caring for sick and indigent persons and shall be an expenditure for a public purpose (Quay County). Revenue from the special county hospital gross receipts tax is dedicated for county ambulance transport costs or for operation of a rural health clinic (Luna County).

Section 5. Effective Date. The effective date of the special county hospital gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

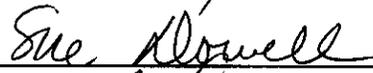
Section 6. Delayed Repeal (Mandatory). Ordinance Number 45 is repealed effective December 31, 2019.

ADOPTED BY THE GOVERNING BODY OF QUAY COUNTY THIS 28 DAY OF October, 2013.

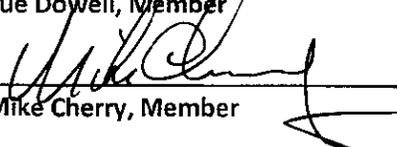
BOARD OF QUAY COUNTY COMMISSIONERS



Brad Bryant, Chairman

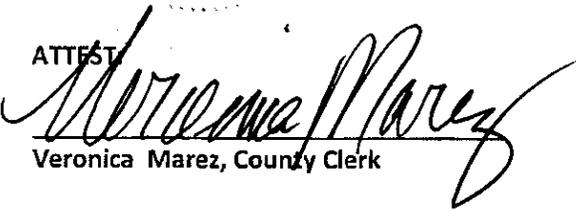


Sue Dowell, Member



Mike Cherry, Member

ATTEST



Veronica Marez, County Clerk