

A BILL FOR AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND RECORDER TO, CONCURRENTLY WITH THE LEBANON RURAL FIRE PROTECTION DISTRICT, ENTER INTO A CONTRACT WITH THE ARCHITECT FOR THE DESIGN AND SUPERVISION OF THE FIRE HALL, AND DECLARING AN EMERGENCY.

ORDINANCE BILL NO. 41
for 1974


ORDINANCE NO. 1537

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

Section 1. That the Mayor and Recorder are authorized and directed to, concurrently with the Lebanon Rural Fire Protection District, enter into a contractual agreement with MARTIN , SCHULTZ, & GEYER, for the architectural and other relevant services in connection with the design and construction of the Lebanon City-Rural Fire Hall at the intersection of 12th and Oak Streets in Lebanon, and to obligate the City and the District funds for the payment of \$ 28,216.36 (7.75% of Construction Contract) as provided in the contract dated 6-21-1974 attached hereto and made a part hereof.

Section 2. Inasmuch as the provisions of this Ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council and approved by the Mayor this 3rd day of December, 1974.



Mayor

ATTEST:



Recorder

any trees, shrubs, plants, or vegetation in a parking strip abutting upon said owner's property, and failure to comply therewith, after 30 days' notice by the City Recorder, shall be deemed a violation of this ordinance.

Section 7. Dangerous Trees a Nuisance; Summary Powers to Remove Same. Any tree or shrub growing in a parking strip or any public place, or in private property, which is endangering or which in any way may endanger the security or usefulness of any public street, sewer, or sidewalk, is hereby declared to be a public nuisance, and the city may remove or trim such tree, or may ~~require~~^{allow} the property owner to remove or trim any such tree on private property, or in a parking strip abutting upon said owner's property. Failure of the property owner to remove or trim such tree after thirty day's notice by the City Recorder shall be deemed a violation of this ordinance, and the City Engineer may then remove or trim said tree and assess the costs against the property.

Section 8. Appeals. Appeals from orders made hereunder may be made by filing written notice thereof with the City Recorder within ten days after such order is received, stating in substance that appeal is being made from such order to the City Council. The Recorder shall thereupon call such appeal to the attention of the City Council at the next regular succeeding meeting, at which meeting the appellant and the City Engineer may present evidence. Action taken by the City Council after such hearing shall be conclusive.

Section 9. Abuse or Mutilation of Trees. It shall be a violation of this ordinance to abuse, destroy, or mutilate any tree, shrub, or plant in a public parking strip or any other public place, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill, or other thing to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to come in contact with any such tree, or to allow

any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with their roots or leaves.

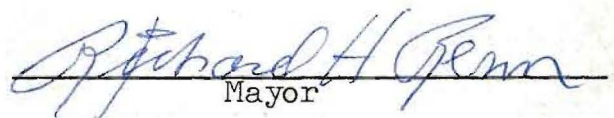
Section 10. Violation of this Ordinance - Penalty. Any person violating any of the provisions of this ordinance or failing to comply with them shall upon conviction thereof be punished by a fine not to exceed fifty dollars (\$50) or by imprisonment in the city jail not to exceed twenty (20) days or both such fine and imprisonment.

Section 11. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

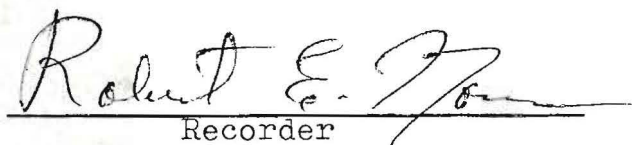
Section 12. Validity. If any section of this ordinance is declared invalid by any court of competent jurisdiction such decision shall be deemed to apply to that section only and shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

Section 13. That inasmuch as the provisions of this Ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council and approved by the Mayor this 12th day of November, 1974.


Mayor

ATTEST:


Recorder

TRANSMITTAL NOTICE

ARCHITECTS:
Clare K. Hamlin
B. King Martin
George E. Schultz Jr.
Michael J. Geyer
159 West 12th Avenue
Eugene, Oregon 97401

DATE: November 27, 1974
PROJECT: Lebanon City-Rural Fire Station

TO Mr. Paul Robertson
City of Lebanon
Lebanon City Hall
Lebanon, Oregon

TRANSMITTAL:

HEREWITH
 UNDER SEPARATE COVER
 BY CARRIER

DISPOSITION:

FOR APPROVAL
 APPROVED AS CORRECTED
 OTHER (see remarks below)

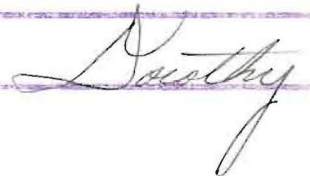
REMARKS We are enclosing 2 draft copies of Owner Architect

Agreement per your request. Please return one copy to our
office after approval for our files.

