



# **TERM CONTRACT FOR PROFESSIONAL SERVICES**

## **CHAPTER TWO**

### **PROFESSIONAL'S REQUIRED SERVICES**

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**PREAMBLE**

The Professional is advised that, pursuant to specific provisions of this Term Contract for Professional Services, DASNY expects the Professional to provide design services that are coordinated amongst the Professional, subconsultants and various trade disciplines, and deliver a design and associated documents that are coordinated, code-compliant and constructable. If at any time DASNY determines that the design fails to meet such parameters, the Professional is obligated to timely remedy such defects at its own cost.

The Professional is further advised, pursuant to specific provisions of this Term Contract for Professional Services, that (1) DASNY, as the Owner, is the entity charged with implementing the Project, from design through completion of construction, including authority over, among others, its consultants and contractors engaged with and on behalf of various Client agencies and entities, that (2) the Professional's services require and involve DASNY direction, authorization, review and approval, typically provided in coordination with its Client agencies and entities, as well with regulatory authorities' requirements, reviews and approvals, and that (3) the Professional is advised that authorization and direction to the Professional for, among other things, the scope of work to be performed, to proceed, for changes and/or for additional work, shall be provided solely by DASNY and its duly authorized representatives, without which the Professional is proceeding at its own risk.

This Preamble is not exhaustive. Please refer to the individual contractual provisions of this Term Contract for Professional Services for their specific legal meaning and intent.

**ARTICLE 1 – GENERAL PROJECT SERVICES**

The Professional agrees to provide the necessary Professional Services required to accomplish the required scope of services, which may include the services outlined in Articles 1 through 8 of Chapter Two of this Term Contract for Professional Services, Required Supplemental Services outlined in Appendix A, and Additional Services outlined in Appendix B. Each Work Authorization issued under this Term Contract for Professional Services shall provide a brief description of the Project and the specific services to be provided for the Project.

**Section 1.3 – Project and Sustainability Goals**

- 1.3.1 The OPR is written documentation that details the functional requirements of the Project and the expected use and operation of the Project, including but not limited to the criteria for a successful Project, the Owner and Client requirements, the applicable regulatory and legal requirements, the environmental and sustainability goals, the energy efficiency goals, the indoor environmental quality requirements, the equipment and system expectations, the building occupant and operating and maintenance personnel requirements, measurable performance criteria, cost considerations, and other benchmarks and goals important to the Owner or Client.

The Professional shall confirm and develop the Owner's project goals and requirements with the project team, including the Owner, Client, and other stakeholders deemed necessary for determination of the goals for the project.

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The OPR shall include the sustainability and energy performance goals for the project as may be required by the Project's Client's requirements, regulatory agencies and applicable laws and regulations. At each phase of the project's development the Professional shall assess the conformance of the project with the Client's goals, as well as regulatory and legal sustainability requirements, and, as may be required, shall evaluate and/or further develop the OPR.

- 1.3.2 Projects shall satisfy (1) sustainability requirements imposed by law as set forth in applicable statutes, regulations, executive orders and other sources of law, and shall satisfy (2) the sustainability goals and specific metrics established by the Client. The sustainability goals and specific metrics for the project shall be set forth in the OPR, i.e.: the delineation of the project's goals and requirements. Regulatory requirements, Executive Orders and Laws include, but are not limited to: CLCPA or the Climate Law, the Green Building Construction Act, the Energy Conservation Construction Code of the State of NY, NYStretch if adopted by the affected municipality, the Local Laws of NY City if the work takes place in the city, and Executive Orders #4, #88, and #166.
- 1.3.3 Projects that are new, involve additions, or significant renovations, as may be required by the Client or Owner, regulatory agencies, and applicable laws and regulations, shall use a third-party rating system to ensure achievement of project goals. The Professional shall propose to the Owner a third-party rating system which the Professional will use and, if acceptable, the Owner shall approve such third-party rating system in writing after consultation with Client. The Professional will be responsible for utilizing the system as a tool to inform the work, document the work, and submit requisite documents to complete a rating review.
- 1.3.4 Documentation and submissions shall be performed as required by the selected third-party guidance and review system, if applicable.
  1. The Professional is responsible for development of required design and construction phase submissions, as well as the management of the submissions as needed for successful submission through the process as defined by the selected third-party system.
  2. Additionally, the Professional must assess and update any rejected submissions in a good-faith effort and provided the changes do not alter the scope of the work as defined in the OPR.
- 1.3.5 Sustainable Design Expertise: The Professional's project team shall demonstrate the requisite sustainable design expertise and experience in New York State or similar regulatory environments and project climate types. The Professional's project team shall also include Subconsultants and/or staff who shall have the expertise and experience required to coordinate, inform and advise on the project team's Sustainability efforts and processes. Such Subconsultants and/or staff shall have a minimum of five years of such demonstrated experience in large comparable projects with similar Sustainability considerations, objectives, goals and requirements.

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Section 1.4 – Project Cost Estimating Services

- 1.4.1 The Professional shall prepare a Construction Cost Estimate, updated at each phase of design, that describes the total anticipated projected cost for Contractor(s) to complete construction of the Project in the identified location and anticipated local market conditions, based on anticipated costs of individual Project components added together. The Construction Cost Estimate shall include labor, material, and equipment costs organized according to Construction Specification Institute (CSI) codes or other generally accepted cost estimating system acceptable to the Owner, as well as other administrative costs required for Contractor(s) to complete the Project, and shall be escalated to the mid-point of the construction duration.
- 1.4.2 Cost Estimator Qualifications: The cost estimator shall be a natural person experienced in construction cost estimating in New York, and shall have a minimum of five years of demonstrated experience estimating large capital projects or other experience estimating capital projects that the Owner, in its sole and exclusive discretion, finds acceptable.
- 1.4.3 Estimating Requirements
1. At each phase of design, the Professional shall provide a Construction Cost Estimate, using costs appropriate for the type of work and design stage, based upon experience, and including an appropriate design contingency, bidding contingency, contractor's overhead and profit, escalation, trade contractor general conditions costs, current market conditions, and other contingencies as directed by the Owner.
  2. The Construction Cost Estimate shall be detailed enough so that each component of the estimate clearly correlates with the Project description and the most recent drawings and specifications of this phase.
  3. Unless otherwise directed by the Owner, the Construction Cost Estimates shall be based upon a detailed take-off of labor, materials and equipment, including wage rates (including base rate, taxes, insurance and fringe benefits) for the installation of the materials and equipment. Estimates shall be in the same format as the Owner's Schedule of Values and shall be prepared using the Owner provided "Consultant Cost Estimating Workbook", which can be found on DASNY's website at [www.dasny.org](http://www.dasny.org). Upon prior written approval of the Owner, the Professional may prepare the estimate in an alternative format provided the estimate includes, at a minimum, information contained in the Owner supplied format.
  4. The Professional shall evaluate the impact of Project constraints and design choices on the Construction Cost Estimate, including but not limited to, conformance with industry standards, Site logistics, Project Schedule, environmental considerations and local market conditions. The Professional shall provide recommendations, and an assessment of possible alternative value engineering solutions, to address any issues with the Construction Cost Estimate.

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5. The Professional shall hold an estimating conference at each design phase (pre-schematic, schematic, design development, construction documents, and bid documents). The Owner, Client, Professional and cost estimator shall participate in each conference. If the Owner directs, the cost estimator shall participate in person. If the Owner directs, the conference can be part of another meeting.
  6. The Professional shall provide a reconciliation to the previous Construction Cost Estimate and the Approved Construction Budget at each phase of design. The reconciliation shall include an explanation of any variances or overall increases.
- 1.4.4 The Professional may provide supplemental estimating services as directed by the Owner and as necessary for a Project, including, but not limited to, life cycle costing, net present value analysis, and total cost of ownership.

