Document 00910

ADDENDUM NO. 1

Date of Addendum: 09/29/16

PROJECT NAME: **New Sunnyside Multi-Service Center and Health Center**

PROJECT NO: H-000091-0001-3

SUBMITTAL DATE: October 6, 2016 (There is no change to the Submittal Date.)

FROM: City of Houston, General Services Department
900 Bagby, 2nd Floor
Houston, Texas 77002
Attn: Gilberto Lopez, Sr. Project Manager

TO: Prospective Respondents

This Addendum forms a part of the Request for Qualifications (RFQ) and it will be incorporated into the Contract, as applicable. Insofar as the original RFQ is inconsistent, this Addendum governs.

RESPONSES to QUESTIONS

Q1. Will you be posting a sign-in sheet.

A. A sign-in sheet along with the Agenda sheet from the Pre-Submittal meeting held on September 21st is posted on the City of Houston website.

Q2. Are we allowed to provide an org chart and team headshots and/or bios with our SOQ.

A. No. Follow the instructions captioned within each section of the RFQ.

Q3. The Project Manager/Project Architect project experience form is set up as an and/or format. However the first of the three pages asks for Project Manager Experience and the last two pages ask for Project Architect experience. What experience does the city want to see on this form?

A. The headings referenced have been corrected.

Q4. Evaluation criteria shows Proposed Personnel to include Sections 2.1 – 2.4, but there is no section 2.4 in the RFQ. Is this a mistake?

A. This item was corrected to include Section 2.1 – 2.3.

Q5. Does the City want to see an expanded list of Proposed Personnel if not all team members can fit on the designated template? Or would you like to only see key team members for the key roles?

A. In section 2.1 Proposed Key Personnel; the caption defines four key personnel. The SOQ table has been adjusted to accommodate four fill-ins.

Q6. Do proposers have to submit Exhibits C-H along with the information Form – 00455 and POP-1 Acknowledgement form for the submission?

A. Section 7.1 Required Forms defines the ONLY forms to be submitted with the SOQ.

Q7. Will you please advise if the City of Houston Ownership Information Form and the Pay or Play Acknowledgement Forms are required for the Prime only or if they are also required for the subs?

A. The Respondent is to include the forms per section 7.1 Required Forms for Prime only.

Q8. The Section 4 – Statement of Qualifications 18 page form indicates that it is a populate-able form, however the one embedded in the RFQ does not appear to be live. Can we obtain the live .pdf version of the form for populating so that we can keep to the page limits and format requirements?

A. A revised Section 4 [locked Word doc.] is being provided.

Q9. PART A: Did I understand the question and answer from the pre-submittal conference about example projects to submit: Project examples (photos) used by Respondent are those projects only completed by the Prime Respondent, and cannot be projects completed by the local associate architect unless those firms are a legal joint venture. Correct?

A. Correct.

PART B: The local associate architect team are listed in the proposed key personnel as Design Team proposed for the project, but do not include their projects in the Respondent's Experience section of the form. Is that correct?

A. Correct.

Q10. In the Advertisement for Architectural Services notice, at the end of the second paragraph after the headings approximately middle of the page is this sentence: "Addenda will be distributed at no cost to those who are registered RFQ holders with the City."

A. This sentence is a holdover from pre-electronic versions of the RFQ. Please disregard this sentence in its entirety.

CLARIFICATIONS

In addition to responses above, these clarifications are reflected in this Addenda 1 and are highlighted in these notes:

1. All reference to project "type" was deleted from RFQ.
2. All reference to "Day Care" facility was deleted from RFQ.
3. Section 2.1 four cells are provided in lieu of 7.
4. Section 2.3 five cells are provided in lieu of 10.
5. Section 5.1 three cells are provided in lieu of 5.
6. Project number clarification typical
7. General or miscellaneous format adjustments.

ADDITIONAL INFORMATION

Item 1: Replace RFQ in its entirety with RFQ annotated with ADDENDUM 1 in the footer section of the document.

Change bars (I) are provided in the left outside margins of pages from the RFQ to indicate where changes have been made; no change bars are provided in added text.

END OF ADDENDUM NO. 1

(CRC:) 09/29/16

Richard Vella — DATE
Chief of Design & Construction
General Services Department

REQUEST FOR QUALIFICATIONS
FOR
ARCHITECTURAL SERVICES

New Sunnyside Multi-Service Center
And
Health Center

Qualifications Submittal Date
Thursday, October 6, 2016

City of Houston
General Services
Design & Construction Division

ADDENDA 1

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ADDENDA 1

REQUEST FOR QUALIFICATIONS
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name: New Sunnyside Multi-Service Center and Health Center
Project Number: H-000091-0001-3

1 – RFQ PROCESS

1.1 PURPOSE

The City of Houston (City), General Services Department (GSD), on behalf of the Houston Health Department (HHD), is requesting Statement of Qualifications (SOQ) for the selection of a Professional Architectural Services for this project.

The City anticipates retaining professional design services to provide the Scope of Services outlined in Document 2 of this RFQ. Architectural firms and team members with significant experience in planning, designing, and construction administration of projects with similar characteristics will be given prime consideration for this project.

While there is a high expectation that all elements of the design process meet the highest standards of architectural and engineering practices, there will be added emphasis on the mechanical and electrical systems development and design.

Those firms or joint ventures that participate in this RFQ process will be referred to as "Respondents". "Respondent" and its sub consultants shall be referred to collectively as the "Design Team". The successful firm or joint venture will be referred to, in the RFQ, as the "Architect".

1.2 SUBMITTAL INSTRUCTIONS

Respondents shall submit six hard copies and six electronic copies (CD or flash drive) of the SOQ Submittals (see Document 4), in a sealed box labeled with the Respondent's name, name of the Project, and General Services Department. SOQ Submittals are due at the date, time, and location set out below. Late submittals will not be accepted.

Date: **Thursday, October 6, 2016**
Time: **Accepted until 2:00 p.m.**
Location: **City Secretary, 900 Bagby, Ground Level, Room P101, Houston, TX 77002**

1.3 PRE-SUBMITTAL MEETING

A pre-submittal meeting will be held at the date, time, and location set out below. Attendance at the meeting is recommended, but not mandatory; however, meeting minutes will not be issued.

Date: **Wednesday, September 21, 2016**
Time: **2:00 p.m.**
Location: **City Hall Annex, 900 Bagby Street, 2nd Floor, Room 242**

1.4 QUESTIONS

Please email questions concerning this RFQ to:

Richard A. Vella
Chief of Design & Construction Division / Assistant Director
General Services Department
Email: Richard.Vella@houstontx.gov

C/o Gilberto Lopez
Sr. Project Manager
Email: Gilberto.Lopez@houstontx.gov

All questions must be submitted before noon on Friday, September 30, 2016.

1.5 ADDENDA

All modifications or clarifications of this RFQ will be issued in writing as an Addendum. Addenda will be posted at www.houstontx.gov/generalservices/Advertisements. Respondents may only rely on information set out in this RFQ, as modified by Addenda. By submitting an SOQ, Respondents will be deemed to have received all Addenda.

No Addendum will be issued later than noon on Monday, October 3, 2016, except Addenda with minor clarifications, withdrawing the RFQ, or postponing the Qualifications Submittal Date.

1.6 ESTIMATED RFQ TIMELINE

Pre-Submittal Meeting:	2:00 p.m., Wednesday, September 21, 2016
Questions Deadline:	Noon, Friday, September 30, 2016
Addenda Deadline:	Noon, Monday, October 3, 2016
SOQ Submittal Date:	2:00 p.m., Thursday, October 6, 2016
Anticipated Selection Date:	Wednesday, November 16, 2016
Contract Notice to Proceed:	Friday, February 10, 2017

REQUEST FOR QUALIFICATIONS
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name: New Sunnyside Multi-Service Center and Health Center
Project Number: H-000091-0001-3

2 – SCOPE OF SERVICES

2.1 PROJECT DESCRIPTION

Project Name: New Sunnyside Multi-Service Center and Health Center
Location: Sunnyside Park, Houston, TX 77051
Estimated Project Budget: **$ 24,915,000.00**

This project will combine the existing Sunnyside Multi-Service Center (MSC) and the existing Sunnyside Health Center (HC) operations into a single new facility to be located on the Sunnyside Park property. Multi-Service Centers manage various programs including senior citizen community programs. Similarly, Health Centers dispense health care, including disease prevention and care, dental care, nutritional care, family planning, immunizations, and WIC programs.

The New Sunnyside MSC-HC program development will take into consideration innovative concepts in health care management and services. Unique conditions make an ideal environment for redesigning traditional health care models, fostering and improving health in the Sunnyside Park area community. The design team will be sensitive to the local community's health-related needs and vision.

A key component to the success of the New Sunnyside MSC-HC project is to address and refresh the Sunnyside Park Masterplan multi-use development. The new facility is projected to be a 60,000 square feet, multi-story building. The project will specify cutting-edge building technologies for structures, building envelope, mechanical, electrical, plumbing, data-com, and building finishes. In addition, the project will allow for additional parking, detention modifications, landscaping and irrigation, and site elements.

Finally, the existing Sunnyside MSC and HC facilities located at Wilmington and Cullen streets will remain operational during the development of the new facility in order to provide a seamless transition for the community services.

2.2 PROPOSED PROJECT SCHEDULE

For planning purposes, the anticipated timeline for the project is:

Design Services Procurement	09/06/2016 – 02/03/2017
Design Phase	02/10/2017 – 02/09/2018
Construction Administration	08/08/2018 – 03/25/2020

2.3 CONSTRUCTION DELIVERY METHOD

The project will utilize the Construction Manager at Risk (CMAR) delivery method.

2.4 DESIGN SERVICES

The Architect will provide all professional design services necessary to:

- Produce a master plan for the entire park site; integrate new facilities with existing facilities.
- Provide at least four different location/layouts for the new facility.
- Program development of the New Sunnyside MSC-HC Facility as Phase I of the master plan.
- Evaluate existing topographic and site conditions; identify critical and/or essential components.
- Review and verify design standard requirements and/or Houston Health Department standards.
- Survey and document existing MSC and HC facilities (Wilmington/Cullen streets) to aid in the baseline program and design criteria controls.
- Design to a Silver Level in the Leadership in Energy & Environmental Design (LEED) Green Building Rating System™ of the US Green Building Council (USGBC).
- Coordinate and document for LEED Certification.
- Provide specifications for furniture, fixtures and all equipment (FF&E).
- Provide computer-aided design and drafting (CADD) documentation.
- Arrange, conduct, and record Design Phase meetings, including Client requested and/or special meetings.
- Cooperate and coordinate in developing estimates and constructability reviews for each phase of design.
- Coordinate with the Civic Art program.

REQUEST FOR QUALIFICATIONS
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name: New Sunnyside Multi-Service Center and Health Center
Project Number: H-000091-0001-3

3 – EVALUATION PROCESS AND CRITERIA

3.1 EVALUATION PROCESS

The Respondents will be evaluated as follows:

Step One: Statement of Qualifications – An evaluation committee will review and evaluate Respondent's SOQ, based on the evaluation criteria set out below. Respondents can receive up to 100 points for the SOQ. A maximum of five firms will be short-listed to participate in Step Two.