DISTRIBUTION

CONTRACTOR
 SUB-CONTRACTOR OR SUPPLIER
 OFFICE FILES
 ENGINEER

Martin, Schultz & Geyer, Architects



THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document B141

**Standard Form of Agreement Between
Owner and Architect**

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH
AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION*

AGREEMENT

made this **Twenty First** day of **June** in the year of Nineteen
Hundred and **Seventy Four**.

BETWEEN the Owner: **City of Lebanon and Lebanon Rural Fire
Protection District**

and the Architect: **B. King Martin, George E. Schultz Jr. and Michael J. Geyer**

For the following Project: **Lebanon City-Rural Fire Station**
(Include detailed description of Project location and scope) **12th and Oak Street**
Lebanon, Oregon

The Owner and the Architect agree as set forth below.

PERCENTAGE OF CONSTRUCTION COST

- I. THE ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.
- II. THE OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement.

A. FOR BASIC SERVICES, as described in Paragraph 1.1, Basic Compensation shall be computed on the basis of one of the following PERCENTAGES OF CONSTRUCTION COST, as defined in Article 3, for portions of the Project to be awarded under

- A Single Stipulated Sum Construction Contract percent **7.75**%
- Separate Stipulated Sum Construction Contracts percent (%)
- A Single Cost Plus Fee Construction Contract percent (%)
- Separate Cost Plus Fee Construction Contracts percent (%)

B. FOR ADDITIONAL SERVICES, as described in Paragraph 1.3, compensation computed as follows:

- 1. Principals' time at the fixed rate of **Twenty** dollars (\$**20.00**) per hour.
For the purpose of this Agreement, the Principals are:

B. King Martin
George E. Schultz Jr.
Michael J. Geyer

Draftsman

- 2. ~~Employees' time (other than Principals) at a multiple of~~
(**\$13.00**) ~~times the employees' Direct Personnel Expense as defined in Article 4.~~ **Per Hour**
- 3. Services of Professional consultants at a multiple of
(**One**) times the amount billed to the Architect for such services.

Dollars C. AN INITIAL PAYMENT of **Five Thousand Five Hundred Fifty Six and no/100**
~~has been~~ **Five** dollars (\$) shall be made upon the execution of this Agreement and credited to the Owner's account.

D. FOR REIMBURSABLE EXPENSES, amounts expended as defined in Article 5.

III. THE OWNER AND ARCHITECT agree in accordance with the Terms and Conditions of this Agreement that:

- A. IF SCOPE of the Project is changed materially, compensation shall be subject to renegotiation.
- B. IF THE SERVICES covered by this Agreement have not been completed within **Twelve** (**12**) months of the date hereof, the amounts of compensation, rates and multiples set forth in Paragraph II shall be subject to renegotiation.

FIXED FEE

- I. THE ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.

- II. THE OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement.
 - A. *FOR BASIC SERVICES*, as described in Paragraph 1.1, Basic Compensation shall be computed on the basis of a FIXED FEE _____ dollars (\$) _____).

 - B. *FOR ADDITIONAL SERVICES*, as described in Paragraph 1.3, compensation computed as follows:
 - 1. Principals' time at the fixed rate of _____ dollars (\$) _____ per hour.
For the purpose of this Agreement, the Principals are:
 - 2. Employees' time (other than Principals) at a multiple of _____ (_____) times the employees' Direct Personnel Expense as defined in Article 4.
 - 3. Services of professional consultants at a multiple of _____ (_____) times the amount billed to the Architect for such services.

 - C. *AN INITIAL PAYMENT* of _____ dollars (\$) _____) shall be made upon the execution of this Agreement and credited to the Owner's account.

 - D. *FOR REIMBURSABLE EXPENSES*, amounts expended as defined in Article 5.

- III. THE OWNER AND ARCHITECT agree in accordance with the Terms and Conditions of this Agreement that:
 - A. *IF SCOPE* of the Project is changed materially, compensation shall be the subject to renegotiation.

 - B. *IF THE SERVICES* covered by this Agreement have not been completed within _____ (_____) months of the date hereof, the amounts of compensation, rates and multiples set forth in Paragraph II shall be subject to renegotiation.