Section 1.5 – Project Schedule Services

- 1.5.1 For projects with an Approved Construction Budget greater than ten million and 00/100 Dollars (\$10,000,000.00), or as directed by the Owner, the Professional shall provide project scheduling deliverables from the current versions of the Owner's standard scheduling program.
- 1.5.2 Project Scheduler Qualifications: A natural person experienced in Critical Path Method (CPM) scheduling and reporting, with capability of producing CPM reports and diagrams within timeframes required or requested by the Owner. The project scheduler shall have or be able to obtain certification as a Planning and Scheduling Professional (PSP) or have a minimum of five years of demonstrated experience scheduling large capital projects or have other experience scheduling capital projects that the Owner, in its sole and exclusive discretion, finds acceptable.
- 1.5.3 Scheduling Requirements
1. Evaluate Scheduling Requirements: Evaluate the impact of design choices on the Project Construction Schedule, including but not limited to, conformance with industry standards, reasonableness of overall proposed schedule duration, and methodology. Provide recommendations and possible alternative solutions, which at minimum addresses:
    - a. Available labor resources.
    - b. Construction sequence, logical progression of the Work.
    - c. Phasing, long lead items.
    - d. Critical path.
    - e. Proposed milestones and division of Work.
  2. Project Design Schedule: Prepare a schedule for the design phase of the project, including at a minimum:
    - a. Submissions to the Owner.
    - b. Owner review periods.
    - c. Design milestones that impact construction packages.
  3. Project Construction Schedule: Prepare an expanded schedule for the construction phase of the Project using a time-scaled Precedence Diagram

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Method (PDM) network diagram including major activities and milestones unique to each proposed Contract. The initial schedule shall be submitted at the design development phase review and updated thereafter with each scheduled design submission. Include skeleton diagram, which outlines significant construction activities of each proposed Contract. Indicate activities such as:

- a. Notice to Proceed.
- b. Major activities unique to each Contract.
- c. Phasing.
- d. Critical path.
- e. Substantial Completion.
- f. Contract closeout.
- g. Proposed Milestones

**Section 1.6 – Project Requirements**

Project requirements shall include but not be limited to the following at each phase of the project:

**1.6.1 Scope Budget Schedule Confirmation**

Confirm the Project description and the Approved Construction Budget and prepare and confirm the Project Design Schedule and Project Construction Schedule prior to commencement of the preschematic phase of a Project. As the budget and schedule are updated at each planned design phase, (schematic, design development, construction documents phases), the Owner shall be provided documentation to support said revisions and the final budget and schedule shall be updated and executed with the Bid Document phase submission.

**1.6.2 Code Compliance:**

The Professional shall prepare and provide the Owner's Code Compliance Form, including but not limited to, the Owner's energy code compliance checklist and other documents, as may be required by the Owner.

**1.6.3 Utility Information:**

The Professional shall provide copies of correspondence and information provided to or received from utility companies and public corporations regarding required connections, locations of connections, equipment for connections, and loads for new or modified services. Public corporations include, but are not limited to, counties, cities, towns, villages, district corporations, and public benefit corporations which include public authorities.

**1.6.4 Meetings:**

The Professional shall attend Project meetings. The Professional shall provide minutes of meetings using the Owner's Project Management Program within 5 calendar days of said meetings. Where the Owner directs that one or more of the Professional's Subconsultants attend a Project meeting, the Professional is required to ensure that such Subconsultant(s) attends.

**1.6.5 Design Reviews:**

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The Professional shall provide written responses in the manner directed by Owner to comments provided by the Owner, the Owner's Consultants, and the Client. The Professional shall submit, for Owner's review and approval, procurement checklist including, but not limited to, identification of sole/single source, design delegation, etc.

**1.6.6 Grants and Incentives:**

By the conclusion of Schematic Design the Professional shall ascertain and communicate the availability of grants, incentives and other financial remuneration for green, sustainable and energy saving attributes of the project, including, as may be applicable, from:

1. US Department of Energy (DOE)
2. New York State Energy Research and Development Authority (NYSERDA) (Note that NYSERDA needs to be notified of the project prior to the end of schematic design in order to maximize potential incentives.)
3. New York State Department of Environmental Conservation (DEC)
4. Other entities that may have financial incentives available for sustainable buildings

The Professional shall reevaluate their assessment at the conclusion of each phase, and assist in the application for grants, incentives and other financial remuneration determined by the Owner to be viable for the project.

**1.6.7 Fixtures, Furnishings, and Equipment (FF&E):**

1. The Professional shall be responsible for indicating on its preliminary drawings, a preliminary layout of fixtures, furnishings and equipment for each room, including detailed information on space and utility requirements. The documents shall be supplemented by a complete listing of items required for areas such as directory boards and display cases for lobby and corridors, janitorial equipment, etc.
2. Where the Owner or Owner's Consultant will provide FF&E Services, the Professional shall provide electronic files and associated CAD drawings to the Owner for their use in developing the FF&E scope of work.

**Section 1.7 – Commissioning**

The Professional shall participate and provide services in the Building Commissioning Process in accordance with (1) the project requirements set forth in the OPR, and (2) DASNY Building Commissioning Guidelines, and (3) the applicable legal and regulatory requirements, including but not limited to NYS Tax Law §19, 6 NYCRR § 638.8, New York State Executive Order 88, NYC Local Law 86, and the State Green Building Construction Act (Article 13 of the Energy Law).

- 1.7.1 The Professional shall perform the specific task(s) and provide the specific work product(s) required by 6 NYCRR § 638.8 Commissioning, as amended by the Owner in the DASNY Commissioning Guidelines, as required by project requirements set forth in the OPR, and the project's commission plan where the project includes the Commissioning of mechanical plant(s) of base building(s).

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Such work shall be performed and completed in strict compliance with 6 NYCRR § 638.8 Commissioning, as amended by the Owner in the DASNY Commissioning Guidelines, and as directed by the Owner.

- 1.7.2 The Professional shall perform the specific task(s) and provide the specific work product(s) required by the project requirements set forth in the OPR, the applicable regulatory and legal requirements, the DASNY Commissioning Guidelines, and the project's commission plan where the project includes commissioning work other than the commissioning of mechanical plant(s) of base building(s), including but not limited to (1) retro-commissioning (RCx), (2) building enclosure (BECx) commissioning, and (3) other equipment and systems as may be required. Such work shall be performed and completed in strict compliance with the OPR and as directed by the Owner.
- 1.7.3 The Professional shall coordinate with the Owner, Client, Commissioning Authority, Commissioning Agent, Construction Manager (if applicable), the Contractors during the design and construction phases and to achieve the successful commissioning of the Project and its various systems subject to commissioning.
- 1.7.4 Professional shall, at Substantial Completion of the applicable Contract(s) issue a written certification to the Owner that the required functional and operational tests of subject equipment and systems have been performed and that in the professional's opinion that the equipment and systems are installed and operating as designed.

**Section 1.8 – Project Testing Services**

- 1.8.1 The Professional acknowledges that the Client and Owner rely on the Professional's expertise to ensure that appropriate, customary and necessary testing for the design and construction of the Project is identified and, where appropriate, made part of the Contract. To the extent that Client and Owner may direct that certain testing is required, such direction does not relieve the Professional from its obligation to ensure that appropriate, customary and necessary testing is identified and, where appropriate, made part of the Contract.
- 1.8.2 Required Project Testing Services:
  1. Provide appropriate and advisable requirements for testing during the Project including, but not limited to, geotechnical, mold and Hazardous Materials surveys/assessments, remedial investigations, potential hazardous waste streams, as well as structural, chemical, electrical, or mechanical tests and investigations, and materials testing;
  2. prepare scopes of work, including, but not limited to, preliminary testing parameters for geotechnical work, soil borings and load tests for soil bearing capacity, to assist the Owner in securing necessary Project testing;
  3. provide testing included in this Contract for Term Professional Services, including the testing referenced in Appendix A of this Chapter Two;
  4. Provide testing results performed by the testing contractor, consultant, subconsultant or other testing entity, including the professional. The

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professional shall provide evaluations and analysis of the testing as prepared by the professional for review by the Owner;

5. coordinate schedule, timing and order for testing, hazardous materials surveys/assessments, exploratory investigations, remedial investigations, potential hazardous waste stream sampling and sample collection;
6. evaluate and provide an assessment of test results, hazardous materials survey/assessment results, exploratory investigations, remedial investigation results, potential hazardous waste stream sample results;
7. report to Owner unacceptable, questionable, inconsistent, or otherwise problematic test results, hazardous materials survey/assessment results, exploratory investigations, remedial investigation results, potential hazardous waste stream sample results; and
8. Recommend necessary, customary, and advisable additional Project testing.