Step Two: Interviews/Presentations – Short-listed Respondents will be required to participate in an interview/presentation. The interview/presentation will be evaluated based on evaluation criteria set out below. The Respondent can receive up to 100 points for the interview/presentation.

The apparent successful Respondent will be the Respondent that is most qualified based on the combined SOQ and interview/presentation scores.

3.2 EVALUATION CRITERIA FOR STEP ONE

The SOQs will be evaluated as follows:

0. SOQ completed in accordance with instructions (**5** Points Maximum)
1. Respondent's Experience (**24** Points Maximum) – reference Section 1.1 of SOQ
2. Proposed Key Personnel's Experience (**24** Points Maximum) – reference Sections 2.1 – 2.3 of SOQ
3. Proposed Key Personnel's Office Locations (**5** Points Maximum) – reference Section 3.1 of SOQ
4. Design Implementation (**12** Points Maximum) – reference Section 4.1 of SOQ

5. Proposed Design Team Consultants (**15** Points Maximum) – reference Section 5.1 - 5.3 of SOQ

6. Community Engagement (**15** Points Maximum) – reference Section 6.1

3.3 EVALUATION CRITERIA FOR STEP TWO

The Proposed Key Personnel should make a twenty minute presentation covering the following topics:

1. Introduction

2. Highlight relevant project experience of Proposed Key Personnel and/or Design Team, including work with this Construction Delivery Method

3. Ideas Related to this Project

Following the presentation, the Evaluation Committee Members will ask questions. The Interviews/Presentations will be scored as follows:

1. Overall Presentation (**30** points maximum)

2. Key Personnel and Design Team Qualifications and Experience (**30** points maximum)

3. Approach to this project (**40** points maximum)

REQUEST FOR QUALIFICATIONS
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name: New Sunnyside Multi-Service Center and Health Center
Project Number: H-000091-0001-3

5 – TERMS AND CONDITIONS

5.1 NO CONTACT PERIOD AND GRATUITIES

Neither Respondents nor any person acting on Respondent's behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City of Houston or their families. All inquiries regarding the solicitation are to be directed to the designated City Representative identified in Section 1.4 of this RFQ. Upon issuance of the solicitation, through the pre-award phase and up to the award, aside from Respondent's formal response to the solicitation, communications publicly made during the official pre-submittal meeting, written requests for clarification during the period officially designated for such purpose by the City Representative, neither Respondents nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Houston or their families through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any Respondent. However, nothing in this paragraph shall prevent a Respondent from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

5.2 FALSE INFORMATION

Respondents who provide false or misleading information, whether intentional or not, in any documents presented to the City for consideration in the selection process shall be excluded. Any false or misleading information in these documents would, in effect, render the entire document suspect and therefore useless.

5.3 STANDARD CITY CONTRACT

The Architect will be required to execute a standard City of Houston professional services agreement. A copy of this document is included in this RFQ packet.

5.4 CITY POLICIES & ORDINANCES

Respondents shall comply with the City of Houston Ordinances and policies and procedures relating to contracting with the City. The following is a partial list of applicable subject matters.

1. Equal Employment Opportunity
   https://purchasing.houstontx.gov/forms.html

2. MWBE Goal of 24% Participation
   https://houston.mwdbe.com

3. City of Houston Ownership Information Form - 00455
   http://purchasing.houstontx.gov/forms.html

4. Mayor's Drug Detection and Deterrence Policy and Procedures
   http://www.houstontx.gov/execorders/1-31.pdf

5. Pay or Play (POP) Program
   http://www.houstontx.gov/obo/popforms.html

5.5 CONTRACT NEGOTIATIONS

This RFQ is not to be construed as a contract or as a commitment of any kind. If this RFQ results in a contract offered by the City; a specific scope of work, fees, and other contractual matters will be determined during contract negotiations. To ensure that the appropriate staff is assigned to the project the City may require the inclusion of a "key person's clause" a part of the contract negotiations.

5.6 COST OF SOQ

The City will not be responsible for costs incurred by anyone in the submittal of qualifications or for any costs incurred prior to the execution of a formal contract.

5.7 CONFIDENTIAL INFORMATION

All responses shall be held confidential from other parties by the City to the extent allowable by law until after the selection process is completed. Respondents should be aware that at the completion of the selection process, the contents of their SOQs are subject to the provisions of the Texas Public Information Act and may be made public. Confidential and/or Sensitive information should not be included in the SOQ.

5.8 PROTEST

1. A protest shall be handled according to the City of Houston Policies / Procedures, Administrative Policies, Section 5 – Purchasing, 5-12 Protests – 03.04.2016; http://www.houstontx.gov/adminpolicies/5-12.pdf

5.9 The City of Houston reserves the right to:

1. Evaluate the qualifications submitted
2. Waive any irregularities
3. Request Respondents submit more detailed information
4. Accept any submittal or portion of a submittal
5. Reject any or all Respondent's submitting qualifications.

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ARCHITECTURAL SERVICES Project Name: New Sunnyside Multi-Service Center and Health Center Project Number: H-000091-0001-3

6 – CONTRACT FORM

CONTRACT

FOR

PROFESSIONAL ARCHITECTURAL SERVICES

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

WHEREAS, the City of Houston, a Texas home-rule municipality (the "City") proposes to construct the following:

NEW SUNNYSIDE MULTI-PURPOSE CENTER & HEALTH CENTER
Houston, Texas _____
WBS NO.: H-000091-0001-3

(the "Project").

WHEREAS, the City liaison for this Contract is:

DIRECTOR
GENERAL SERVICES DEPARTMENT
P. O. BOX 1562
HOUSTON, TEXAS 77251

WHEREAS, the City desires to enter into an agreement with the following architect to perform certain professional architectural and other professional services in connection with the Project, as described herein and in Exhibit "A," which is attached hereto and incorporated herein for all purposes:

[CONTACT PERSON]
[NAME]
[ADDRESS]

(the "Architect").

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties, the City and the Architect agree as set forth below:

Definitions

As used in this Contract, the following terms shall have the meanings set out below:

"Additional Services" are those defined in Section 1.6 of this Contract.

"Architect" is defined in the preamble of this Contract and includes the firm's successors and assigns which are jointly and severally liable for the obligations and liabilities under this Contract.

"Basic Services" are those Phase I, II, III and IV services defined in Sections 1.2 through 1.5 of this Contract.

"City" is defined in the preamble of this Contract and includes its successors and assigns.

"City Engineer" is defined as the engineer so appointed by General Services Department.

"Construction Cost" is defined in Article 3.

"Contractor" means the construction contractor to whom the City has awarded all or part of a construction contract for this Project.

"Contract Documents" are as described in Section 1.3.

"Director" means the Director of the General Services Department or of a successor department or such other person as may be designated from time to time by the Director, by notice to the Architect, to administer this Contract on behalf of the City.

"Documents" means reports, charts, analyses, maps, letters, tabulations, exhibits, notes, models, photographs, specifications, AutoCAD and PDF files of all drawings and plans, and other submittal documents obtained by or prepared by the Architect as instruments of its services under this Contract.

"Effective Date" is the date this Contract comes into force and shall be the date the City Controller countersigns it.

"Maximum Total Construction Cost" is the specific amount as defined in Section 1.1.2 that may not be exceeded by any estimate of Construction Cost for the Project by the Architect without the express written approval of the Director or an acting Director as appointed by the Mayor.

"MWBE" is defined as Minority and/or Woman Business Enterprise as more clearly defined in Chapter 15, Article V of the City of Houston Code of Ordinances.

"Notice to Proceed" means a written communication form the Director to the Architect instructing Architect to begin performance.

"OBO Director" means the Director of the Mayor's Office of Business Opportunity or of a successor department or such other person as may be designated from time to time by the Mayor.

"Program" means all those quantitative and/or qualitative requirements for the Project that must be met or satisfied by the design for the Project.

"Project Schedule" (Form attached as Exhibit "B" and incorporated herein) means a schedule of Project activities and events, showing initiation point, duration and ending points. The schedule will also indicate time to be allowed for reviews by the City staff.

"Reimbursable Expense" is defined in Article 5.

"Subcontract Cost" means the ordinary and reasonable cost of subcontracts made by the Architect and approved by the Director for the principal purpose of obtaining the professional services of others in connection with the performance of any service under this Contract.

"Substantial Completion" is that point in the construction of a project or designated portion thereof where the City Engineer certifies that construction is sufficiently complete, in accordance with the Contract Documents, that the City may occupy the project, or a designated portion thereof, for the use for which it was intended.

ARTICLE 1
ARCHITECT'S SERVICES AND RESPONSIBILITIES

1.1 GENERAL

1.1.1 The Architect agrees to provide prompt and efficient professional services as herein defined for the fees hereinafter specified and in accordance with the Project Schedule. The Project Schedule shall be drafted by the Architect, in consultation with the City staff, approved by the Director and updated monthly at the time of invoice submittal. The Architect shall coordinate his performance of the services hereunder with the Director and such other persons as the Director may specify. The Architect shall make periodic verbal or written reports and recommendations to the Director with respect to conditions, transactions, situations or circumstances encountered by the Architect relating to the services to be performed under this Contract and shall attend meetings which the Director determines to be necessary. The Architect shall, upon written request, provide the Director with a copy of Documents prepared by the Architect or made available to it as a result of its performance under this Contract.

1.1.2 The Architect shall proceed with performance of its services hereunder with full knowledge and understanding that the Maximum Total Construction Cost for this Project shall not exceed the sum of **$**_____ without the express written approval of the Director. The Architect shall plan and design this Project in such a manner that the Architect's best professional estimate of probable Construction Cost does not exceed the Maximum Total Construction Cost. If at any time during the course of this Project, the Architect's estimate of Construction Cost, for all work designed and specified, exceeds this amount, the Architect shall immediately notify the Director. The Director may by written notice either increase the Maximum Total Construction Cost, or obtain an agreed upon reduction in the Project scope. For any Maximum Total Construction Cost or budget revision, without an increase in the scope of the Project as defined in Exhibit A, there shall be no increase in the Architect's fee. In the event the parties cannot agree on a revised Maximum Construction Cost this Contract may be terminated according to Article 9 of this Contract. For the purpose of this Section 1.1.2, no person other than the Director is authorized to provide such written agreement to exceed the Maximum Total Construction Cost specified herein.

1.1.3 The Architect shall designate a project manager who will be the Architect's liaison for this Project.

1.1.4 The Architect's Basic Services consist of those services performed by the Architect, Architect's employees and Architect's subcontractors as enumerated in the four phases described in Sections 1.2 through 1.5 and include normal civil, structural, mechanical and electrical engineering services; and landscape architectural services to meet the minimum requirements of the City Code of Ordinances. The Architect agrees to perform the services set forth below for

each Phase as authorized by the Director. In addition, the Architect agrees to perform the particular scope of services as are set forth in Exhibit "A." In the event of an inconsistency between the terms of this Article and the terms of Exhibit "A," the terms of Exhibit "A" shall control with respect only to the content of the scope of services.