PROFESSIONAL FEE PLUS EXPENSES

- I. THE ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.
- II. THE OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement.
- A. *FOR BASIC SERVICES*, as described in Paragraph 1.1, Basic Compensation shall be computed on the basis of a PROFESSIONAL FEE PLUS EXPENSES, as follows:
- (1) a Professional Fee of _____ dollars (\$ _____)
- plus (2) expenses computed as follows:
- Principals' time at the fixed rate of _____ dollars (\$ _____) per hour.
For the purposes of this Agreement, the Principals are:
- Employees' time (other than Principals) at a multiple of
(_____) times the employees' Direct Personnel Expenses as defined in Article 4.
- Services of professional consultants at a multiple of
(_____) times the amount billed to the Architect for such services.
- B. *FOR ADDITIONAL SERVICES*, as described in Paragraph 1.3, compensation computed as follows:
1. Principals' time at the fixed rate of _____ dollars (\$ _____) per hour.
For the purpose of this Agreement, the Principals are:
2. Employees' time (other than Principals) at a multiple of
(_____) times the employees' Direct Personnel Expense as defined in Article 4.
3. Services of professional consultants at a multiple of
(_____) times the amount billed to the Architect for such services.
- C. *AN INITIAL PAYMENT* of _____ dollars (\$ _____) shall be made upon the execution of this Agreement and credited to the Owner's account.
- D. *FOR REIMBURSABLE EXPENSES*, amounts expended as defined in Article 5.
- III. THE OWNER AND ARCHITECT agree in accordance with the Terms and Conditions of this Agreement that:
- A. *IF SCOPE* of the Project is changed materially, compensation shall be subject to renegotiation.
- B. *IF THE SERVICES* covered by this Agreement have not been completed within
(_____) months of the date hereof, the amounts of compensation, rates and multiples set forth in Paragraph II shall be subject to renegotiation.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

ARTICLE 1

ARCHITECT'S SERVICES

1.1 BASIC SERVICES

The Architect's Basic Services consist of the five phases described below and include normal structural, mechanical and electrical engineering services and any other services included in Article 14 as Basic Services.

SCHEMATIC DESIGN PHASE

1.1.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall confirm such requirements to the Owner.

1.1.2 Based on the mutually agreed upon program, the Architect shall prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and relationship of Project components for approval by the Owner.

1.1.3 The Architect shall submit to the Owner a Statement of Probable Construction Cost based on current area, volume or other unit costs.

DESIGN DEVELOPMENT PHASE

1.1.4 The Architect shall prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to structural, mechanical and electrical systems, materials and such other essentials as may be appropriate.

1.1.5 The Architect shall submit to the Owner a further Statement of Probable Construction Cost.

CONSTRUCTION DOCUMENTS PHASE

1.1.6 The Architect shall prepare from the approved Design Development Documents, for approval by the Owner, Drawings and Specifications setting forth in detail the requirements for the construction of the entire Project including the necessary bidding information, and shall assist in the preparation of bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and the Contractor.

1.1.7 The Architect shall advise the Owner of any adjustments to previous Statements of Probable Construction Cost indicated by changes in requirements or general market conditions.

1.1.8 The Architect shall assist the Owner in filing the required documents for the approval of governmental authorities having jurisdiction over the Project.

BIDDING OR NEGOTIATION PHASE

1.1.9 The Architect, following the Owner's approval of the Construction Documents and of the latest Statement

of Probable Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals, and in awarding and preparing construction contracts.

CONSTRUCTION PHASE — ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.1.10 The Construction Phase will commence with the award of the Construction Contract and will terminate when the final Certificate for Payment is issued to the Owner.

1.1.11 The Architect shall provide Administration of the Construction Contract as set forth in AIA Document A201, General Conditions of the Contract for Construction, and the extent of his duties and responsibilities and the limitations of his authority as assigned thereunder shall not be modified without his written consent.

1.1.12 The Architect, as the representative of the Owner during the Construction Phase, shall advise and consult with the Owner and all of the Owner's instructions to the Contractor shall be issued through the Architect. The Architect shall have authority to act on behalf of the Owner to the extent provided in the General Conditions unless otherwise modified in writing.