Section 1.9 – Design Delegation

- 1.9.1 Subject to the Owner's written approval and authorization the Professional may delegate or assign the performance of a professional service through an unlicensed third party, such as a contractor or subcontractor, to another licensee (delegatee). The Professional may not delegate Professional Services to a contractor or other entity not authorized to provide professional services in the State of New York. The Owner may disallow this action if not in accordance with the terms identified below. Such specifically defined design work shall be limited to project components ancillary to the main components of the project, and the Owner is the sole and exclusive judge in determining which project components are ancillary to the main components of a Project;
- 1.9.2. the Professional shall specify in writing to the delegatee the design and performance parameters which the design must satisfy, including the condition and capacity of the structure and/or substrate to support the delegated design element. In the Contract Documents, the Professional must clearly specify and delineate between the Professional's and the delegatee's design responsibilities.
- 1.9.3 the design function shall be required to be performed in accordance with performance specifications established by the Professional and with applicable codes, laws, rules, and regulations;
- 1.9.4 the delegatee shall be required to be licensed or otherwise legally authorized to perform the design work involved and shall be required to sign and seal any design and calculations prepared. At the discretion of the Owner, the Owner may engage a third party to review the delegatee's work and its conformance with the overall design parameters specified by the Professional. The delegate shall be required to submit their work product to the reviewer;
- 1.9.5 the Professional shall be required to review and provide their approval of the design submitted by the delegatee for conformance with the established specifications and parameters and such determination and approval shall be in writing to the Owner;

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- 1.9.6 the Professional shall be required to determine that the design prepared by the delegatee conforms to the overall project design and can be integrated into such design and such determination shall be in writing to the Owner;
- 1.9.7 the Professional shall retain overall design responsibility for the Work in accordance with this Term Contract for Professional Services and may not assign or delegate that responsibility. The Professional shall remain responsible for delegatee's adherence to the overall design intent and for reviewing delegatee's work relative to its impact on the base structure; and
- 1.9.8 the Professional shall notify the Owner, in writing, of elements delegated for design by the delegatee. This notification shall take place during the Design Development Phase of the project. For information, the Professional shall submit to the Owner a listing of submittals for which design has been delegated under Section 1.9 of this Term Contract for Professional Services. A copy of the approved submittals must then be provided to the Owner on a timely basis, immediately following the Professional's approval of these documents. The Owner may also request the Professional to arrange for a design delegation coordination meeting.
- 1.9.9 Should the Professional delegate any portion of the design to a delegatee then the Professional must ascertain that the delegatee has professional liability insurance and is licensed to practice in the State of New York. The Professional shall, as part of the submittal process, require proof of insurance from the delegatee. In addition, the Professional shall require, as part of the submittal process, a copy of the delegatee's Certificate of Authorization to practice Engineering in the State of New York, anytime the delegated work involves Engineering.
- 1.9.10 The proof of insurance and the Certificate of Authorization shall be forwarded to the Owner via a cover letter from the Professional. The proof of insurance and the Certificate of Authorization shall be obtained and forwarded to the Owner prior to any work being performed by the delegatee.

**Section 1.10 – Quality Control Program**

- 1.10.1 To further the goal of fully coordinated drawings and specifications that meet the applicable standard of practice, the Professional shall have a written Quality Control Program in place as part of the Professional's standard office practices. The Owner may review the Professional's Quality Control Program at any time, but the Professional is responsible for the quality of drawings, specifications and other documents produced by the Professional. The Quality Control Program shall apply to the Professional's work, including, but not limited to, the review of drawings, specifications and other documents prior to submission to the Owner.
- 1.10.2 The Professional shall be responsible for the work of its Subconsultant(s) including, but not limited to, quality, completeness, coordination and timeliness. The Professional shall coordinate the Professional's work and the work of its various Subconsultant(s), including, but not limited to, the information presented within the various phase submissions.

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Section 1.11 – Project Management Program

- 1.11.1 The Professional shall record project related information in the Owner's Project Management Program in accordance with the Owner's instructions. The Professional agrees to request user accounts to the Owner's Project Management Program for each employee who will be working on the Project. The Professional further agrees to have their employees attend training in the use of the owner's Project Management Program, and to utilize the DASNY instructions to perform necessary tasks. The Owner will provide the training.
- 1.11.2 The Professional shall use the Owner's current Project Management Program in accordance with the Owner's protocol to manage Project-related correspondence, transmittals, meeting minutes, requests for information, deliverables, daily logs, Project costs, change management and reporting.
- 1.11.3 The Owner may direct the Professional to provide the Project Management Program functions of Section 1.11 of this Chapter Two from available web-based and/or application service provider system(s) as selected by the Owner.
- 1.11.4 The Professional shall provide a document management plan and shall establish, maintain and operate a web-based or application-based design documentation management and control system, including but not limited to documentation access and storage, version control, distribution and tracking. The Professional's document management plan shall provide access for the Owner's project team and include training, as may be required. The management plan and control system shall be submitted to the Owner for approval.

Section 1.12 – Project Approval Services

- 1.12.1 As required for the Project, the Professional shall provide the professional services necessary or useful to obtain regulatory approvals, permits, certificates, and other consents of any form from authorities having jurisdiction over the Project, including but not limited to, a construction permit from DASNY or a building permit from the appropriate regulatory authority and/or municipal corporation, and:
  1. promptly prepare and file applications for regulatory approvals, construction permits, building permits, rezoning, site plan approval, local variances, or other approvals, permits, certificates, and other consents of any form including completion of necessary applications and supporting documentation;
  2. attend any meetings required to secure regulatory approvals, permits, certificates, and other consents of any form from authorities and/or utilities having jurisdiction over the Project unless the Owner directs otherwise;
  3. Include coordination with and approval of utilities unless specified elsewhere;
  4. Authorities having jurisdiction over a Project may include, but are not limited to, New York City (NYC) Fire Department, NYC Buildings Department, NYC Transportation Department, NYCDEP, NYC Landmarks, New York State (NYS) Department of Transportation, NYS Department of Health, NYS Department of Environmental Conservation, and NYS Office of Parks, Recreation and Historic Preservation;

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5. This obligation of the Professional includes work necessary including but not limited to final inspections, to obtain a Certificate(s) of Occupancy or Certificate(s) of Code Compliance whichever is applicable; and
6. Required Supplemental Services, if any, included in Project Approval Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

Section 1.13 – Domestically Sourced Products and Materials

- 1.13.1 The Professional shall specify and require the use of domestically sourced products and materials for the construction of the Project. The Professional may apply to Owner for a waiver of this requirement and shall identify the desired non-domestic products and materials and shall support its application for a waiver with justification that the cost of acquiring the domestic product and/or material is unreasonable, or where such product and/or material is not available in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. The Owner, in consultation with the Client, shall issue its determination to the Professional in writing.
- 1.13.2 The Professional shall identify the desired products and shall apply for any such waiver prior to or at completion of the design development phase, when practicable, and shall incorporate any authorized non-domestic materials into the 100% documents.

**ARTICLE 2 – PRESCHMATIC SERVICES**

This phase shall consist of the preliminary investigation and analysis of the Project, the Site and the familiarization with baseline information identified in the initial investigation. The Professional shall define and confirm the building program, provide preliminary design solutions, anticipated Construction Cost estimates and anticipated Project Schedule.

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

The Professional shall be responsible for the work of its Subconsultant(s) and for the coordination of its work and the work of its various Subconsultant(s), including, but not limited to, the information presented within the phase submission.

Section 2.1 – Scope of Preschematic Services

The Professional shall submit preliminary investigation and analysis documentation, programming report, preliminary design options, the anticipated Construction Cost estimates and the anticipated Project Schedule to the Owner for review and approval.

2.1.1 Preliminary Investigation and Analysis, including but not limited to:

1. The Professional shall: visit and thoroughly inspect the Project Site, including existing structure(s) and man-made feature(s) to identify existing deficiencies and ascertain the specific locations of pertinent structural components;

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2. Perform site assessments, as may be applicable to achieve the OPR. Such assessments may include evaluation of prevailing direction and speeds, sun path and access, and other aspects of the microclimate, soil conditions, local aquifer location, local flora and fauna of note;
3. familiarize with prior uses of the Project Site and prior structures and man-made features that were located on the Project Site;
4. familiarize itself with the survey of the location of existing buildings, utilities, conditions, streets, equipment, components and other attributes having or likely to have an impact on, or adjacent to, the Project;
5. familiarize itself with, design objectives, Approved Construction Budget and pertinent Project information and programming needs including goals set by the Owner entity;
6. provide the Project Testing Services as required by Section 1.8 of this Chapter Two;
7. familiarize itself with, review and analyze applicable local zoning restrictions and requirements including but not limited to determining the proposed structure(s) compliance (or noncompliance) with the local municipality's planning and zoning codes;
8. familiarize itself with the current applicable Executive Orders and Laws of the state and or the affected municipalities, if applicable, related to sustainability, resilience, energy use reductions, GHG reductions, electrification, social equity, and other laws, codes and regulations that may be applicable;
9. gather any other information necessary for a thorough understanding of the Project;
10. attend the Project kick-off meeting;
11. Review available as-built and record drawings, plans and specifications; and
12. complete an Environmental Assessment Long Form or, at the Owner's direction, assist an Environmental Consultant for the DASNY Office of Environmental Affairs in the preparation of such form.

2.1.2 Programming:

A comprehensive delineation of the design needs for the Project; including but not limited to identification of building user needs, patterns of use of space, space and adjacency needs, room-by-room technical requirements, engineering criteria, and site opportunities and constraints.