1.1.5 Unless otherwise specifically provided herein, Architect shall obtain and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. Architect shall maintain all required professional licenses during the term of this Contract. Any failure of the Architect to maintain such professional licenses or any revocation or suspension thereof, even if probated, shall entitle the Director in his sole discretion, to immediately terminate this Contract. Architect shall immediately notify the Director of any suspension, revocation or other detrimental action against his license.

1.1.6 If an actual or potential conflict arises between the interests of the City and the interests of the Architect or other clients represented by Architect, Architect shall immediately notify the Director by fax transmission or telephone. If the Director in his sole discretion consents to Architect's continued representation of such other clients, he shall so notify the Architect in writing. If the Director does not issue written consent within three business days of receipt of Architect's notice, Architect shall immediately terminate its representation of the other client whose interests are or may be in conflict with those of the City.

1.1.7 Architect shall notify the Director promptly of any factor, occurrence or event coming to its attention that Architect believes is likely to adversely affect its ability to meet any of its obligations hereunder or to materially delay delivery of any Document or service provided for herein and in the Project Schedule, in such event, promptly consult with the Director regarding a plan of action to prevent, eliminate or remedy such default or delay. Any request by Architect to modify the Project Schedule shall be made in accordance with this Section 1.1.7.

1.1.8 Architect shall make timely payments to all subcontractors, persons and entities supplying labor, materials or equipment for the performance of this Contract. **ARCHITECT AGREES TO PROTECT, DEFEND, AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF ARCHITECT'S FAILURE TO MAKE SUCH PAYMENTS.**

1.1.9 Architect shall be responsible for services performed by subcontractors to the same extent as if the services were performed by Architect. Architect shall replace any subcontractor when requested by the Director to do so, who shall state the reasons for such request. Architect shall provide the Director with a copy of any of its subcontractor's subcontracts at Director's request.

1.1.10 Confidentiality: Architect, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Architect, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Architect shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

1.1.11 Architect shall comply with all applicable state, federal and local laws and regulations and the City Charter and Code of Ordinances.

1.1.12 Architect's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the service and products Architect provides under this Contract.

1.2 **PHASE I: DESIGN**

1.2.1 **General.** Phase I Design shall be divided into two stages designated as Schematic Design and Design Development. For each stage, the Architect shall furnish to the Director **three** copies of all drawings, specifications, reports and other required documents.

.1 The Architect shall proceed with Phase I upon receipt of written authorization by the Director. The Architect shall submit to the Director, within 10 days of the Notice to Proceed with Phase I, a revised Project Schedule, updated to reflect firm dates for activities and reviews set forth therein.

.2 The Architect has **developed** Master Adjacency Plan (Program), Space Planning/Room Schedule, and the scope of services as set forth in Exhibit "A" attached hereto, determined its feasibility within established budgetary constraints, and arrived at an understanding of such requirements with the Director. The Architect acknowledges that the Maximum Total Construction Cost is reasonable for this Project.

.3 Based on the Program and Project budget requirements, the Architect shall prepare, for approval by the Director, the Phase I - Schematic Design.

.4 The Architect shall commission and direct registered professional engineers to assume responsibility for the civil, structural, mechanical, and electrical engineering aspects of the Project throughout its design and construction.

.5 The Architect shall, on behalf of the City, file all applications for utilities commitments and furnish any additional information necessary to obtain utility commitments.

1.2.2 **Schematic Design.** The Architect shall furnish to the Director **three** copies of documents that fully illustrate the scope, scale, and relationship of all Project components representing the Architect's design solution to the criteria set forth in the Program. This submittal shall include but not be restricted to the following where applicable:

.1 General listing of the types, quantities and sizes of spaces included in the design. Prepare a comparison of these spaces with those listed in the Program, if there is a variance.

.2 Scaled drawings of the site plan, floor plan(s), exterior elevations and transverse and longitudinal sections through the building.

.3 Preliminary estimate of the probable Construction Cost of the Project, based on proposed systems and quantities.

.4 General statement or schedule of proposed interior finishes.

.5 General statement of proposed structural system or systems in sufficient detail to demonstrate that spatial requirements have been accommodated and to provide a valid basis for the preliminary estimate of Construction Cost.

.6 General statement of proposed mechanical, electrical and plumbing systems, in sufficient detail to demonstrate that spatial requirements have been accommodated and to provide a valid basis for the preliminary estimate of Construction Cost.

1.2.3 **Design Development.** The Architect shall attend review conferences with the Director and such others as the Director may designate to assure consensus with respect to the

Architect's development of the Schematic Design of the Project. Completion of Design Development shall indicate that the Architect has substantially solved the details of the design solution and is prepared to start Contract Documents. The Architect shall furnish to the Director **three** copies of drawings, outline specifications, a preliminary estimate of Construction Cost, based on approval by the Director of the Architect's Phase I Schematic Design. This submittal shall include but not be restricted to the following where applicable:

.1 Scaled drawings of the site plan, floor plans(s), exterior elevations and such sections and/or details necessary to demonstrate the Schematic Design. The floor plan(s) shall show all furniture, fixtures, equipment, door swings and main dimensions.

.2 Plan layout of the proposed structural system showing preliminary main member sizes.

.3 Plan layouts, each on a separate sheet, of the proposed mechanical, electrical and plumbing systems in sufficient detail to show equipment, fixtures, lighting, devices and distribution/gathering systems.

.4 Outline specifications of principal materials, systems and equipment proposed for inclusion into the project. Provide a schedule of proposed interior finishes.

.5 Updated estimate of the probable Construction Cost of the Project in sufficient detail to demonstrate its inclusiveness and the proposed level of quality throughout all aspects of the Project.

1.2.4 **Revisions.** The Architect shall make modifications to the Phase I Design Documents as may be required to obtain approval of the Director and submit to the Director **three** additional sets of revised Phase I Design Documents.

1.3 **PHASE II: DESIGN**

1.3.1 The Architect shall proceed with the Phase II Contract Documents upon the Director's written approval of the Phase I Design and upon Director's written authorization to proceed.

1.3.2 Based upon approved Phase I Design Documents and any adjustments authorized by the Director in the Program or Project budget, the Architect shall prepare, for approval by the Director, Contract Documents suitable for solicitation of competitive construction bids, for incorporation into a contract for construction of the Project, and shall make clarifications and revisions necessary to obtain the building permit. Contract Documents are those Documents prepared for the purpose of obtaining bids and guiding the construction of the Project. Contract Documents shall generally include but not be restricted to the following.

.1 Drawings of plans, elevations, sections and details defining the dimensions and spatial relationships of all elements of the Project.

.2 A written Project manual, which includes bidding requirements, sample forms, conditions of the construction contract and specifications. The City will provide the Architect bidding requirements, sample forms and conditions of the construction contract for Architect's inclusion in the Project manual. Specifications shall define the general requirements for the Project, written descriptions of the technical nature of materials, equipment, construction systems, standards and workmanship. The Architect shall not include in either the general requirements or in other technical specification sections requirements

that conflict with the bidding requirements, sample forms and conditions of the construction contract provided by the City. Dollar allowances shall not be used in the Project manual.

.3 To the extent practicable for each item that requires a specific designation, the Architect shall specify the products of at least three manufacturers of each material and manufactured item acceptable for use in the Project.

.4 The specifications shall also provide means by which the successful bidder can submit for approval products other than those specified which it considers equivalent to those specified in quality, including durability, serviceability, design, appearance, function, finish, performance, size and weight. The Architect shall advise the Director as to whether or not products other than those listed in the specifications are equivalent to the products listed.

1.3.3 The Architect shall attend review conferences with the Director and such others as the Director may designate to obtain the Director's approval of the development of the Contract Documents.

1.3.4 The Architect shall advise the Director of any adjustments to previous estimates of Construction Cost indicated by changes in the requirements or general market conditions.

1.3.5 The Architect shall, on behalf of the City, file all applications and Documents necessary to obtain approval of governmental authorities having jurisdiction over the Project and furnish any additional information necessary to obtain approvals. This shall include, but not be limited to, submittal of drawings to the Texas Department of Licensing and Regulations, Architectural Barriers Section for review, and Building Permit application. The Architect shall provide the City with copies of Proof of Submission and Proof of Inspection filings.

1.3.6 The Architect shall submit for the Director's approval a final estimate of the Construction Cost of the Project, based upon fully developed Contract Documents.

1.3.7 The Architect shall furnish to the Director **six** copies of fifty percent complete documents and **six** copies of fully developed, permitable Contract Documents for review by the Director. The Architect shall incorporate all review comments, if any, and furnish to the Director **six** additional sets of Contract Documents.

1.3.8 The Architect and Architect's subcontractors shall attend the Pre-Bid Conference and respond to bidders' questions. If required by the Director, the Architect shall issue Addenda to the Contract Documents during the bid period as necessary to respond to bidders' questions and to make clarifications. The Architect shall evaluate bids and bidders only when the Director requests such evaluations in writing.

1.4 PHASE III: CONSTRUCTION SERVICES

1.4.1 The Architect shall proceed with the Phase III Construction Services upon receipt of the Director's written authorization to proceed.

1.4.2 Unless otherwise provided in this Contract, the Architect shall provide limited administration of the construction contract as set forth below.

1.4.3 The Architect shall be a consultant of the City during Phase III Construction Services, and shall advise and consult with the City. Instructions to the Contractor by the City shall also be sent to the Architect. The Architect shall have authority to act on behalf of the City only to the extent provided in this Contract.

1.4.4 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed in writing by the City and the Architect, to become generally familiar with the progress and quality of the work and to determine, in general, if the work is proceeding in a manner indicating that the work when completed will be in accordance with the Contract Documents. The Architect shall furnish to the Director written reports of its on-site observations regarding the progress and quality of the work. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. On the basis of such on-site observations, the Architect shall keep the Director informed of the progress and quality of the work, and shall notify the Director immediately in writing, of any defects and deficiencies in the Contractor's work and work that is not performed in accordance with Contract Documents.

1.4.5 The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, which are solely the Contractor's responsibility under the construction contract. Except as otherwise provided herein, the Architect shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the Contract Documents. Except as otherwise provided herein, the Architect shall not have control over or charge of acts or omissions of the Contractor, the Contractor's subcontractors, or the Contractor's agents or employees, or of any other persons performing any portions of the work.

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

1.4.7 The Architect shall attend conferences at the Project site with the Director and such others as the Director may designate, to assist the City in the administration of the Contract.

1.4.8 When requested by the Director, the Architect shall assist the Director in determining the amounts owing to the Contractor based on Architect's on-site observations and on evaluations of the Contractor's applications for payment, and shall recommend to the Director issuance of certificates for payment to the Contractor in such amounts, as provided in the Contract Documents.

1.4.9 The Architect's approval of the Contractor's application for payment shall constitute the Architect's representation to the City that based upon the Architect's on-site observations as provided in Section 1.4.5 and upon the data comprising the Contractor's application for payment, that the work has progressed to the point indicated; and that, to the best of the Architect's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent test required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to specific qualifications expressed by the Architect. The Architect's approval of the Contractor's application for payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the Architect's approval of the Contractor's application for payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the work, (2) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the City to substantiate the Contractor's right to payment or (3) ascertained how or for what purpose the Contractor has used

money previously paid pursuant to the Contract.