1.1.13 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.1.14 The Architect shall make periodic visits to the site to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an architect, he shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. The Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

1.1.15 Based on such observations at the site and on the Contractor's Applications for Payment, the Architect shall determine the amount owing to the Contractor and shall issue Certificates for Payment in such amounts. The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner, based on the Architect's observations at the site as provided in Subparagraph 1.1.14 and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by the Contract

Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. By issuing a Certificate for Payment, the Architect shall not be deemed to represent that he has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

1.1.16 The Architect shall be, in the first instance, the interpreter of the requirements of the Contract Documents and the impartial judge of the performance thereunder by both the Owner and Contractor. The Architect shall make decisions on all claims of the Owner or Contractor relating to the execution and progress of the Work and on all other matters or questions related thereto. The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents.

1.1.17 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in his reasonable opinion, he considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed.

1.1.18 The Architect shall review and approve shop drawings, samples, and other submissions of the Contractor only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents.

1.1.19 The Architect shall prepare Change Orders.

1.1.20 The Architect shall conduct inspections to determine the Dates of Substantial Completion and final completion, shall receive and review written guarantees and related documents assembled by the Contractor, and shall issue a final Certificate for Payment.

1.1.21 The Architect shall not be responsible for the acts or omissions of the Contractor, or any Subcontractors, or any of the Contractor's or Subcontractors' agents or employees, or any other persons performing any of the Work.

1.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.2.1 If more extensive representation at the site than is described under Subparagraphs 1.1.10 through 1.1.21 inclusive is required, and if the Owner and Architect agree, the Architect shall provide one or more Full-Time Project Representatives to assist the Architect.

1.2.2 Such Full-Time Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as mutually agreed between the Owner and the Architect as set forth in an exhibit appended to this Agreement.

1.2.3 The duties, responsibilities and limitations of authority of such Full-Time Project Representatives shall be set forth in an exhibit appended to this Agreement.

1.2.4 Through the on-site observations by Full-Time Project Representatives of the Work in progress, the Architect shall endeavor to provide further protection for the Owner against defects in the Work, but the furnishing of such project representation shall not make the Architect responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs, or for the Contractor's failure to perform the Work in accordance with the Contract Documents.

1.3 ADDITIONAL SERVICES

The following Services shall be provided when authorized in writing by the Owner, and they shall be paid for by the Owner as hereinbefore provided.

1.3.1 Providing analyses of the Owner's needs, and programming the requirements of the Project.

1.3.2 Providing financial feasibility or other special studies.

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

1.3.4 Providing design services relative to future facilities, systems and equipment which are not intended to be constructed as part of the Project.

1.3.5 Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

1.3.6 Preparing documents for alternate bids or out-of-sequence services requested by the Owner.

1.3.7 Providing Detailed Estimates of Construction Cost or detailed quantity surveys or inventories of material, equipment and labor.

1.3.8 Providing interior design and other services required for or in connection with the selection of furniture and furnishings.

1.3.9 Providing services for planning tenant or rental spaces.

1.3.10 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control of the Architect.

1.3.11 Preparing supporting data and other services in connection with Change Orders if the change in the Basic Compensation resulting from the adjusted Contract Sum is not commensurate with the services required of the Architect.

1.3.12 Making investigations involving detailed appraisals and valuations of existing facilities, and surveys or inventories required in connection with construction performed by the Owner.

1.3.13 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing professional services of the type

MULTIPLE OF DIRECT PERSONNEL EXPENSE

- I. THE ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.
- II. THE OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement.

- A. *FOR BASIC AND ADDITIONAL SERVICES*, as described in Paragraphs 1.1 and 1.3, compensation shall be computed on the basis of a MULTIPLE OF DIRECT PERSONNEL EXPENSE, as follows:

Principals' time at the fixed rate of _____ dollars (\$) _____) per hour.
For the purposes of this Agreement, the Principals are:

Employees' time (other than Principals) at a multiple of
(_____) times the employees' Direct Personnel Expense as defined in Article 4.

Services of professional consultants at a multiple of
(_____) times the amount billed to the Architect for such services.

- B. *AN INITIAL PAYMENT OF* _____ dollars (\$) _____)
shall be made upon the execution of this Agreement and credited to the Owner's account.
- C. *FOR REIMBURSABLE EXPENSES*, amounts expended as defined in Article 5, including computer time for professional services.

- III. THE OWNER AND ARCHITECT agree in accordance with the Terms and Conditions of this Agreement that:

- A. *IF SCOPE* of the Project is changed materially, compensation shall be subject to renegotiation.
- B. *IF THE SERVICES* covered by this Agreement have not been completed within
(_____) months of the date hereof, the amounts of compensation, rates and multiples set forth in Paragraph II shall be subject to renegotiation.

set forth in Paragraph 1.1 as may be required in connection with the replacement of such Work.