2.1.3 Design:

Provide to the Owner a series of alternate solutions that explore a full range of potential project, building and site development possibilities including alternative mechanical, electrical and structural considerations;\_establish a basic Project strategy by addressing critical relationships among program elements. Select, in collaboration with the Owner, the overall solution or combination of solutions that best address the needs of the Owner.

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2.1.4 Cost Estimate:

The Professional shall provide a Construction Cost Estimate as required by Section 1.4 of this Chapter Two.

2.1.5 Scheduling:

The Professional shall provide the scheduling information as required by Section 1.5 of this Chapter Two.

2.1.6 Planning and Zoning:

If applicable, submit to the Owner a completed Planning and Zoning Information Form, as per Subsection 2.1.1.7 of this Chapter Two, for review and comment.

2.1.7 Domestically Sourced Products and Materials

The Professional shall specify and require the use of domestically sourced products and materials as required by Section 1.13 of this Chapter Two.

Section 2.2 – Required Supplemental Services

Required Supplemental Services, if any, included in **Preschematic** Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 3 – SCHEMATIC SERVICES**

The Phase shall consist of development of the Basis of Design narrative and the preferred design option. The Professional shall continue to refine the building program, preferred design solution, the anticipated Construction Cost estimate and anticipated Project Schedule.

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

Section 3.1 – Scope of Schematic Services

The Professional shall submit narratives, drawings, outline specifications, updated Project description and initial Basis of Design narrative, the anticipated Construction Cost estimate, anticipated Project Schedule to the Owner for review and approval.

The Professional shall be responsible for the work of its Subconsultant(s) and for the coordination of its work and the work of its various Subconsultant(s), including, but not limited to, the information presented within the phase submission.

3.1.1 Narratives, Drawings, and Specifications:

Narratives, drawings and specifications shall be prepared in accordance with the Owner's Design Professional's Guide and Design Professional's Submission Requirements located on DASNY's website at <https://www.dasny.org/tools-forms/policies-guidelines/design-and-construction-guidelines-and-policies>.

The Schematic Design Documents shall consist of drawings and other documents including, but not limited to, a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include, some combination of

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assessments, study models, perspective sketches, or digital representations, or additional documentation as requested by the Owner. Preliminary selections of major building system and construction materials shall be noted on the drawings or described in writing.

**3.1.2 Cost Estimate:**

The Professional shall provide a cost estimate in accordance with Section 1.4 of this Chapter Two and hold the estimating conference of Subsection 1.4.3.5 of this Chapter Two.

**3.1.3 Scheduling Services:**

The Professional shall provide scheduling services in accordance with Section 1.5 of this Chapter Two.

**3.1.4 Scope Budget Schedule Confirmation:**

The Professional shall provide scope, budget, schedule confirmation in accordance with Subsection 1.6.1 of this Chapter Two.

**3.1.5 Code Compliance:**

The Professional shall provide the Code Compliance documentation as required by Subsection 1.6.2 of this Chapter Two.

**3.1.6 Utility Information:**

The Professional shall provide the utility information as required by Subsection 1.6.3 of this Chapter Two.

**3.1.7 Meetings:**

The Professional shall attend meetings and provide minutes as required by Subsection 1.6.4 of this Chapter Two.

**3.1.8 Design Reviews:**

The Professional shall provide the design review requirements as directed by Subsection 1.6.5 of this Chapter Two.

**3.1.9 Grants and Incentives:**

The Professional shall assess the availability of grants and incentives as required by Subsection 1.6.6 of this Chapter Two.

**3.1.10 Testing:**

The Professional shall provide the Project Testing Services as required by Section 1.8 of this Chapter Two.

**3.1.11 Schematic Phase Approval:**

Unless directed otherwise in writing by the Owner acting through the Director, Planning, Design and Quality Assurance or a duly authorized representative of Owner, the Design Development Services shall not be started until the Owner approves the schematic phase submissions and the Owner provides the Professional with written authorization to proceed to the Design Development

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Services. Without such written authorization, the Professional will be proceeding at its own risk.

**3.1.12 Domestically Sourced Products and Materials:**

The Professional shall specify and require the use of domestically sourced products and materials as required by Section 1.13 of this Chapter Two.

**Section 3.2 – Required Supplemental Services**

Required Supplemental Services, if any, included in Schematic Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 4 – DESIGN DEVELOPMENT SERVICES**

This phase shall consist of the development of the approved schematic design, including the structural, mechanical, electrical, civil and other systems and disciplines required for the Project, as well as recommendations for bidding packages, order of construction and timing. During this phase, design criteria and solutions shall be established and developed within the program requirements and budget as established by the Owner. Professional shall incorporate comments on the approved schematic design of the Owner, the Owner's Consultants, and the Client into the design development submission.

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

**Section 4.1 – Scope of Design Development Services**

The Professional shall submit drawings, a descriptive report, specifications, updated Project description and Basis of Design narrative, the updated Construction Cost Estimate, updated Project Design Schedule, updated Project Schedule, initial Project Construction Schedule.

The Professional shall be responsible for the work of its Subconsultant(s) and for the coordination of its work and the work of its various Subconsultant(s), including, but not limited to, the information presented within the phase submission.

**4.1.1 Narratives, Drawings, and Specifications:**

Narratives, drawings, and specifications shall be prepared in accordance with the Owner's Design Professional's Guide and Design Professional's Submission Requirements located on DASNY's website at <https://www.dasny.org/tools-forms/policies-guidelines/design-and-construction-guidelines-and-policies>.

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 Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including, plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix

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and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. Any physical renderings requested by owner shall be reimbursed pursuant to the terms of Chapter One – Project Terms and Conditions, Appendix A.

**4.1.2 Building Energy Modeling (BEM):**

At the completion of the design development phase, BEM shall be performed and submitted to confirm the predicted energy performance of the project.

1. Modeling software shall comply with the requirements of ASHRAE Standard 140. Examples include but are not limited to; DOE 2.1, Visual DOE or eQuest. Modeling runs shall compare the base building design complying with the New York State Energy Conservation Construction Code or by reference ASHRAE Standard 90.1 and the proposed building, showing the energy savings.
2. For applicable projects, the modeling report shall document support of the goals of State Executive Orders that call for Energy Use Intensity (EUI) reduction over certain baselines.

**4.1.3 Cost Estimate:**

The Professional shall provide a cost estimate in accordance with Section 1.4 and hold the estimating conference of Subsection 1.4.3.5 of this Chapter Two.

**4.1.4 Scheduling Services:**

The Professional shall provide scheduling services in accordance with Section 1.5 of this Chapter Two.

**4.1.5 Scope Budget Schedule Confirmation:**

The Professional shall provide scope, budget, schedule confirmation in accordance with Subsection 1.6.1 of this Chapter Two.

**4.1.6 Code Compliance:**

The Professional shall provide the Code Compliance documentation as required by Subsection 1.6.2 of this Chapter Two.

**4.1.7 Utility Information:**

The Professional shall provide the utility information as required by Subsection 1.6.3 of this Chapter Two.

**4.1.8 Meetings:**

The Professional shall attend meetings and provide minutes as required by Subsection 1.6.4 of this Chapter Two.

**4.1.9 Design Reviews:**

The Professional shall provide the design review requirements as directed by Subsection 1.6.5 of this Chapter Two.

**4.1.10 Testing:**

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The Professional shall provide the Project Testing Services as required by Section 1.8 of this Chapter Two.

**4.1.11 Special Inspections:**

The drawings and specifications prepared by the Professional shall include specifications for inspection and testing services during construction as required for code and regulatory compliance, or as directed by the Owner. The Professional shall prepare a draft Statement of Special Inspections utilizing the Owner's form. The testing services to be provided by an approved laboratory or engineer through a direct contract with the Owner shall be identified as well as the testing to be conducted by the Contractor, the Professional, or a third party not under contract with the Owner.

**4.1.12 Design Development Phase Approval:**

Unless directed otherwise in writing by the Owner acting through the Director, Planning, Design and Quality Assurance or a duly authorized representative of Owner, the Construction Documents Services shall not be started until the Owner approves the design development phase submissions and the Owner provides the Professional with written authorization to proceed to the Design Development Services. Without such written authorization, the Professional will be proceeding at its own risk.

**4.1.13 Domestically Sourced Products and Materials:**

The Professional shall specify and require the use of domestically sourced products and materials as required by Section 1.13 of this Chapter Two.

**Section 4.2 – Required Supplemental Services**

Required Supplemental Services, if any, included in Schematic Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 5 – CONSTRUCTION DOCUMENT SERVICES**

This phase shall consist of the development of the Construction Documents. The Construction Documents shall illustrate, describe further and complete the development of the approved Design Development Documents and shall consist of drawings and specifications, including structural, mechanical, electrical, civil and other systems and disciplines required for the Project, setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for construction of the Work. At the Owner's discretion there may be an unsealed and unsigned set of construction documents submitted for preliminary review. The Professional shall incorporate comments on the approved Design Development submission of the Owner, the Owner's Consultants, and the Client into the Construction Document submission.