1.4.10 The Architect shall interpret the requirements of the Contract Documents. The Architect shall render interpretations necessary for the proper execution or progress of the work to the Director with reasonable promptness upon written request of either the Director or the Contractor; and, if requested by the Director, shall render written advice to the Director within a reasonable time, on all claims, disputes and other matters in question between the City and the Contractor relating to the execution or progress of the work or interpretation of the Contract Documents.

1.4.11 Interpretations and advice of the Architect shall be consistent with the intent of, be reasonably inferable from the Contract Documents, and shall be in written or graphic form. When making such interpretations and giving such advice, the Architect shall not show partiality to either City or the Contractor and shall not be liable for the result of any interpretation or advice so rendered in good faith.

1.4.12 The Architect shall recommend to the Director to reject work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for the implementation of the intent of the Contract Documents, the Architect shall recommend to the Director, to require special inspection or testing of the work in accordance with the provisions of the Contract Documents, whether or not such work be then fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Contractor's subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the work.

1.4.13 The Architect shall review and recommend approval to the Director or take other appropriate action upon Contractor's submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the construction of the Project by the City or by separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

1.4.14 The Architect shall submit to the Director a schedule of colors and finishes for the Project which the Architect has selected from approved submittals. Wherever practicable, Architect shall supplement schedule of colors and finishes with color chips, swatches and samples. Provided the Contractor has submitted in a timely manner acceptable samples of products he proposes to use, the Architect shall submit a schedule of colors and finishes with sufficient lead time to permit

a thirty day review/approval period without risk of delay and the timely incorporation of the finishes, materials and similar items with other aspects of the Project. During the review period, the Architect shall confer with the Director and such others as the Director may designate and make adjustment to the schedule of colors and finishes as necessary to obtain approval by the Director.

1.4.15 The Architect shall review Contractor's requests and make recommendations to the Director. When requested by the Director, the Architect shall prepare for the Director's approval and execution in accordance with the Contract Documents, and shall have authority, with the concurrence of the Director, to order minor changes in the work which do not involve an adjustment in the construction contract amount or an extension of the construction contract time for completion and which are not inconsistent with the intent of the Contract Documents. For the purpose of this section, "construction contract amount" shall be that amount and "construction contract time" for completion shall be that period as they appear in the Contract Documents initially or as they shall have been lawfully and legitimately amended under the terms of that contract at the time of such Contractor's request.

1.4.16 The Architect shall conduct inspections to determine and recommend to the Director the dates of Substantial Completion and the date of final completion, and shall receive and forward to the Director for the Director's review, written warranties, guarantees, releases, operating instructions and maintenance manuals, keys, equipment data and related documents required by the Contract Documents and assembled by the Contractor, and shall approve the Contractor's application for final payment upon compliance with the requirements of the Contract Documents.

1.4.17 The extent of the duties, responsibilities, and limitations of authority of the Architect shall not be restricted, modified or extended without written notice by the City to the Architect and Contractor.

1.4.18 Before final payment of Phase III Construction Services compensation, the Architect shall furnish to the Director, a complete set of AutoCAD V2013 and PDF files of drawings and specifications on a read-only compact disc. The digital files shall reflect significant changes in the work including changes in scope made during construction, based on marked-up Project record drawings maintained by the contractor at the Project site, and drawings and other data furnished by the Contractor to the Architect. The Architect shall be able to rely on the accuracy of such changes and other information supplied by the Contractor and will not be required to perform studies to determine the completeness of such recorded changes, if any, supplied by the Contractor.

1.5 PHASE IV: POST-CONSTRUCTION SERVICES

1.5.1 The Architect shall proceed with the Phase IV Post-Construction Services upon written authorization by the Director to proceed.

1.5.2 The Architect shall inspect the Project in the company of the Contractor, and the Director or such others as the Director may designate, no less than thirty days and no more than forty-five days prior to the expiration of the one year correction period, established in the Contract Documents. On or before the seventh day after such inspection, the Architect shall furnish the Director a written report identifying items which require repair or replacement under the one year correction period provisions of the Contract Documents.

1.6 **ADDITIONAL SERVICES**

1.6.1 The following Additional Services shall be performed by the Architect, if authorized by the Director, in addition to Architect's Basic Services and shall be paid for by the City as provided for in Section 6.10 of this Contract. Additional Services shall only be provided when necessary and related to the purposes of this Contract, when authorized in writing by the Director, and when sufficient funding has been allocated for such services.

.1 Providing analyses of the City's needs, and programming the requirements of the Project beyond the scope of services provided in Section 1.2.2.

.2 Providing financial, feasibility or other special studies.

.3 Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites, and preparing special surveys, studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

.4 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Phase III Construction Services.

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

.6 Preparing Documents for multiple bid packages or providing extra services in connection with bidding, negotiation or construction prior to the completion of the Phase II Construction Documents, when requested by the Director.

.7 Providing detailed estimates of Construction Cost beyond the scope of estimate of Construction Cost based on current area, volume, or similar unit costs as required in Sections 1.2.3.5, 1.3.4 and 1.3.6; and providing analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor.

.8 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

.9 Providing services for planning leased tenant or rental spaces.

.10 Making revisions in drawings, specifications or other Documents when such revisions are inconsistent with written approvals or instructions previously given, or during Phase II, making revisions to the Contract Documents required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such Documents or due to other causes not within the control of the Architect.

.11 Preparing drawings, specifications and supporting data and providing other services in connection with a change to approved Phase II Contract Documents to the extent that such services are in excess of the Basic or other Additional Services required of the Architect pursuant to this Contract and provided such changes are not necessitated by an act or omission of the Architect. In the event a change order is caused by an act or omission of the Architect, the Architect will be required to prepare such drawings and specifications and supporting data at no expense to the City.

.12 Making investigations, surveys, valuations, inventories or detailed appraisals of existing facilities and services required in connection with construction performed by the City.

.13 Providing consultation concerning replacement of any work damaged during construction by fire or any other cause not under the Architect's control, and furnishing services as may be required in connection with the replacement of such work.

.14 Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the work of the Contractor, or by failure of performance of either the City or Contractor under the contract for construction.

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

.16 Providing landscape architecture services materially beyond the minimum requirements of the Code of Ordinances.

.17 Providing additional construction phase services in the event that 1) the number of calendar days stipulated in the Contract Documents for Substantial Completion is exceeded beyond the time period set out in Section 6.2.2 due to no fault of the Architect or 2) the number of calendar days allowed for Substantial Completion under the Contract Documents is increased by change order beyond the time period set out in Section 6.2.2 due to no fault of the Architect.

.18 Providing inspection of the Project in the company of the Contractor, and the Director, or such others as the Director may designate, no less than thirty days and no more than forty-five days prior to expiration of any special Project warranty, but after expiration of the one year correction period, as defined in the general conditions of the construction contract, established in the Contract Documents. On or before the seventh day after such inspection, the Architect shall furnish the Director a written report enumerating items which require repair or replacement under the special Project warranty provisions of the Contract Documents.

.19 Providing land survey services to supplement any legal description and site information provided by the City and to include, but not be limited to, as applicable to the Project, grades of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, deed restrictions and contours of the site, locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and information concerning available services and utility lines both public and private, above and below grade, including inverts and depths in accordance with Project requirements. The Architect shall commission a survey to be prepared by a registered land surveyor acceptable to the Director. The survey shall be signed and sealed by the registered land surveyor.

.20 Providing geotechnical investigation and engineering services required for the design of the Project. Such services may include, as applicable to the Project,

test borings, test pits, soil bearing values, percolation tests, and similar investigations and engineering services with reports and appropriate recommendations in accordance with the Project requirements. The Architect shall commission a geotechnical investigation to be completed by a registered geotechnical subcontractor acceptable to the Director. The geotechnical report and appropriate recommendations shall be signed and sealed by the registered geotechnical engineer.

.21 Providing Cultural Resource Reconnaissance or Surveying services as defined in the General Rules of Practice and Procedures, Chapter 41 of the Texas Antiquities Committee, to supplement the site information provided by the City and to identify potential historic or prehistoric sites in Project areas to be affected by improvements planned as part of the Project. The reconnaissance shall be conducted in accordance with procedures promulgated by the Texas Antiquities Committee in conformance with the Antiquities Code of Texas and signed by a professional archaeologist acceptable to the Texas Antiquities Committee and the Director. For the purposes of this Contract, the Director or his delegate is authorized to approve the archaeologist's permit applications for such Cultural Resource Reconnaissance or Surveys on behalf of the City.

.22 Providing data processing and photographic production techniques when used in connection with another Additional Service.

.23 Providing other professional services beyond the scope of Basic Services of this Contract which are necessary and related to the purposes of this Contract.

1.6.2 Whenever the Architect, in the course of performing Basic Services, is required to present recommendations to the Director with respect to the advisability of, or the need for, any Additional Service, such recommendation shall include a recommended scope for the Additional Services and the recommended fee and expenses. If the Architect recommends subcontract services, the recommendation shall also include the names of the subcontractor(s) recommended by the Architect. A maximum fee for each such subcontractor's service shall be proposed by the Architect at the time Additional Services requiring such expenses are requested by the Director and shall be negotiated and agreed upon by the Architect and the Director prior to the expense being incurred. The compensation for each such subcontractor's service expense shall never exceed this agreed upon maximum amount.

1.7 **TIME**

1.7.1 The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care, and the orderly progress of the work. Upon definition of the scope of the Project as provided in Section 1.2.2 and Exhibits "A" and "B" attached, the Architect shall submit for Director's approval a calendar schedule of Architect's services not exceeding the time limits provided in this Section 1.7, and which shall include allowances for periods of time required for City's review and for approval of submissions by authorities having jurisdiction over the Project, all as indicated on Exhibit "B," Project Schedule, attached. Time limits established by this schedule approved by Director shall not, except for reasonable cause, be exceeded by Architect or by the City.

1.7.2 The Architect agrees to perform the services and furnish to the Director items called for in

Section 1.2 (Phase I Design) of this Contract within _____ calendar days from the issuance of a Notice to Proceed by the Director which includes a period of _____ calendar days for the City's reviews and approvals, providing there are no delays caused by the City or other agencies with whom the Project must be coordinated and over whom the Architect has no control.

1.7.3 Upon approval by the Director of Phase I Design drawings, outline specifications, and a preliminary estimate of Construction Cost, and upon written authorization by the Director, including notice of allocation of adequate funds, the Architect agrees to perform services and furnish to the Director items called for in Section 1.3 (Phase II Contract Documents) of this Contract within __ calendar days after receipt of such written authorization by the Director through receipt of Building Permit approval, which includes a period of _____ calendar days for Director's review and approval and _____ calendar days for Code Enforcement review and approval of the Building Permit; providing however, that if there are delays caused by the City or other agencies with whom the Project must be coordinated and over whom the Architect has no control, the Architect's time for performance shall be extended by the number of days of delay in the Project Schedule.

1.7.4 Upon receipt of written authorization from the Director to proceed, the Architect agrees to perform the services and furnish to the Director the items called for in Section 1.4 (Phase III: Construction Services) of this Contract for the period of construction time stated in the construction contract, providing there are no delays caused by the City, or by the Contractor for the general construction of the Project, or by other agencies with whom the Project must be coordinated and over whom the Architect has no control.