1.3.14 Providing professional services made necessary by the default of the Contractor or by major defects in the Work of the Contractor in the performance of the Construction Contract.

1.3.15 Preparing a set of reproducible record prints of drawings showing significant changes in the Work made during the construction process, based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

1.3.16 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

~~**1.3.17** Providing services after issuance to the Owner of the final Certificate for Payment.~~

1.3.18 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

1.3.19 Providing services of professional consultants for other than the normal structural, mechanical and electrical engineering services for the Project.

1.3.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 2

THE OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information, including a complete program, regarding his requirements for the Project.

2.2 The Owner shall designate, when necessary, a representative authorized to act in his behalf with respect to the Project. The Owner shall examine documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services.

2.3 The Owner shall furnish a certified land survey of the site giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.

2.4 The Owner shall furnish the services of a soils engineer or other consultant when such services are deemed necessary by the Architect, including reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional recommendations.

2.5 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.6 The Owner shall furnish such legal, accounting, and insurance counseling services as may be necessary for the Project, and such auditing services as he may require to ascertain how or for what purposes the Contractor has used the moneys paid to him under the Construction Contract.

2.7 The services, information, surveys and reports required by Paragraphs 2.3 through 2.6 inclusive shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

2.8 If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Contract Documents, he shall give prompt written notice thereof to the Architect.

2.9 The Owner shall furnish information required of him as expeditiously as necessary for the orderly progress of the Work.

ARTICLE 3

CONSTRUCTION COST

3.1 If the Construction Cost is to be used as the basis for determining the Architect's Compensation for Basic Services, it shall be the total cost or estimated cost to the Owner of all Work designed or specified by the Architect. The Construction Cost shall be determined as follows, with precedence in the order listed:

3.1.1 For completed construction, the cost of all such Work, including costs of managing construction;

3.1.2 For Work not constructed, (1) the lowest bona fide bid received from a qualified bidder for any or all of such Work, or (2) if the Work is not bid, the bona fide negotiated proposal submitted for any or all of such Work; or

3.1.3 For Work for which no such bid or proposal is received, (1) the latest Detailed Estimate of Construction Cost if one is available, or (2) the latest Statement of Probable Construction Cost.

3.2 Construction Cost does not include the compensation of the Architect and his consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Paragraphs 2.3 through 2.6 inclusive.

3.3 The cost of labor, materials and equipment furnished by the Owner for the Project shall be included in the Construction Cost at current market rates including a reasonable allowance for overhead and profit.

3.4 Statements of Probable Construction Cost and Detailed Cost Estimates prepared by the Architect represent his best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has any control over the cost of labor, materials or equipment, over the contractors' methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the

Architect cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimate prepared by him.

3.5 When a fixed limit of Construction Cost is established as a condition of this Agreement, it shall be in writing signed by the parties and shall include a bidding contingency of ten percent unless another amount is agreed upon in writing. When such a fixed limit is established, the Architect shall be permitted to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and to make reasonable adjustments in the scope of the Project to bring it within the fixed limit. The architect may also include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

3.5.1 If the Bidding or Negotiating Phase has not commenced within six months after the Architect submits the Construction Documents to the Owner, any fixed limit of Construction Cost established as a condition of this Agreement shall be adjusted to reflect any change in the general level of prices which may have occurred in the construction industry for the area in which the Project is located. The adjustment shall reflect changes between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

3.5.2 When a fixed limit of Construction Cost, including the Bidding contingency (adjusted as provided in Subparagraph 3.5.1, if applicable), is established as a condition of this Agreement and is exceeded by the lowest bona fide bid or negotiated proposal, the Detailed Estimate of Construction Cost or the Statement of Probable Construction cost, the Owner shall (1) give written approval of an increase in such fixed limit, (2) authorize rebidding the Project within a reasonable time, or (3) cooperate in revising the Project scope and quality as required to reduce the Probable Construction Cost. In the case of (3) the Architect, without additional charge, shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the fixed limit. The providing of such service shall be the limit of the Architect's responsibility in this regard, and having done so, the Architect shall be entitled to compensation in accordance with this Agreement.

ARTICLE 4

DIRECT PERSONNEL EXPENSE

Direct Personnel Expense is defined as the salaries of professional, technical and clerical employees engaged on the Project by the Architect, and the cost of their mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar benefits.