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

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Section 5.1 – Scope of Construction Document Services

The Professional shall submit final design deliverables. Including but not limited to: drawings, specifications, Project description and Basis of Design narrative, the final Construction Cost Estimate, final Project Schedule, final Project Construction and Phasing Schedule.

The Professional shall be responsible for the work of its Subconsultant(s) and for the coordination of its work and the work of its various Subconsultant(s), including, but not limited to, the final design deliverables and the information presented within the phase submission.

5.1.1 Construction Documents:

Based on the information obtained during its activities pursuant to Articles 1, 2, 3 and 4 of this Chapter Two, and any modifications authorized by the Owner, the Professional shall prepare Construction Documents that detail the Work within the Approved Construction Budget. The Construction Documents shall:

1. be complete, incorporating comments from the previous design review, with completed drawings so that no additional data, changes, or information are required, and with completed specifications so that no additional data, information, or changes are required;
2. be fully coordinated, biddable, and constructible for the Owner's Contractors, and include complete drawings, specifications, requirements and any other pertinent data required to obtain complete bids and to enable the contractor to complete the Work as delineated therein;
3. take into account existing Site features and structures, and safely and efficiently integrate the Work into existing Site features and structures;
4. Include labor, material, and equipment necessary to complete the Work;
5. portray Work which meets the Owner's disclosed, demonstrated or documented aesthetic, functional, and operational objectives;
6. comply with applicable laws, statutes, building codes, rules and regulations of governmental, public, and quasi-public authorities and authorities having jurisdiction over the Project in effect on the date the documents are delivered to the Owner;
7. bear the signature and seal of the Professional or appropriate Subconsultant evidencing full responsibility for designs and Contract Documents provided for under this Term Contract for Professional Services; and
8. be included with and prepared in accordance with the Owner's standard Contract Documents such that they be fit and proper for the purpose intended.

5.1.2 Narratives, Drawings and Specifications:

Narratives including the final Basis of Design narrative, Drawings, and Specifications shall be prepared in accordance with the Owner's Design Professional's Guide and Design Professional's Submission Requirements located

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on DASNY's website at <https://www.dasny.org/tools-forms/policies-guidelines/design-and-construction-guidelines-and-policies>.

**5.1.3 Building Energy Modeling (BEM):**

At the completion of the construction document phase, BEM shall be performed and submitted to confirm the predicted energy performance of the project.

1. Modeling software shall comply with the requirements of ASHRAE Standard 140. Examples include but are not limited to; DOE 2.1, Visual DOE or eQuest. Modeling runs shall compare the base building design complying with the New York State Energy Conservation Construction Code or by reference ASHRAE Standard 90.1 and the proposed building, showing the energy savings.
2. For applicable projects, the modeling report shall document support of the goals of State Executive Orders that call for Energy Use Intensity (EUI) reduction over certain baselines.

**5.1.4 Cost Estimate:**

The Professional shall provide a cost estimate in accordance with Section 1.4 and hold the estimating conference of Subsection 1.4.3.5 of this Chapter Two.

**5.1.5 Scheduling Services:**

The Professional shall provide updated Project Construction Schedule in accordance with Section 1.5 of this Chapter Two.

**5.1.6 Scope Budget Schedule Confirmation:**

The Professional shall provide scope, budget, schedule confirmation in accordance with Subsection 1.6.1 of this Chapter Two.

**5.1.7 Code Compliance:**

The Professional shall prepare and finalize an updated copy of the Code Compliance documentation as required by Subsection 1.6.2 of this Chapter Two. Include any revisions due to changes in Project scope through the phases of design. Submit for final review by Owner.

**5.1.8 Utility Information:**

The Professional shall provide the utility information as required by Subsection 1.6.3 of this Chapter Two.

**5.1.9 Meetings:**

The Professional shall attend meetings and provide minutes as required by Subsection 1.6.4 of this Chapter Two.

**5.1.10 Design Reviews:**

The Professional shall submit a set of complete signed/sealed documents for final review and provide the design review requirements as directed by Subsection 1.6.5 of this Chapter Two.

**5.1.11 Testing:**

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The Professional shall provide the Project Testing Services as required by Section 1.8 of this Chapter Two.

5.1.12 Certifications and Approvals:

Upon completion of the Construction Documents, the Professional shall ensure (1) that Contract Documents are constructible and accurate; (2) that the Contract Documents provide for the proper coordination of the components and details; and (3) that the Construction Documents conform to applicable laws, ordinances and codes.

The Professional shall provide documentation and submissions as required by Section 1.3 of this Chapter Two.

5.1.13 Special Inspections:

The drawings and specifications prepared by the Professional shall include specifications for inspection and testing services during construction as required for code and regulatory compliance, or as directed by the Owner. The Professional shall finalize the Statement of Special Inspections utilizing the Owner's form. The testing services to be provided by an approved laboratory or engineer through a direct contract with the Owner shall be identified as well as the testing to be conducted by the Contractor, the Professional, or a third party not under contract with the Owner.

5.1.14 Schedule of Values:

The Professional shall develop the Schedule of Values containing information required by the Owner to be included in the bid documents for each Contract. The Schedule of Values shall be transmitted electronically in a file type, layout and format specified by the Owner.

5.1.15 Shop Drawings and Submittals:

The Professional shall develop a list of shop drawings and submittals, required by the Specifications, to be included in the bid documents for each Contract. The Professional agrees to develop the submittal list for each Contract and enter submittals in the Owner's Project Management Program or any other program selected by the Owner. In addition to the submittals required by the technical Specifications, the Professional shall include pre and post construction submittals including: special guarantees, warranties, drawings, operation and maintenance manuals, construction materials to be turned over to Owner after Substantial Completion and the required quantity thereof, special tools to be turned over to Owner after Substantial Completion and the required quantity thereof, certificates of compliance, test results, training for Owner or Client, and other close out items required for each specification section.

5.1.16 Regulatory Approvals and Construction Permits: (Confirm correct process)

1. DASNY as the Authority Having Jurisdiction

For Projects for which the Owner is the permitting agency, the Professional shall prepare and submit the Owner's *Construction Permit Application* form and

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required supplemental forms. The Professional shall meet the requirements and obtain a permit from the Authority.

2. Other Entities as the Authority Having Jurisdiction

For Projects where DASNY is not the authority having jurisdiction requiring a construction permit, the Professional shall submit documentation evidencing regulatory approval of the project to have a permit issued from the authority having jurisdiction. or, as may be applicable (or as may be required), evidencing a proper building permit

5.1.17 Domestically Sourced Products and Materials

The Professional shall specify and require the use of domestically sourced products and materials as required by Section 1.13 of this Chapter Two.

Section 5.2 – Construction Documents Revisions

If the Owner determines that the Construction Documents are not sufficient in number, content or quality to demonstrate the feasibility of the architectural, civil, structural, electrical or mechanical installations, the Owner may order that the documents be corrected or that additional documents be prepared at no additional cost to the Owner to adequately define said feasibility. Any interference among trades caused by inadequate design or coordination of the Construction Documents will be the responsibility of the Professional who will prepare, at no additional cost to the Owner, any supplemental drawings necessary to resolve the interferences found prior to or during the bidding period, or during construction.

Section 5.3 – Required Supplemental Services

Required Supplemental Services, if any, included in Schematic Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 6 – BID PHASE SERVICES**

This phase shall consist of the project bid and award of the Contract(s).

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

Section 6.1 – Bid Document Packages

The Professional shall prepare and supply the necessary original set(s) of bid document packages and addenda electronically, bearing the seal and signature of the Professional, to the printing contractor designated by the Owner for printing, bidding and eventual award of contracts. The Professional shall label these sets of documents "BID DOCUMENTS."

Section 6.2 – Bid Questions and Clarifications

The Professional shall investigate questions posed by the bidders relative to bid document packages or any other questions and, after receiving the Owner's prior written approval, issue written replies to all bidders in the form of addenda.

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Section 6.3 – Pre-Bid and Post-Bid Meetings

The Professional shall attend pre-bid and post-bid meeting(s) scheduled by the Owner and provide minutes as required by Subsection 1.6.4 of this Chapter Two.

Section 6.4 – Bid Reviews

The Professional shall assist the Owner and the Owner's Consultants in reviewing and analyzing the bids, including research into the qualifications and capabilities of the apparent low bidders to determine that the apparent low bidders are capable of fulfilling bid requirements, and make recommendations to the Owner as to the award of the contracts.