1.7.5 Upon receipt of written authorization from the Director to proceed, the Architect agrees to perform services and furnish to the Director the items called for in Section 1.5 (Phase IV Post-Construction Services) of this Contract within the time specified in Section 1.5.2 of this Contract.

1.7.6 Extensions of any of the time-of-performance commitments by the Architect in this Section shall be granted only by the Director, in written form, and shall have the same force and effect as the time-of-performance commitments originally stated herein.

1.7.7 The Architect acknowledges and agrees that any services it provides to the City after the completion date established in the Project Schedule, unless an extension of time has been granted, will be deemed to be gratuitously provided, and the City shall have no obligation to pay for such services unless the City Council approves an agreement to do so in its sole discretion.

1.7.8 This Contract shall remain in force (1) until expiration of the one year correction period established in the Contract Documents, or (2) _____ calendar days after completion of the services required in either Section 1.2 Phase I: (Design) or Section 1.3 Phase II: (Contract Documents) whichever shall have been completed without the subsequent Phase being authorized, or (3) until terminated under provisions of Article 9 herein.

1.8 **PAY OR PLAY**

1.8.1 The requirements and terms of the City of Houston Pay or Play program, as set out in executive Order 1-7, are incorporated into this Agreement for all purposes. Architect has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement. Architect shall complete and submit to the Director **Exhibit "I"**, POP-2 Form prior to its execution of this Agreement.

1.8.2 Once Architect submits and the Director approves Architect's POP-2 Form it shall be

incorporated herein.

ARTICLE 2

THE CITY'S RESPONSIBILITIES

2.1 The City shall provide information regarding requirements for the Project including a written descriptive document, which shall set forth in detail the City's conditions and requirements for objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expendability, special equipment, and other conditions or requirements appropriate to the nature of the Project.

2.2 The City shall establish and update, when necessitated by changes in the agreed estimate and overall budget for the Project which shall include contingencies for bidding, changes in the work during construction, and other costs which are the responsibility of the City, including those described in this Article 2 and in Section 3.1.2.

2.3 The Director shall designate a representative authorized to act on the City's behalf with respect to the Project. The Director's authorized representative shall examine the Phase I and Phase II documents submitted by the Architect and shall render and obtain decisions pertaining thereto promptly to avoid unreasonable delay in the Architect's services.

2.4 If required for the Project, the City shall furnish or shall authorize the cost of obtaining as an Additional Service, a complete and correct written legal description of the site, including metes and bounds, corners, lines of streets and alleys, and location of the site.

2.5 The City shall pay for quality control testing and other laboratory tests, inspections and reports as required by law or by the Contract Documents.

2.6 When required for the Project, and when the services, information, surveys and reports described in Sections 2.4 and 2.5 inclusive, are furnished by the City, the Architect shall be able to rely upon the accuracy and completeness thereof.

2.7 If the City observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the City to both the Architect and Contractor.

2.8 The City shall furnish required information and services and shall render or obtain approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the work.

ARTICLE 3

CONSTRUCTION COST

3.1 **DEFINITION**

3.1.1 The Construction Cost shall be the actual cost to the City of all elements of the Project designed or specified by the Architect.

3.1.2 Estimates of Construction Cost shall include (1) the cost, at current market rates, of labor and materials furnished by the City, (2) equipment designed, specified, selected or specially provided for by the Architect, (3) City building permit fees, and (4) a reasonable allowance for the cost of construction, including the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding.

3.1.3 Construction Cost does not include the compensation of the Architect and the Architect's subcontractors, the cost of the land, rights-of-way, or other costs which are the responsibility of the City as provided in Article 2.

3.2 **RESPONSIBILITY FOR CONSTRUCTION COST**

3.2.1 Evaluations of the City's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Costs, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the City has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the Architect cannot and does not warrant or represent that bids will not vary from the Project budget proposed, established or approved by the City, if any, or from any estimates of Construction Cost or evaluation prepared by the Architect.

3.2.2 When a Maximum Total Construction Cost is established as a condition of this Contract in Section 1.1.2 or at any time prior to the taking of bids, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and, with written approval, to make reasonable adjustments in the scope of the Project, or to include in the Contract Documents alternate bids to adjust the Construction Cost to the specified Maximum Total Construction Cost.

3.2.3 If bidding has not commenced within **6 months** after the Architect submits the Contract Documents to the City, any Project budget or Maximum Total Construction Cost may, when warranted in the opinion of the Director, be adjusted to reflect any change in the general levels of prices in the construction industry between the date of submittal of the Contract Documents to the City and the date on which bid proposals are sought.

3.2.4 If a Project budget or Maximum Total Construction Cost (adjusted as provided in Section 3.2.3) is exceeded by the lowest bona fide bid, the City shall (1) give written approval of an increase in such Maximum Total Construction Cost, or (2) authorize rebidding of the Project within a reasonable time, or (3) in the event the Project is abandoned, terminated in accordance with Section 9.2.1, or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (4), provided a Maximum Total Construction Cost has been established as a condition of this Contract, the Architect, without additional charge, shall modify the Contract Documents as necessary to comply with the Maximum Total Construction Cost. The successful provision of such service shall be the limit of the Architect's responsibility arising from the establishment of such Maximum Total Construction Cost, and having done so, the Architect

shall be entitled to compensation for all services performed, in accordance with this Contract, whether or not Phase III: Construction Services are commenced.

ARTICLE 4

DIRECT PERSONNEL EXPENSE

4.1 **DEFINITION**

4.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect and all of the Architect's personnel directly engaged on the Project, plus the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits. For the purpose of this Contract the cost of such contributions and benefits is established as equal to _____% of direct salaries. Direct salary rates for the duration of this contract are shown on **Exhibit "D"** attached hereto and, by reference, incorporated.

ARTICLE 5

REIMBURSABLE EXPENSES

5.1 **DEFINITION**

5.1.1 A maximum amount for each Reimbursable Expense shall be proposed by the Architect at the time that services requiring such expenses are requested by the Director and shall be negotiated and agreed upon by the Architect and the Director prior to the expenses being incurred. The compensation for each such Reimbursable Expense shall never exceed this agreed upon maximum amount. Reimbursable Expenses are to be paid in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and subcontractors, including any sales tax Architect is legally required to pay, in the interest of the Project while performing services requested by the Director pursuant to the following Sections:

5.1.2 If authorized in advance in writing by the Director, travel costs in connection with out-of-town travel, to points outside of the greater City of Houston area, not to exceed the amounts established under the City's then current travel reimbursement policy for its employees,

5.1.3 If authorized in advance in writing by the Director, long distance communications, and fees paid for securing approval of authorities having jurisdiction affecting the Project,

5.1.4 Expense of reproductions, postage and handling of drawings, specifications and other Documents. Expenses for reproductions for submittals or correction of submittals required under Phase I or Phase II, reproductions for the office use of the Architect and the Architect's subcontractors are not reimbursable,

5.1.5 If authorized in advance by the Director, the expense of overtime work requiring higher than regular rates,

5.1.6 If authorized in advance by the Director, the expense of renderings, models and mock-ups,

5.1.7 If authorized in advance by the Director, the expense of filing documents for

governmental approval under Sections 1.2.1.5 and 1.3.5, except for building permits, required for the Project.

ARTICLE 6
PAYMENTS TO THE ARCHITECT

6.1 GENERAL

6.1.1 The City shall compensate the Architect under this Contract as provided in this Article.

6.1.2 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Architect's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificates and federal tax identification number to Architect if requested.

6.2 PAYMENTS FOR BASIC SERVICES

6.2.1 Payments for Basic Services shall be made as set forth in Sections 6.6, 6.7, 6.8 and 6.9.

6.2.2 If the time initially established in the construction contract for completion of the Project is extended, through no fault of the Architect, for more than **90** calendar days, the Architect may request compensation for any required extension of Phase III services, which, if authorized, shall be paid in accordance with the provisions of Section 6.10 for Additional Services.

6.2.3 Payments for Basic Services may be made monthly upon presentation of the Architect's statement of services rendered and expenses incurred.

6.3 PAYMENTS FOR ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

6.3.1 Payments for Additional Services and for Reimbursable Expenses may be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

6.4 PAYMENTS WITHHELD

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

6.4.2 If the Architect receives payment from the City for work performed by any subcontractor or for materials provided by any supplier and the Architect withholds or has withheld payment to the subcontractor or supplier on account of a deficiency in the quality or quantity of that subcontractor's or supplier's work or materials, the City may withhold the amount associated with such work or materials from any pending or future payments to the Architect until the next regular payment to the Architect occurring after the City receives reasonable documentation that the deficiency has been remedied.

6.5 PROJECT SUSPENSION

6.5.1 If the Project is suspended for more than **365** days, the Architect shall be compensated in accordance with Article 9, for all services performed prior to the suspension.

6.6 **BASIS OF COMPENSATION FOR PHASE I DESIGN SERVICES - STIPULATED SUM**

6.6.1 For Phase I Design performed by the Architect the City agrees to pay to the Architect the sum of **$**_____.

6.6.2 The Director may authorize, no more frequently than monthly, partial payments commensurate with percentage of completion of Phase I Design by the Architect. The fee for the Phase I services shall be payable as follows:

.1 When the Schematic Design of the Project is complete and approved by the Director, the City agrees to pay to the Architect the sum of **$**_____.

.2 When Design Development is complete and approved by the Director, the City agrees to pay to the Architect the sum of **$**_____.

6.7 **BASIS OF COMPENSATION FOR PHASE II CONTRACT DOCUMENTS - STIPULATED SUM**

6.7.1 For Phase II Contract Documents services performed by the Architect the City agrees to pay to the Architect the sum of **$**_____. The fee for the Phase II services shall be payable as follows:

.1 When the Drawings and the Project manual are, in the opinion of the Director, **50%** complete, the City agrees to pay to the Architect the sum of **$**_____ .

.2 When the Drawings and the Project manual are fully developed, permitable documents that have been submitted to the Director for final approval, the City agrees to pay to the Architect the sum of **$**_____.

.3 When the Drawings and Project manual receive final approval of the Director, the City agrees to pay the Architect the sum of **$**_____.

.4 When the Architect has obtained the Building Permit approval, the City agrees to pay to the Architect the sum of **$**_____.

.5 The Director may authorize no more frequently than monthly, partial payments commensurate with completion of Phase II services of the Architect.

.6 Final payment shall be a lump sum payment of **$**_____ due upon receipt of acceptable bids for the Project. If the Project is terminated under Section 1.7.8 (2) or (3) the final payment becomes due and payable to the Architect.

6.8 **BASIS OF COMPENSATION FOR PHASE III CONSTRUCTION SERVICES - STIPULATED SUM**

6.8.1 For Phase III Construction services performed by the Architect the City agrees to pay to the Architect the sum of **$**_____. The fee for the Phase III Construction Services shall be payable as follows:

.1 Partial payments for Phase III Construction Services shall be paid periodically, but no more frequently than monthly, on the basis of that proportion of compensation for Phase III Construction Services actually performed bears to the total compensation for Phase III Construction Services required under this Contract, less previous payments for services.