ARTICLE 5

REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect, his employ-

ees, or his professional consultants in the interest of the Project for the expenses listed in the following Subparagraphs:

~~5.1.1 Expense of transportation and living when traveling in connection with the Project; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project.~~

~~5.1.2 Expense of reproductions, postage and handling of Drawings and Specifications excluding duplicate sets at the completion of each Phase for the Owner's review and approval.~~

5.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates and expense of renderings or models for the Owner's use.

5.1.4 Expense of computer time for professional services when included in Paragraph II.

5.1.5 Expense of computer time when used in connection with Additional Services.

ARTICLE 6

PAYMENTS TO THE ARCHITECT

6.1 Payments on account of the Architect's Basic Services shall be made as follows:

6.1.1 An initial payment as set forth in Paragraph II is the minimum payment under this Agreement.

6.1.2 Subsequent payments for Basic Services shall be made monthly in proportion to services performed so that the compensation at the completion of each Phase, except when the compensation is on the basis of a Multiple of Direct Personnel Expense, shall equal the following percentages of the total Basic Compensation:

Schematic Design Phase	15%
Design Development Phase	35%
Construction Documents Phase	75%
Bidding or Negotiation Phase	80%
Construction Phase	100%

6.1.3 If the Contract Time initially established in the Construction Contract is exceeded by more than thirty days through no fault of the Architect, compensation for Basic Services performed by Principals, employees and professional consultants required to complete the Administration of the Construction Contract beyond the thirtieth day shall be computed as set forth in Paragraph II for Additional Services.

6.2 Payments for Additional Services of the Architect as defined in Paragraph 1.3, and for Reimbursable Expenses as defined in Article 5, shall be made monthly upon presentation of the Architect's statement of services rendered.

6.3 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.

6.4 If the Project is suspended for more than three months or abandoned in whole or in part, the Architect

shall be paid his compensation for services performed prior to receipt of written notice from the Owner of such suspension or abandonment, together with Reimbursable Expenses then due and all termination expenses as defined in Paragraph 8.3 resulting from such suspension or abandonment. If the Project is resumed after being suspended for more than three months, the Architect's compensation shall be subject to renegotiation.

6.5 Payments due the Architect under this Agreement shall bear interest at the legal rate commencing sixty days after the date of billing.

ARTICLE 7

ARCHITECT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services on the Project and for services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on a generally recognized accounting basis and shall be available to the Owner or his authorized representative at mutually convenient times.

ARTICLE 8

TERMINATION OF AGREEMENT

8.1 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

8.2 In the event of termination due to the fault of parties other than the Architect, the Architect shall be paid his compensation for services performed to termination date, including Reimbursable Expenses then due and all termination expenses.

8.3 Termination Expenses are defined as Reimbursable Expenses directly attributable to termination, plus an amount computed as a percentage of the total compensation earned to the time of termination, as follows:

- 20 percent if termination occurs during the Schematic Design Phase; or
- 10 percent if termination occurs during the Design Development Phase; or
- 5 percent if termination occurs during any subsequent phase.

ARTICLE 9

OWNERSHIP OF DOCUMENTS

Drawings and Specifications as instruments of service are and shall remain the property of the Architect whether the Project for which they are made is executed or not. They are not to be used by the Owner on other projects or extensions to this Project except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 10

SUCCESSORS AND ASSIGNS

The Owner and the Architect each binds himself, his partners, successors, assigns and legal representatives to

the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer his interest in this Agreement without the written consent of the other.

ARTICLE 11

ARBITRATION

11.1 All claims, disputes and other matters in question between the parties to this Agreement, arising out of, or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. No arbitration, arising out of, or relating to this Agreement, shall include, by consolidation, joinder or in any other manner, any additional party not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by all the parties hereto. Any consent to arbitration involving an additional party or parties shall not constitute consent to arbitration of any dispute not described therein or with any party not named or described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional party or parties duly consented to by the parties hereto shall be specifically enforceable under the prevailing arbitration law.

11.2 Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after 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 limitations.

11.3 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 12

EXTENT OF AGREEMENT

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.

ARTICLE 13

GOVERNING LAW

Unless otherwise specified, this Agreement shall be governed by the law of the principal place of business of the Architect.

ARTICLE 14
OTHER CONDITIONS OR SERVICES

This Agreement executed the day and year first written above.

OWNER

ARCHITECT

Robert E. Young

George E. Schultzy, Jr.