Section 6.5 – Conformed Documents

The Professional shall provide Conformed Documents for construction (identified as "Issued for Construction" documents). Conformed Documents shall be the Construction Documents modified, updated and coordinated to include any addenda issued during the bidding or negotiation process and accepted alternates. The Conformed Documents shall bear the signature and seal of the Professional or appropriate Subconsultant.

Section 6.6 – Required Supplemental Services

Required Supplemental Services, if any, included in Bid Phase Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 7 – CONSTRUCTION PHASE SERVICES**

The Construction Phase begins at a construction kickoff meeting and is comprised of Construction Administration and Construction Fieldwork tasks as outlined below.

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

The Professional shall be responsible for the work of its Subconsultant(s) and for the coordination of its work and the work of its various Subconsultant(s), including, but not limited to the requirements set forth in the following sections.

Section 7.1 – Construction Administration – Consultation, Interpretations, and Clarifications

The Professional shall (i) consult with and advise the Owner on design and technical matters; and, (ii) resolve the requests for information (RFIs) from Contractors concerning the Drawings and Specifications of the Contract in the manner required by the General Requirements of the Contract Documents. The Professional shall enter the Professional's response to each RFI, including attachments, graphic matter and documents referenced in the response, into the RFI log in the Owner's Project Management Program. The Professional shall render to the Owner written, graphic, or written and graphic interpretations and recommendations necessary for the proper execution of the Work, including but not limited to the Design Intent of the drawings and specifications of the Contract. The Professional shall supply the Owner, in the manner directed by the Owner, with copies of correspondence, reports, comments, transmittals, requests, architect's

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supplemental instructions ("ASIs"), bulletins, sketches, acted-upon shop drawings and other submittals, and other information relating to the Project.

**7.1.1 Coordinated Composite Drawings**

The Professional shall review the Contractor(s) composite coordination drawings submission for conformance with the project requirements and specifications. The Professional shall notify the Owner in writing of material deficiencies in the Contractor(s) composite coordination drawings, including the delineation of the project in sufficient scope and appropriate detail. The Professional shall provide the Contractor(s) with the physical or digital (as directed by the Owner) backgrounds for the Contractor(s) coordinated composite drawings. The Professional's confirmation does not constitute approval of the accuracy or content or completeness of the drawings.

**7.1.2 Submittals and Shop Drawings**

The Professional is obligated to promptly approve, reject or take other appropriate action on, and return, submittals to the Contractor within 15 calendar days unless otherwise directed by the Owner. The Professional shall not approve any such submittals unless such submittals conform to (i) the Design Intent; (ii) the Construction Documents; (iii) the Contract(s) and (iv) the Owner's Approved Construction Budget. Professional shall use the Owner's Project Management Program to record the dates received from and/or returned to the Contractor, the findings of the Professional's review, and other pertinent information pertaining to each submittal. "Reviewed" or "Not Reviewed" shall not be an acceptable response to a submittal.

The Owner, at its option, may withhold and/or back charge the Professional for any costs or delays caused by the Professional's (i) failure to timely review and return submittals to the Contractor, or (ii) improper approval of a submittal which does not conform to (i) the Project Design Intent; (ii) the Construction Documents; (iii) the Contract(s) or (iv) the Owner's Approved Construction Budget.

**7.1.3 Comparable Products ("Or Equal" Clause)**

The Professional shall review and approve, reject, or take other appropriate action on proposed substitutions for comparable products, materials or equipment within 15 calendar days of the request. The Professional shall not approve any such proposed comparable products substitution of materials or equipment unless such proposed materials or equipment conform to (i) the Project Design Intent; (ii) the Construction Documents; (iii) the Contract(s), including but not limited to the General Conditions of the Contract(s) and the General Requirements of the Contract(s), (iv) the Project Construction Schedule, shop drawing, fabrication and delivery timeframes; (v) the Owner's Approved Construction Budget; and (vi) the requirements and goals as defined in the OPR, including third-party rating system goals if applicable. The Professional shall not approve any proposed "or equal" or substitution for any manufacturer or product for which the Owner has a procurement exemption and has named a single source or sole source, unless otherwise authorized/approved by the Owner. The Professional shall review material substitutions with the Owner for concurrence and approval.

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7.1.4 Testing

The Professional shall promptly, and in accordance with Project schedule requirements, review and evaluate the results of inspections, tests and written reports required by the Owner and by any governmental entity having jurisdiction over the Project. The Professional shall take appropriate action on test results, including acceptance, rejection, requiring additional testing or corrective work, or such other appropriate action. The Professional shall promptly recommend to the Owner rejection of Work that does not conform to and comply with testing requirements. The Owner can accept or reject the Professional's recommendation. The Professional shall notify Owner of any concerns with the quality of the testing.

7.1.5 Special Testing

The Professional shall promptly require inspection or testing of any Work in addition to that required by the Owner or governmental entities having jurisdiction over the Project when such additional inspections and testing is necessary or advisable, whether or not such Work is then fabricated, installed or completed. The Professional shall take appropriate action on such special testing and inspection reports, including acceptance, rejection, requiring additional testing or corrective work, or such other appropriate action. The Professional shall promptly recommend to the Owner rejection of Work that does not conform to and comply with testing requirements. The Owner can accept or reject the Professional's recommendation. The Professional shall notify Owner of any concerns with the quality of the testing.

7.1.6 Interpretation of Construction Documents

The Professional shall act as initial interpreter of the requirements of the drawings and specifications of the Contract Documents. The Professional shall render any assistance that the Owner may require with respect to any claim or action in any way relating to the Professional's services during or subsequent to the design or construction of the Project including, without limitation, review of claims, preparation of technical reports and participation in negotiations both before and after the Professional has otherwise completed performance of this Term Contract For Professional Services and without any additional compensation therefore, except for those services specified in Appendix B Subsection B.5 of this Chapter Two. The Professional shall include in each agreement with a Subconsultant for this Project a requirement that such Subconsultant shall render any assistance that the Owner may require with respect to any claim or action in any way relating to the Subconsultant's services during or subsequent to the design or construction of the Project including, without limitation, review of claims, preparation of technical reports and participation in negotiations both before and after the Subconsultant has otherwise completed performance of its services for this Project and without any additional compensation therefore, except for those services specified in Appendix B, Subsection B.5 of this Chapter Two.

7.1.7 Minor Changes, Change Order Requests and Change Orders

1. When directed by the Owner, the Professional shall review a proposed Allowance Allocation Approval, an Allowance Allocation Approval, a proposed Notice to Proceed, a Notice to Proceed, a proposed Change Order, a

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Contractor's proposal for a Change Order, or a Change Order for the effect on Design Intent, OPR and code compliance and, if directed to do so by Owner, perform an analysis of the quantity of materials in such document and make recommendations to the Owner. For a Contractor's proposal for a Change Order or a proposed Change Order, the Professional shall review and verify the proposed change in scope as requested by Owner.

2. The Professional shall promptly prepare required drawings, specifications and other supporting documentation as necessary in connection with a proposed or actual Allowance Allocation Approval, Notice to Proceed, or Change Order. The Professional shall not be responsible for the economic evaluation, accounting or processing of an Allowance Allocation Approval, a Notice to Proceed, or a Change Order.

7.1.8 Professional's Submittals to Owner

1. As-designed record drawings are the record of the Professional's design for the Project and shall include but are not limited to the original Construction Documents plus other documentation and/or drawings, sketches and field directives related to addenda, supplemental Instructions and information, Change Orders, and changes, and modifications and/or substitutions in the work. Within sixty (60) days of Substantial Completion, the Professional shall provide two (2) complete sets of compiled as-designed record drawings in PDF format and in the latest release of AutoCAD DWG format, unless otherwise directed by the Owner.
2. As-constructed record drawings shall include as-built drawings and specifications and are the record of the Project as constructed based on information and documentation the Contractor provides to the Owner under the Contract.. Within sixty (60) days of the Owner's delivery to the Professional, the Professional shall review the documents for completeness, identify any material and/or significant inconsistencies deficiencies and omissions, and provide the Owner and Contractor(s) with a list of deficiencies and omissions, if any. The Professional shall review subsequent drafts in the same manner until the as-constructed record drawings are complete. The Professional shall transmit one (1) paper copy set of marked-up as-constructed record drawings to the Owner.
3. Operations and maintenance manuals shall include operations and maintenance information and documentation for products, systems, subsystems and equipment, and are prepared by the Contractor, its subcontractors and/or suppliers. Within thirty (30) days of the Owner's delivery to the Professional, the Professional shall review the draft operation and maintenance manual(s) and provide the Owner and Contractor(s) with a list of deficiencies and omissions, if any. The Professional shall review subsequent drafts in the same manner until the operation and maintenance manual(s) are complete. The Professional shall transmit one (1) electronic PDF format set of operations and maintenance manuals to the Owner.