.2 Partial payments shall be limited to a total of 95% of the final amount due for Construction Services until (I) the completion of Construction Services and any Additional Services requested, and (2) the Project has been accepted by City Council.

.3 The final 5% shall be a lump sum payment due upon Project acceptance by City

Council.

6.9 **BASIS OF COMPENSATION FOR PHASE IV POST-CONSTRUCTION SERVICES**

6.9.1 Compensation for Phase IV Post-Construction services performed by the Architect is included in the compensation received by Architect under Section 6.8 for Phase III Construction Services.

6.10 **COMPENSATION FOR ADDITIONAL SERVICES**

6.10.1 For Additional Services of the Architect, as described in Section 1.6.1, but excluding Reimbursable Expenses and Additional Services of subcontractors, compensation to the Architect shall be a multiple of ___ times the Direct Personnel Expense of the Architect's Principals and employees incurred in the interest of the Project.

6.10.2 For Additional Services as described in Section 1.6.1 provided by subcontractors under contract with the Architect, compensation to the Architect shall be a multiple of ___ times the Subcontract Cost incurred in the interest of the Project. For Additional Services described in Section 1.6.1, payment to Architect shall be subject to the following:

.1 The maximum cost of Certified Land Survey Services described under Section 1.6.1.19 is **$**_____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.2 The maximum cost of Geotechnical Investigation and Engineering Services described under Section 1.6.1.20 is **$**_____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.3 The maximum cost of Furniture, Fixture & Equipment (FF&E) Services described under Section 1.6.1.8 is **$**____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.4 The maximum cost of Building envelope consultant services described under Section 1.6.1.23 is **$**____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.5 The maximum cost of LEED Commissioning Services described under Section 1.6.1.23 is **$**____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.6 The maximum cost of Site Platting Services described under Section 1.6.1.3 is **$**_____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.7 The maximum cost of Joint Referral Committee Services described under Section 1.6.1.3 is **$**_____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

.8 The maximum cost of Miscellaneous Additional Services described under section

1.6.1.23 is $_____ and, unless an additional allocation for this expense is made, the total obligation of the City to the Architect shall not exceed the above maximum cost.

6.10.3 Compensation for Additional Services described in Section 1.6.1 shall not exceed $_____ unless increased by additional allocation after execution of this Contract.

6.11 **REIMBURSABLE EXPENSES**

6.11.1 For Reimbursable Expenses, as described in Article 5, compensation to the Architect shall be a multiple of _____ times the amounts expended by the Architect, the Architect's employees and/or subcontractors in the interest of the Project.

6.11.2 Compensation for Reimbursable Expenses as described in Article 5, shall not exceed $____, unless an additional allocation is made after execution of this Contract.

6.12 **LIMIT OF APPROPRIATION**

6.12.1 The City's duty to pay money to Architect under the Contract is limited in its entirety by the provisions of this Section.

6.12.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated $____ ("Original Allocation") to pay money due under the Contract. The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for the Contract, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

6.12.3 The City makes a Supplemental Allocation by issuing to Architect a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

> **"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"**
>
> By signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This Supplemental Allocation has been charged to such appropriation.
>
> $_____

6.12.4 The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under the Contract in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under the Contract, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

6.12.5 The Director shall have the authority to reallocate funding between and among the

various categories of Additional Services and the various categories of Reimbursable Expenses.

6.13 **ADDITIONAL PROVISIONS**

6.13.1 All invoices for the Basic Services are subject to approval by the Director and are due and payable on or about thirty days after receipt and approval by the Director. All payments shall be made by check. Such checks shall be made payable to the Architect and payments shall be addressed to the Architect at its address specified herein for notices. The City agrees that it will not unreasonably delay or withhold payment or approval of any invoice; however, the Director shall approve in whole or in part or disapprove Architect's invoices within fifteen days. Neither partial payments made hereunder nor approval of invoices or services by the Director shall be construed as final acceptance or approval of that part of the Architect's services to which such partial payment or approval relates nor shall such payments be construed as relieving the Architect of any of its obligations hereunder with respect thereto.

ARTICLE 7
RELEASE AND INDEMNIFICATION

7.1 RELEASE

7.1.1 EXCEPT FOR THE CITY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, ARCHITECT AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT.

7.2 INDEMNIFICATION

7.2.1 ARCHITECT AGREES TO AND SHALL, TO THE EXTENT PERMITTED BY TEXAS LOCAL GOVERNMENT CODE §271.904, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY ARISING AS A RESULT OF ARCHITECT'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONSULTANTS', OR SUBCONTRACTORS' ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS IN CONNECTION WITH ITS PERFORMANCE UNDER THIS AGREEMENT, WHETHER ARCHITECT IS IMMUNE FROM LIABILITY OR NOT. ARCHITECT SHALL INDEMNIFY AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES.

7.3 RELEASE AND INDEMNIFICATION OF PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT

7.3.1 ARCHITECT AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL

REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING ARCHITECT, ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS ARCHITECT FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. ARCHITECT SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

7.3.2 ARCHITECT SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

7.3.3 WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, ARCHITECT SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND ARCHITECT SHALL REFUND THE PURCHASE PRICE.

7.4 SUBCONTRACTOR'S INDEMNITY

7.4.1 ARCHITECT SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

ARTICLE 8
OWNERSHIP AND USE OF THE DOCUMENTS

8.1 Architect conveys and assigns to the City its entire interest and full ownership worldwide in and to any work, invention, notes, plans, computations, data bases, tabulations, exhibits, reports, underlying data, photographs and other work products, and any modifications or improvements to them (collectively "Documents"), and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively "Proprietary Rights") that Architect, its agents, employees, contractors, and subcontractors (collectively "Authors") develop, write, or produce under this Agreement.

8.2 The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by the Director, Architect shall place a conspicuous notation on any Works which indicates that the City owns the Proprietary Rights.

8.3 Architect shall execute all documents required by the Director to further evidence this assignment and ownership. Architect shall cooperate with the City in registering, creating, and enforcing Proprietary Rights arising under this Agreement. If Architect's assistance is requested and rendered under this Section, the City shall reimburse Architect for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Agreement, or if requested by the Director, Architect shall deliver all Works to the City. Architect shall obtain written agreements from the Authors

which bind them to the terms in this Section.

8.4 All Works developed, written, or produced under this Agreement for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are "works made for hire."

8.5 Architect may retain copies of the Documents for its archives. Architect shall not otherwise use, sell, license, or market the Documents.

ARTICLE 9
TERM, TERMINATION AND SUSPENSION OF CONTRACT

9.1 **TERM**. This Contract is effective on the Effective Date and expires upon the completion of the project unless terminated sooner.

9.2. **TERMINATION OF CONTRACT**

9.2.1 This Contract may be terminated by the City with or without cause upon thirty days written notice signed by the Director.

9.2.2 The Architect may terminate this Contract upon thirty days written notice to the City if the City fails substantially to perform in accordance with the terms of this Contract or if activity on the Project is suspended by the City for longer than the time period set out in Section 6.5.1, or if a Force Majeure causes suspension of the Project for longer than ninety days, provided, however, in the event the failure or suspension is cured within a thirty day period following the receipt by the City of the Architect's termination notice, the notice of termination shall become ineffective.

9.2.3 Upon receipt of a notice of termination and prior to the effective date of the termination, the Architect shall, unless the notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Contract and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Contract. Within thirty days after receipt of the notice of termination, the Architect shall submit a statement, showing in detail the services performed under this Contract prior to the effective date of termination.

9.2.4 Reproducible copies of all completed or partially completed Documents prepared under this Contract prior to the effective date of termination shall be delivered to the Director as a precondition to final payment.

9.2.5 In the event of termination due to no fault of the Architect and upon conditions stated in Sections 9.2.2 and 9.2.3 being met, the City shall promptly compensate the Architect for all services authorized by the Director and performed before or on the termination date, less previous compensation payments for services, together with Reimbursable Expenses then due.

9.3 **FORCE MAJEURE, SUSPENSION OF CONTRACT**

9.3.1 Timely performance by both parties is essential to this Contract. However, neither party will be liable for delays or other failures to perform its obligations under this Contract to the extent the delay or failure is caused by Force Majeure. For purposes of this Contract, Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders and the acts of superior governmental or military authority.

9.3.2 This relief is not applicable unless the affected party does the following:

.1 uses due diligence to remove the Force Majeure as quickly as possible;

.2 provides the other party with prompt written notice of the cause and its anticipated effect; and

.3 provides the other party with written notice describing the actual delay or non-performance incurred within seven days after the Force Majeure ceases.

9.3.3 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Contract by the City.

9.3.4 If the Force Majeure continues for more than 30 days, the Director may terminate this Contract by giving seven days' written notice to Architect. Such termination is not a default or breach of this Contract. Architect waives any claim it may have for financial losses or other damages resulting from the termination except for amounts due under the Contract.

9.3.5 Architect shall not be relieved of the performance of its obligations under this Contract due to a strike or work slowdown of its employees. Architect shall employ only fully trained and qualified personnel during a strike.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 APPLICABLE LAWS

10.1.1 This Contract is subject to and shall be construed in accordance with the laws of the State of Texas, the City Charter and ordinances of the City of Houston (e.g. Landscape Ordinance), the laws and regulations of the federal government of the United States of America, and all rules and regulations of any regulatory body or officer having jurisdiction over this Project. Venue for this Contract is Harris County, Texas.

10.2 INSURANCE

10.2.1 The Architect shall provide and maintain certain insurance in full force and effect at all times during the term of this Contract and any extensions thereto. Such insurance is described as follows:

10.2.1.1 **Risks and Limits of Liability:** The insurance, at a minimum, must include the following coverages and limits of liability:

Coverage	Limit of Liability
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily Injury by accident $1,000,000 (each accident) Bodily Injury by Disease $1,000,000 (policy limit) Bodily Injury by Disease $1,000,000 (each employee)

Coverage	Limit of Liability
Commercial General Liability: Including Broad Form Coverage, Bodily Injury and Property Damage (Products and Completed Operations required when Physical Operations performed)	Bodily Injury and Property Damage, Combined Limits of $1,000,000 each Occurrence and $1,000,000 aggregate per 12-month period
Automobile Liability	$2,000,000 combined single unit for (1) any auto or (2) all owned, hired and non-owned autos
Excess Liability applicable to Commercial General and Automobile Liability	$1,000,000
Professional Liability	$2,000,000 per claim/aggregate
Aggregate limits are per 12-month policy period unless otherwise indicated	

If professional liability coverage is written on a "claims made" basis, the Architect shall also provide proof of renewal each year for two years after substantial completion of the project, or in the alternative: evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the project covered by this Contract with a duration of two years after substantial completion.

10.2.1.2 **Form of Policies:** The insurance may be in one or more policies of insurance, the form of which must be approved by the Director and City Attorney; however such approval shall never excuse non-compliance with the terms of this Section.

10.2.1.3 **Issuers of Policies:** The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in the State of Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition *Best's Key Rating Guide*.

10.2.1.4 **Insured Parties:** The City shall be an additional insured under this contract. Each policy, except those for Workers' Compensation, Employer's Liability and Professional Liability, must name the City and its officers and employees as Additional Insureds on the original policy and all renewals or replacements during the term of this Contract.