7.1.9 Other required Documentation

The Professional shall provide other documentation as may be required by the

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owner and/or regulatory entities, including but not limited to reports, startup, testing, turnover, sustainability, commissioning, etc.

**Section 7.2 – Construction Fieldwork - Site Visits, Reporting, and Inspections of Work**

- 7.2.1 The Professional shall visit the Project Site with sufficient frequency (at a minimum, once in every two-week period) to familiarize itself with the progress and quality of the Work and to inspect the Work to determine compliance of the Work with
1. the Contract(s), including but not limited to approved shop drawings and other submittals;
  2. the Project Construction Schedule;
  3. applicable laws, statutes, building codes, rules or regulations of governmental, public, and quasi-public authorities and agencies having jurisdiction over the Project; and
  4. the selected third-party rating system, if this is applicable to the Project.
- 7.2.2 Each Subconsultant shall visit the Project Site with sufficient frequency when Work in its area of expertise is being performed to familiarize itself with the progress and quality of the Work and to inspect the Work to determine compliance of the Work with
1. the Contract(s), including approved shop drawings and other submittals;
  2. the Project Construction Schedule; and
  3. applicable laws, statutes, building codes, rules or regulations of governmental, public, and quasi-public authorities and agencies having jurisdiction over the Project.
  4. The Professional shall include in each agreement with a Subconsultant for this Project a requirement that such Subconsultant shall be obligated to visit the Project Site and attend any meeting whenever the Owner, in its sole and exclusive discretion, determines that such visit or attendance is necessary or useful to provide the services required by this Article. This Subsection 7.2.2.4 is a material component of this Term Contract for Professional Services.
- 7.2.3 The Professional shall attend construction kick-off meeting(s). The Professional shall attend progress meetings and preinstallation meetings with the Owner, Owner's Consultant(s), Contractor(s) and other necessary parties, shall prepare and distribute agendas when directed to do so by the Owner, and shall record the minutes of such progress meetings and preinstallation meetings. The Professional shall provide minutes of all meetings to the participants within five (5) business days of said meetings. The Professional shall prepare and submit the meeting minutes using the Owner's Project Management Program. Subconsultants shall attend construction kick-off meeting(s), progress meeting(s) or preinstallation meeting(s) when directed to do so by the Owner. The Professional shall include provision(s) in its agreements with Subconsultants obligating such Subconsultants to attend meetings as set forth in this Term Contract for Professional Services.
- 7.2.4 Each on-Site construction inspection shall be conducted by an experienced, qualified representative of the Professional or appropriate Subconsultant who is

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knowledgeable about the Project and competent in each discipline which has trade activities in progress at the time of the inspection. The Professional shall prepare a record of each Site inspection within 48 hours of the inspection utilizing the Owner's Project Management Program.

- 7.2.5 When a Project is subject to the Building Code of the State of New York, the Professional or appropriate Subconsultant shall perform the structural observation for the Project required by and in accordance with the Building Code of the State of New York.
- 7.2.6 The Professional shall exercise care and diligence in discovering and reporting to the Owner and shall record their findings in the Owner's Project Management Program the results of each of its visits, including defects and deficiencies in the Work, and shall recommend to the Owner appropriate courses of action, if any.
- 7.2.7 The Professional shall promptly recommend to the Owner disapproval or rejection of Work that does not comply with:
1. the Contract Documents including approved shop drawings and others submittals; or
  2. applicable laws, statutes, building codes, rules or regulations of governmental, public, and quasi-public authorities and agencies having jurisdiction over the Project.
- 7.2.8 The Professional shall immediately notify the Owner and shall issue a Notice of Non-Compliance using the Owner's Project Management Program when the Professional has disapproved or rejected any Work.
- 7.2.9 During each visit to the Site, the Professional shall verify the Contractor's progress on preparing the as-built drawings. The Professional shall include a status of the as-built drawings in the Site construction inspection report. The Professional shall immediately notify the Owner if inadequate progress is noted on as-built documents.

**Section 7.3 – Construction Fieldwork - Construction Completion**

- 7.3.1 When the Contractor believes that the Work has progressed to Substantial Completion, the Contractor will notify the Owner that the Work is ready for a Substantial Completion inspection. Upon receipt of such notification, the Owner shall coordinate with the Professional and the Contractor to schedule the inspection.
- 7.3.2 At the Substantial Completion inspection, the Professional shall
1. inspect the Work;
  2. determine whether the Contractor has satisfactorily completed the items of Work claimed to be complete, and compile for the Owner a list of the incomplete items of Work;
  3. determine whether the Work complies with (a) the Contract Documents, (b) applicable laws, statutes, building codes, rules or regulations of governmental, public, and quasi-public authorities and agencies having jurisdiction over the Project, and (c) applicable installation and workmanship standards;

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4. determine whether required inspections and approvals by the authorities and agencies having jurisdiction over the Project have been satisfactorily completed; and
5. provide the Owner with an estimate of the value of the Work left to complete.
6. within two weeks of initial notification of Substantial Completion, the professional shall perform an initial inspection and develop and provide to the Owner a punchlist.
7. upon completion of the punchlist work, the Owner will notify the Professional. Within five days of such notification, or as otherwise directed by the Owner, provide follow-up inspections of the punchlist items and/or unperformed and uncorrected work items.
8. the professional shall attend punchlist review meetings as directed by the Owner.
9. the process shall be repeated until Physical Completion of the Work.
10. the professional shall complete the Owner's standard form(s), provide a listing of exceptions, if any, and a schedule for their completion.

**Section 7.4 – Required Supplemental Services**

Required Supplemental Services, if any, included in Construction Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**ARTICLE 8 – POST-CONSTRUCTION SERVICES**

Related Provisions: The Professional is reminded of the contractual obligation set forth in Article 1 of Chapter Two of this agreement which set forth Work to be performed in each phase. This provision is intended only to raise awareness of the Professional's obligations and is not a waiver or modification of any contractual provisions set forth in this agreement.

**Section 8.1 – Guarantee Inspections**

The Professional shall inspect the Project within ten (10) to thirty (30) days prior to the end of the one-year guarantee periods included in the Contract(s) and notify the Owner in writing as to defects, faults or failures to comply with the Contract(s), if any, in the material, equipment, workmanship or other part of the Work.

**Section 8.2 – Required Supplemental Services**

Required Supplemental Services, if any, included in Post-Construction Services are listed in Appendix A of this Chapter Two and incorporated herein by reference.

**APPENDIX A – REQUIRED SUPPLEMENTAL SERVICES**

It is anticipated that the following required supplemental services may be performed by the Professional's subconsultants:

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**Section A – Geotechnical Services**

The Professional shall be responsible for hiring a geotechnical engineer involved to perform an investigation of the site subsurface conditions and prepare a report. The geotechnical engineer will be responsible for determining the scope of the required investigation, which will also be subject to review by the Owner. At a minimum, the geotechnical investigation and report shall meet the requirements outlined in Chapter 18 of the applicable Building Code. See also the Owner's Design Professional's Submission Requirements located on DASNY's website at <https://www.dasny.org/tools-forms/policies-guidelines/design-and-construction-guidelines-and-policies> for information related to the timing and scope of these services. The geotechnical engineer shall be part of the project team and remain involved at various intermediate stages in the process to review the construction documents, interact with the structural engineer and architect, and confirm that their recommendations are being interpreted as intended.

**Section B – Regulated Building Materials**

For alteration, renovation and rehabilitation work performed in existing buildings, the Professional shall retain a qualified asbestos subconsultant to determine the presence of Regulated Building Materials (RBM), including asbestos-containing materials (ACM), polychlorinated biphenyl (PCB), Lead-Based Paint (LBP), mold, hazardous and universal waste. If hazardous materials are present, and the Owner determines that the materials should be abated, the Professional shall provide the design for the abatement of the hazardous materials by preparing hazardous materials drawings and specifications for the abatement and remediation, and to monitor the abatement or remediation of the hazardous materials by the Owner's Contractor if directed by the Owner.

**Section C – Expediting**

Provide limited on demand expediting services associated with filing of applications to Authorities Having Jurisdiction as required for the scope of work.

**Section D – IT/AV, Acoustics, Telecomm, and Security**

Provide IT infrastructure design, AV design, and security CCTV and access control as required for assigned projects.

**Section E – Vertical Transportation**

Provide consulting services for elevator design and specifications as required for assigned projects.

**Section F – Lighting Design**

Provide lighting design services as required for assigned projects.

**Section G – Exterior Envelope Consulting**

Provide consulting services for assessment, testing, and/or design of exterior envelope including roofing and waterproofing as required for assigned projects.

**Section H – Historical Preservation Consulting**

Provide historical preservation consulting services as required fir assigned projects.

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Section I – Landscape Architecture

Provide landscape and planting design services as required for assigned projects.

Section J – Art Acquisition

For the Art Acquisition Program, the Professional, shall participate as a non-voting member of the Art Selection Committee by attending meetings, providing advice, and by recommending and designing suitable settings, as described in the Owner's Art Acquisition Program Procedures.

Section K – Post Occupancy Evaluation Services

The Professional shall provide post-occupancy evaluation services as described below, commencing no later than 30 days prior to the end of the one-year guarantee period.

1. The Professional shall perform a post-project review with the Owner and Client. This post-project review shall include, but not be limited to: a kick-off meeting on-site to review the post-occupancy evaluation process, scope, and schedule;
  - a. review of the OPRs and project goals;
  - b. review of design and construction documentation;
  - c. physical observation, including records and testing as appropriate to the project scope;
  - d. functional observation, including records and testing as appropriate to the project systems;
  - e. Occupant/user/stakeholder surveys and interviews regarding response to and satisfaction with the constructed project;
  - f. financial evaluation, including analysis of operational and life-cycle costs;
  - g. a final report summarizing status of goal achievement, lessons learned, action steps, and recommendations; and
  - h. an exit conference on-site to review the final report and findings.
2. The post-occupancy evaluation shall include both quantitative and qualitative measurements and analysis.
3. The Owner and Client shall make operational records available to the extent feasible.
4. The Professional shall recommend and provide testing as approved by the Owner.
5. The cost of post-occupancy evaluation services shall be considered supplemental services.

Section L – Furniture, Furnishings and Equipment (FF&E)

For projects where the professional will design FFE:

The Professional shall provide complete plans and specifications suitable for securing competitive bids for Furniture, Furnishings and Equipment (FF&E) unless expressly excluded by the Owner. Items considered as FF&E shall include but not be limited to movable furniture, systems furniture, artwork, accessories, signage, planters, window coverings and items not permanently affixed to the building structure.

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FF&E items shall be included in the drawings and specifications produced by the Professional and provided to the Owner for review and approval. FF&E responsibilities to include, but not be limited to:

1. Programming Services: The Professional shall consult with the Owner regarding the Owner's scope, intent, goals, and objectives for the Project's FF&E.
2. FF&E Budget: The Professional shall assist the Owner in preparation of the FF&E budget, if applicable, and shall submit to the Owner a Construction Cost Estimate for FF&E.
3. The Professional shall review and confirm the FF&E will fit in the spaces intended, with utilities and required infrastructure provided for in the Construction Documents.
4. The Professional will consult with the Owner concerning furniture types, colors, and finishes.

The Professional shall provide complete plans and specifications suitable for securing competitive bids for equipment. Equipment that is specified by the Professional must meet the provisions set forth in New York State Executive Order 88 and Section 5-108-a of the New York State Energy Law.

For projects where DASNY Interior Design, Client or another consultant will design FFE:

The Client, Owner or Owner's Consultant shall provide complete plans and specifications suitable for securing competitive bids for Furniture, Furnishings and Equipment (FF&E) unless expressly excluded. Items considered as FF&E shall include but not be limited to movable furniture, systems furniture, artwork, accessories, signage, planters, window coverings and items not permanently affixed to the building structure.

The Professional shall review and confirm the FF&E will fit in the spaces intended, with utilities and required infrastructure provided for in the Construction Documents. The Professional will consult with the Owner concerning furniture types, colors, and finishes. For projects where the Owner will develop FFE, Professional provides documents for bidding:

The Professional shall provide complete plans and specifications suitable for securing competitive bids for Furniture, Furnishings and Equipment (FF&E) unless expressly excluded by the Owner. Items considered as FF&E shall include but not be limited to movable furniture, systems furniture, artwork, accessories, signage, planters, window coverings and items not permanently affixed to the building structure.

Any items that occupy floor space shall be included on the drawings produced by the Professional and provided to the Owner for the purposes of developing detailed specifications. The Owner shall make modifications and refinements to the drawings, when applicable, in order to accommodate the needs of the end-users, to account for variations that arise during the specification process or in recognition of other conditions that will require modification to the furnishings and equipment layouts. Any drawings that are modified pursuant to this section will be provided to the Professional for review and coordination with building services, applicable codes and other design elements that the modifications may have impacted. Upon completion of the detailed specifications, the Owner will provide a detailed FF&E list to the Professional. The Professional shall review

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the list to confirm, where appropriate, that the furniture and equipment will fit in the spaces intended. The Professional will consult with the Owner concerning furniture types, colors, and finishes.

The Professional shall provide complete plans and specifications suitable for securing competitive bids for equipment. Equipment that is specified by the Professional must meet the provisions set forth in New York State Executive Order 88 and Section 5-108-a of the New York State Energy Law.

The Owner will develop a specification for Systems Furniture (125900). The Professional will be responsible for coordinating the required connections to building services for the Systems Furniture and other equipment or furniture requiring electric power, data connections, telephone service, plumbing or any other service or utility that will be distributed through the structure.

**Section M – Medical and Laboratory Equipment**

For facilities requiring medical or laboratory equipment, the Professional shall provide specifications of such medical or laboratory equipment and coordinate the required building services required for proper operation. The Professional shall supervise the testing of the equipment upon installation and participate, with a manufacturer's authorized representative, in the inspection of the equipment for missing components and defects. Services must be provided by staff of the Professional or a sub-consultant competent and experienced in the specification of medical and laboratory equipment.

**Section N – Compiled Final Project Record Drawings**

Compiled final project record drawings shall consist of a singular combined set of documents, including but not limited to (1) the as-designed record drawings, the record of the Professional's design for the Project; and (2) the Contractor's as-constructed record drawings, the record of the Project as constructed based on information and documentation the Contractor provides to the Owner under the Contract. The Professional shall not be responsible for the accuracy or completeness of the Contractor's as-constructed drawings, information and documentation. Within sixty (60) days of the Owner's delivery to the Professional of the final as-built drawings and markups prepared by the Contractor(s), the Professional shall provide two (2) complete sets of compiled final project record drawings in PDF format and in the latest release of AutoCAD DWG format, unless otherwise directed by the Owner.

**Section O – Additional Required Supplemental Services**

The Professional shall provide additional required supplemental professional design and/or consulting services as authorized and directed by the Owner.

Required Supplemental Services are to be determined by the Owner and may vary depending on the project type and scope. In some instances, the Required Supplemental Services listed above may be considered a base service and included in the DASNY Fee Schedule deliverables.

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**APPENDIX B – PROFESSIONAL'S ADDITIONAL SERVICES**

Section A – Initiation of Additional Services

The Professional shall provide such additional services described in this Appendix B not otherwise included in Required Base Services or identified as a “Required Supplemental Service,” which shall be initiated and authorized in writing, through a Contract Amendment, by the Owner prior to performance.

Section B – Definition of Additional Services

Additional services include, but are not limited to:

1. Services added during the design process, not initially included in this Term Contract for Professional Services.
2. Services necessary to significantly revise a final set of Construction Documents when such revisions are (i) inconsistent with approvals or instructions previously given by the Owner; (ii) required by the enactment or revision of applicable laws, statutes, building codes, rules and regulations of any governmental, public and quasi-public authority or agency having jurisdiction over the Project subsequent to the completion of such documents; or (iii) required by the Owner's election to revise the scope of the Work when such revisions are not necessitated by (i) deficiencies or conflicts in, or discrepancies between, the Construction Documents; (ii) the Professional's failure to perform its duties or substantially perform in accordance with the terms of this Term Contract For Professional Services; or (iii) other acts or omissions of the Professional.
3. Structural, mechanical, chemical and other laboratory tests, inspections and reports required by law or the Construction Documents, or otherwise necessary, not otherwise obtained by the Owner or the Contractor, at the Professional's documented cost.
4. Services required in connection with replacement of Work damaged by natural catastrophe or intentional acts of parties other than the Professional or employees, agents or subcontractors of the Professional during construction.
5. Services for preparation for and attendance at deposition, discovery or court or other dispute resolution proceedings on behalf of the Owner, except when such proceedings involve issues of fault, neglect or alleged liability of the Professional, or its agents, employees, or consultants.
6. Services required by any failure to adequately perform contractual responsibilities by any (i) Contractor; (ii) any Contractor's subcontractor(s) or supplier(s); or (iii) the Owner.
7. Services required by change orders initiated by the Owner, including as applicable, those services specified in Subsection 7.1.7 of this Chapter Two.
8. Other services not included in Required Services mutually agreed to by the Owner and the Professional in writing.
9. Payment of the Professional for Additional Services shall be in accordance with the provisions of Chapter One – Project Terms and Conditions, Section 6.2.