10.2.1.5 **Deductibles:** Architect shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for same against the City, its officers or employees.

10.2.1.6 **Cancellation:** Architect must give the Director 30 days' advance written notice of any cancellation, non-renewal, or material change to the policy. Within the 30 day period, Architect shall provide other suitable policies in lieu of those about to be canceled or nonrenewed so as to maintain in effect the required coverage. If Architect does not comply with this requirement, the Director, at his or her sole discretion, may:

(a) immediately suspend Architect from any further performance under this Contract and begin procedures to terminate for default, or

(b) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Architect under this Contract.

10.2.1.7 **Subrogation:** Architect waives any claim or right of subrogation to

recover against the City, its officers, agents and employees, and each Architect's insurance policy, except Professional Liability, must contain an endorsement waiving waving such claim.

10.2.1.8 **Endorsement of Primary Insurance:** Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.

10.2.1.9 **Liability for Premium:** The Architect shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.

10.2.1.10 **Subcontractors:** Architect shall require all subcontractors whose subcontracts exceed $100,000, to carry insurance meeting all requirements stated above except amount. The amount shall be commensurate with the amount of the subcontract, but in no case shall it be less than $500,000 per claim.

10.2.2 **Delivery of Policies:**

10.2.2.1 At the time this Contract is signed and as long as this Contract continues, Architect must furnish to the Director certificates of insurance that meet the requirements of this Contract. These certificates must bear the Architect's name for which they are insured. If requested by the Director, Architect must provide the originals of all policies referred to above, or copies certified by the agent or attorney-in-fact issuing them. Architect shall provide updated certificates of insurance to the Director upon request.

10.2.2.2 Every certificate of insurance Architect delivers for the Project shall:

(a) Be less than 12 months old;

(b) Include all pertinent identification information for the Insurer, including the company name and address, policy number, NAIC number or AMB number, and authorized signature;

(c) Include the Project name and reference numbers and indicates the name and address of the Project Manager in the Certificate Holder Box; and

(d) Be appropriately marked to accurately identify:

(i) All coverage and limits of the policy;

(ii) Effective and expiration dates; and

(iii) Waivers of subrogation, endorsement of primary insurance and additional insured language, as described above.

10.2.2.3 Architect shall continuously and without interruption, maintain in force the required insurance coverage specified in this Section. If Architect does not comply with this requirement, the Director, at his or her sole discretion, may: Immediately suspend Architect from any further performance under this Contract and begin procedures to terminate for default; or

10.2.2.4 The City shall never waive or be estopped to assert its rights to terminate this Contract because of its acts or omissions regarding its review of insurance documents.

10.2.2.5 Architect shall, upon the City's request, deliver an assurance letter from Architect's insurer stating that the insurer intends to issue Architect a new policy that meets the terms of this Section.

10.2.3 **Other Insurance.** If requested by the Director, Architect shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Architect's operations under this Contract.

10.3 Unless otherwise provided in this Contract, the Architect and Architect's subcontractors shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

10.4 The Architect agrees not to participate in the bidding process as a bidder and not to engage in construction of the Project. By written agreement, the Architect shall require each subcontractor for Project engineering services to be bound by the requirements of this Section.

10.5 **EQUAL EMPLOYMENT OPPORTUNITY**

10.5.1 The provisions set out in **Exhibit "C"** relating to Equal Employment Opportunity and attached to this Contract are hereby incorporated by reference herein for all purposes as fully and completely as if set forth verbatim herein. For the purpose of interpreting such, the Architect shall be the "Contractor".

10.6 **MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES PARTICIPATION**

10.6.1 Architect shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Architect shall make good faith efforts to award subcontracts or supply agreements in at least ____% of the value of this Agreement to MWBEs. Architect acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity ("OBO"), and will comply with them.

10.6.2 Architect shall ensure that all subcontracts with MWBE subcontractors and suppliers contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's OBO Director ("the Director").
2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.
3. Within five business days of execution of this subcontract, Architect (prime contractor) and subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of

such agent.

10.6.3 To this end, the Architect shall maintain records showing: (i) subcontracts and supply agreements with Minority Business Enterprises; and (ii) subcontracts and supply agreements with Women- owned Business Enterprises; and (iii) specific efforts to identify and award subcontracts and supply agreements to Minority and Women-owned Business Enterprises.

10.6.4 The Architect shall be required to submit periodic reports of its efforts under this Article to the OBO Director in such form and manner and at such time or times as may be prescribed, but initially described in the reporting forms included as **Exhibit "J".**

10.7 **SUCCESSORS AND ASSIGNS**

10.7.1 The City and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Contract and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Contract. Neither the City nor the Architect shall assign in law or otherwise, sublet or transfer any interest in this Contract without the written consent of the other.

10.8 **NON-WAIVER**

10.8.1 Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

10.9 **NOTICES**

10.9.1 All notices required or permitted hereunder shall be in writing and shall be deemed received when actually received or if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the other party at the address prescribed in the preamble hereof or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

10.10 **CAPTIONS**

10.10.1 The captions at the beginning of the articles and sections of this Contract are guides and labels to assist in locating and reading such articles and sections and, therefore, will be given no effect in construing this Contract and shall not be restrictive of or be used to interpret the subject matter of any article, section or part of this Contract.

10.11 **ACCEPTANCES AND APPROVALS**

10.11.1 Any acceptance or approval by the City, or its agents or employees shall not constitute nor be deemed to be a release of the responsibility and liability of the Architect, its employees, agents, subcontractors or suppliers for the accuracy, competency and completeness of any Documents prepared or services performed pursuant to the terms and conditions of this Contract, nor shall acceptance or approval be deemed to be an assumption of such responsibility or liability by the City, or its agents and employees, for any defect, error or omission in any Documents prepared or services performed by the Architect, its employees, agents, subcontractors or suppliers pursuant to this Contract.

10.12 **AMBIGUITIES**

10.12.1 In the event of any ambiguity in any of the terms of this Contract it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

10.13 **INDEPENDENT CONTRACTOR**

10.13.1 The relationship of the Architect to the City shall be that of an independent contractor. The City has no control or supervisory powers over the manner or method of Architect's performance under this Contract. All personnel Architect uses or provides are its employees or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever. Architect is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all worker's compensation benefits coverage.

10.14 **SURVIVAL**

10.14.1 The provisions set forth in Article 8, Ownership and Use of The Documents, herein shall survive the termination, cancellation or expiration of this Contract.

10.15 **EXTENT OF CONTRACT**

10.15.1 This agreement, including its sections and the referenced Exhibits A to M which are made a part hereof, represents the entire and integrated agreement between the City and the Architect ("Contract") and supersedes all prior negotiations, representations or agreements either written or oral. This Contract may not be altered or amended except in writing executed on behalf of all of the parties and approved by ordinance by the City Council of the City of Houston.

10.15.2 If a conflict among the sections and Exhibits arises, the sections shall control over the Exhibits.

10.15.3 This Contract is between the City and Architect, which are collectively referred to as the "parties" or singularly as a "party." This Contract shall bind and benefit the parties and shall not bestow any rights or benefits upon any third parties.

10.15.4 If any part of this Contract is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

10.16 **FAIR CAMPAIGN ORDINANCE**

10.16.1 The City of Houston Fair Campaign Ordinance makes it unlawful for a contractor to offer any contribution to a candidate for City elective office (including elected officers and officers-elect)

during a certain period of time prior to and following the award of the Contract by the City Council. The term "Contractor" includes proprietors of proprietorships, partners or joint venturers having an equity interest of 10 percent or more for the partnership or joint venture, and officers, directors and holders of 10 percent or more of the outstanding shares of corporations. A statement disclosing the names and business addresses of each of those persons will be required to be submitted with each bid or proposal for a City Contract. See Chapter 18 of the Code of Ordinances, Houston, Texas, for further information. The term "contractor" as used in this ordinance and for the purposes of this Contract, shall mean the "Architect".

10.17 **ENFORCEMENT**

10.17.1 The City Attorney or his or her designee shall have the right to enforce all legal rights and obligations under this Contract without further authorization. Architect covenants to provide to the City Attorney all documents and records that the City Attorney deems necessary to assist in determining Architect's compliance with this Contract, with the exception of those documents made confidential by federal or State law or regulation.

10.17.2 This Contract is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

10.17.3 The parties consent to venue for any litigation relating to this Contract being Harris County, Texas, regardless of any choice of law rules.

10.17.4 Unless otherwise specified in this Contract, the rights and remedies contained in this Contract are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Contract except in accordance with its provisions.

10.18 **DRUG DETECTION AND DETERRENCE**

10.18.1 It is the policy of the City to achieve a drug-free workforce and to provide a workplace that is free from the use of illegal drugs and alcohol. It is also the policy of the City that the manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by Architects while on City Premises is prohibited. By executing this Contract, Architect represents and certifies that it meets and shall comply with all the requirements and procedures set forth in the Mayor's Policy on Drug Detection and Deterrence, City Council Motion No. 92-1971 ("Mayor's Policy") and the Mayor's Drug Detection and Deterrence Procedures for Architects, Executive Order No. 1-31 Revised ("Executive Order"). City Council Motion No. 92-1971 (Mayor's Policy) is on file in the office of the City Secretary. Copies of Executive Order No. 1-31, Revised may be obtained in Room B-1, City of Houston Offices located at 1801 Main Street.

10.18.2 Executive Order No. 1-31, Revised applies to all City of Houston contracts for labor and/or services except the following:

.1 Contracts authorized by Emergency Purchase Orders,

.2 Contracts in which imposition of the requirements of this Executive Order would exclude all potential bidders or proposers or would eliminate meaningful competition for the contract,

.3 Contracts with companies that have fewer than fifteen employees during any 20-week period during a calendar year and no safety impact positions,

.4 Contracts with non-profit organizations providing services at no cost or reduced cost to the public, and

.5 Contracts with federal, state, or local governmental entities.

10.18.3 Prior to execution of this Contract, Architect will have filed with the City (i) the Drug Policy Compliance Agreement substantially in the format set forth in **Exhibit "E"** (Attachment A to the Executive Order), (ii) a copy of its drug-free workplace policy, and (iii) a written designation of all safety impact positions, if applicable or (iv) a Certification of No Safety Impact Positions, substantially in the format set forth in **Exhibit "F"** (Attachment C to the Executive Order), if applicable (i.e. no safety impact positions). Architect shall also file every 6 months during the performance of this Contract and upon the completion of this Contract, a Drug Policy Compliance Declaration in a form substantially in the format set forth in **Exhibit "G"** (Attachment B to the Executive Order). The Drug Policy Compliance Declaration shall be submitted within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Contract. The first 6-month period shall begin to run on the date City issues its Notice to Proceed hereunder or if no Notice to Proceed is issued, on the first day Architect begins Work.

10.18.4 Architect shall have the continuing obligation to file with the Director written designations of safety impact positions and Drug Policy Compliance Declarations at any time during the performance of this Contract that safety impact positions are added if initially no safety impact positions were designated. Architect also shall have the continuing obligation to file updated designations of safety impact positions with the Director when additional safety impact positions are added to Architect's employee work force.

10.18.5 Architect shall require that its subcontractors comply with the Mayor's Policy and the Executive Order and Architect shall be responsible for securing and maintaining the required documents for City inspection throughout the term of this Contract.

10.18.6 The failure of Architect to comply with the above Sections shall be a breach of this Contract entitling City to terminate in accordance with Article 9.

10.19 **BUSINESS STRUCTURE AND ASSIGNMENTS**

10.19.1 Architect shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however prevents the assignment of accounts receivable or the creation of a security interest as described in Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Architect shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

10.20 **ARCHITECT'S DEBT**

10.20.1 If Architect, at any time during the term of this Contract, incurs a debt, as the word is defined in Section 15-122 of the Houston City Code of Ordinances, it shall immediately notify City Controller in writing. If City Controller becomes aware that Architect has incurred a debt, it shall immediately notify Architect in writing. If Architect does not pay the debt within thirty days of either such notification, City Controller may deduct funds in an amount equal to the debt from any payments owed to Architect under this Contract, and Architect waives any recourse

therefore. Architect shall file a new Affidavit of Ownership, using the form designated by City, between February 1 and March 1 of every year during the term of this Agreement.

10.21 **ARCHITECT'S ACCOUNTING RECORDS, INSPECTIONS AND AUDITS**

10.21.1 The Director and City Controller shall have the right to examine and review the Architect's books, records and billing Documents which are directly related to performance or payment under this Contract. The Architect shall maintain such books, records, and billing Documents for four years after the cessation of Architect's other services and responsibilities under this Contract. Nothing in this Article shall affect the time for bringing a cause of action nor the applicable statute of limitations.

The parties have executed this Contract in duplicate copies, each of which shall be an original, as of the date of countersignature by the City Controller of the City of Houston.

ARCHITECT:
[NAME]

By:_____
Name: _____
Title: _____

ATTEST/SEAL:

By:_____
Corporate Secretary

Tax Identification No. _____

CITY:

By:_____
Mayor

ATTEST/SEAL:

By:_____
City Secretary

COUNTERSIGNED:

_____
City Controller

DATE COUNTERSIGNED:

_____
"Effective Date"

APPROVED:

_____
Director, General Services Department

APPROVED AS TO FORM:

_____
Senior Assistant City Attorney
LD No. _____

EXHIBIT "A"

SCOPE OF SERVICES

[PROJECT NAME]

WBS No. _____

EXHIBIT "B"

PROJECT SCHEDULE

EXHIBIT "C"

Equal Employment Opportunity Contract Compliance

I. SCOPE

Pursuant to City Council Ordinance No. 78-1538, passed August 9, 1978, all contracts entered into by the City of Houston involving the expenditure of $10,000.00 or more shall incorporate the following equal employment opportunity clause.

II. REQUIREMENTS

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier, or lessee agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or workers' representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal opportunity and affirmative action provisions applicable, and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract, or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause each of his subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "D"

DIRECT SALARIES

Pursuant to Section 4.1.1 of the Contract the following table represents the classifications and direct salary rates of personnel the Architect anticipates will be directly engaged on the Project.

CLASSIFICATION	RATE
NEED TO ADD	

Form Approved by City Attorney August 2005

EXHIBIT "E"
DRUG POLICY COMPLIANCE AGREEMENT

I, _____, _____
(Name) (Title)

of _____
(Architect)

have authority to bind Architect with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Architect is aware of and by the time the Contract is authorized and approved by the City Council, City of Houston, Architect will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a Notice to Proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Architect that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Architects (Executive Order No. 1-31).

2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and an HHS certified drug testing laboratory to perform the drug tests.

3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.

4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Architect that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the Contract with the City of Houston,

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the Contract with the City and may result in the Contract not being authorized and approved by the City Council, City of Houston or termination of the Contract by the City of Houston.

_____ _____
(Date) Architect

_____
Signature

_____
Title

EXHIBIT "F"

ARCHITECT'S CERTIFICATION

OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared

_____
(Affiant)

who being by me duly sworn on his oath stated that he is _____
(Title)

of _____
Architect

and that no employee safety impact positions, as defined in §5.17 of Executive Order No. 1-31, will be involved in performing the architectural services as provided in the Contract. Architect agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

_____
(Affiant's Signature)

SWORN AND SUBSCRIBED before me by _____
(Affiant)

on _____.
(Date)

_____
Notary Public in and for the State of TEXAS

_____
(Print or type Notary Public name)

EXHIBIT "G"

DRUG POLICY COMPLIANCE DECLARATION

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared

_____
(Affiant)

who being by me duly sworn on his oath stated that he is _____
(Title)

of _____
(Architect)

the Architect named and referred to within the Contract; that Affiant is fully competent and authorized to give this affidavit and that Affiant has personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20__

_____ A written Drug Free Workplace Policy has been implemented and employees notified. The
Initials policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Written drug testing procedures have been implemented in conformity with the Mayor's Drug
Initials Detection and Deterrence Procedures for Architects, Executive Order No. 1-31. Employees have been notified of such procedures.

_____ Collection/testing has been conducted in compliance with federal Health and Human
Initials Services (HHS) guidelines.

_____ Appropriate safety impact positions have been designated for employee positions performing
Initials on the City of Houston contract. The number of employees in safety impact positions during this reporting period is _____.

_____ From _____ to _____ the following testing has occurred:
Initials (Start date) (End date)

	Total	Random	Reasonable Suspicion	Post Accident
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

_____ Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

_____
(Affiant's Signature)

SWORN AND SUBSCRIBED before me by _____ (Affiant) on _____ (Date).

_____
Notary Public in and for the State of TEXAS

_____
(Print or type name)

My Commission Expires: _____
(Expiration Date)

My Commission Expires: _____
(Expiration Date)

EXHIBIT "H"
CERTIFICATE OF INSURANCE

EXHIBIT "I"

FORM POP 2
CERTIFICATION OF AGREEMENT TO COMPLY WITH PAY OR PLAY PROGRAM

Available at http://www.houstontx.gov/obo/payorplay/pop2.pdf

EXHIBIT "J"

MWBE PROGRAM CONTRACT COMPLIANCE FORMS

Available at:

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PROFESSIONAL ARCHITECTURAL SERVICES CONTRACT

BETWEEN

CITY OF HOUSTON

AND

[ARCHITECT NAME]

FOR

CONSTRUCTION OF

[PROJECT NAME]

WBS No. _____

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

4 - STATEMENT OF QUALIFICATIONS

FOR PROFESSIONAL ARCHITECTURAL SERVICES

SOQ's are to be bound with clearly marked tabs that correspond to the sections of the SOQ. Total pages are limited by the SOQ form and additional pages set out in SOQ instructions. Other pages should not be included.

0.1 RESPONDENT'S GENERAL INFORMATION

Is SOQ being submitted by a Joint Venture?	☐ Yes ☐ No		
Respondent's legal name:			
Respondent's assumed names (if any):			
Respondent's local address:		Respondent's Headquarters Address (if different than local address):	
Contact Name for SOQ: Email address: Telephone number:		Federal Tax ID Number:	

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

0.2 ADDITIONAL FIRM GENERAL INFORMATION. *Provide the following information for the firm providing Professional Architectural Services. If submitting as a joint venture, the following information is required for each additional joint venture firm. Insert additional tables, if necessary.*

Firm's legal name:			
Firm's assumed names (if any):			
Firm's local address:		Firm's Headquarters Address (if different than local address):	
Federal Tax ID Number:			

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

1.1 RESPONDENT'S EXPERIENCE. *Respondents should select three representative design projects of a similar size and scope. Recent projects are preferable. The response boxes can be expanded to fit more information however; original overall table must remain the same size.*

Firm Name:			
I. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
Services Provided:			
Names of Proposed Key Personnel that worked on this project (if any):			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

Firm Name:			
II. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
Services Provided:			
Names of Proposed Key Personnel that worked on this project (if any):			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

Firm Name:			
III. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
Services Provided:			
Names of Proposed Key Personnel that worked on this project (if any):			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

2.1 PROPOSED KEY PERSONNEL. *List the Design Team personnel proposed for this project. Include the names of Project Manager, Project Architect, Project Designer (if applicable), and Construction Administrator.*

SOQ Project Role	Personnel Name	Corporate Title	Active Registrations/Certifications	Years of Experience

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

2.2 EXPERIENCE OF PROJECT ARCHITECT/PROJECT MANAGER. *Respondent should select three representative projects of a similar size and scope. These projects do not have to match projects in Section 1.1 Respondent's Experience. Recent projects are preferable. If the Respondent proposes a Project Designer, in addition to the Project Architect/Project Manager, insert three additional charts for the Project Designer's experience.*

Project Architect/Project Manager			
I. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
SOQ Project Role:			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

Project Architect/Project Manager			
II. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
SOQ Project Role:			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

Project Architect/Project Manager			
III. Project Name:			
Project Location:			
Year Completed:		LEED Certification Level:	
Construction Costs:			
Name, Phone Number and Email of Owner's Representatives:			
Project Description:			
SOQ Project Role:			
Additional Information:			
Attach up to two pages of photographs behind this sheet.			

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

2.3 EXPERIENCE OF PROJECT CONSTRUCTION ADMINISTRATOR. *List up to 5 projects of similar size and scope.*

Project Construction Administrator:				
Project Name and City:	Client	Construction Cost	Project Similarities	Past Project Role

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

3.1 RESPONDENT'S KEY PERSONEL OFFICE LOCATIONS. *List office location for design team key personnel. Local offices are preferred.*

SOQ Project Role	Personnel Name	Corporate Title	Office Location	City

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

4.1 DESIGN IMPLEMENTATION PLAN. *Provide a brief narrative describing;*

- *Document quality assurance/quality control for the entire set of drawings and specifications. Describe the process used to ensure coordination of disciplines, details, and specifications.*
- *Describe process for ensuring that all COH and CMAR comments are addressed during design.*
- *Interaction with CMAR. Describe collaborative process during design. Address material selections for cost and availability, and project estimates.*

One page is included below. Respondent may insert up to four additional pages. A maximum of five pages is allowed.

[This space left blank intentionally]

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

5.1 PROPOSED DESIGN TEAM CONSULTANTS: *Provide information for the Design Team Principal Consultants; MEP, Structural, and Civil. Local firms are preferred.*

Firm's Legal Name	Office Location (City)	Responsibilities and Scope of Work	Approximate % of work on this project	Indicate Yes or No if Worked with Prime Firm or Joint Venture before	Indicate MBE or WBE (if applicable)

5.2 MWBE COMPLIANCE PLAN: *Indicate intent to meet 24% goal. If "No" is indicated below, SOQ will not be evaluated. Respondent must demonstrate in Section 5.1 how it intends to meet the goal.*

Project Goal 24% participation met as indicated above?	☐ Yes ☐ No

REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

5.3 DESIGN SUB-CONSULTANT'S EXPERIENCE. *List up to 5 projects for each Sub-Consultant that highlights projects of a similar size and scope. Attach additional tables, if necessary.*

Project Sub-Consultant:					
Project Name and City:	Client	Construction Cost	Year Designed	Project Similarities	Past Project Role

Project Sub-Consultant:					
Project Name and City:	Client	Construction Cost	Year Designed	Project Similarities	Past Project Role

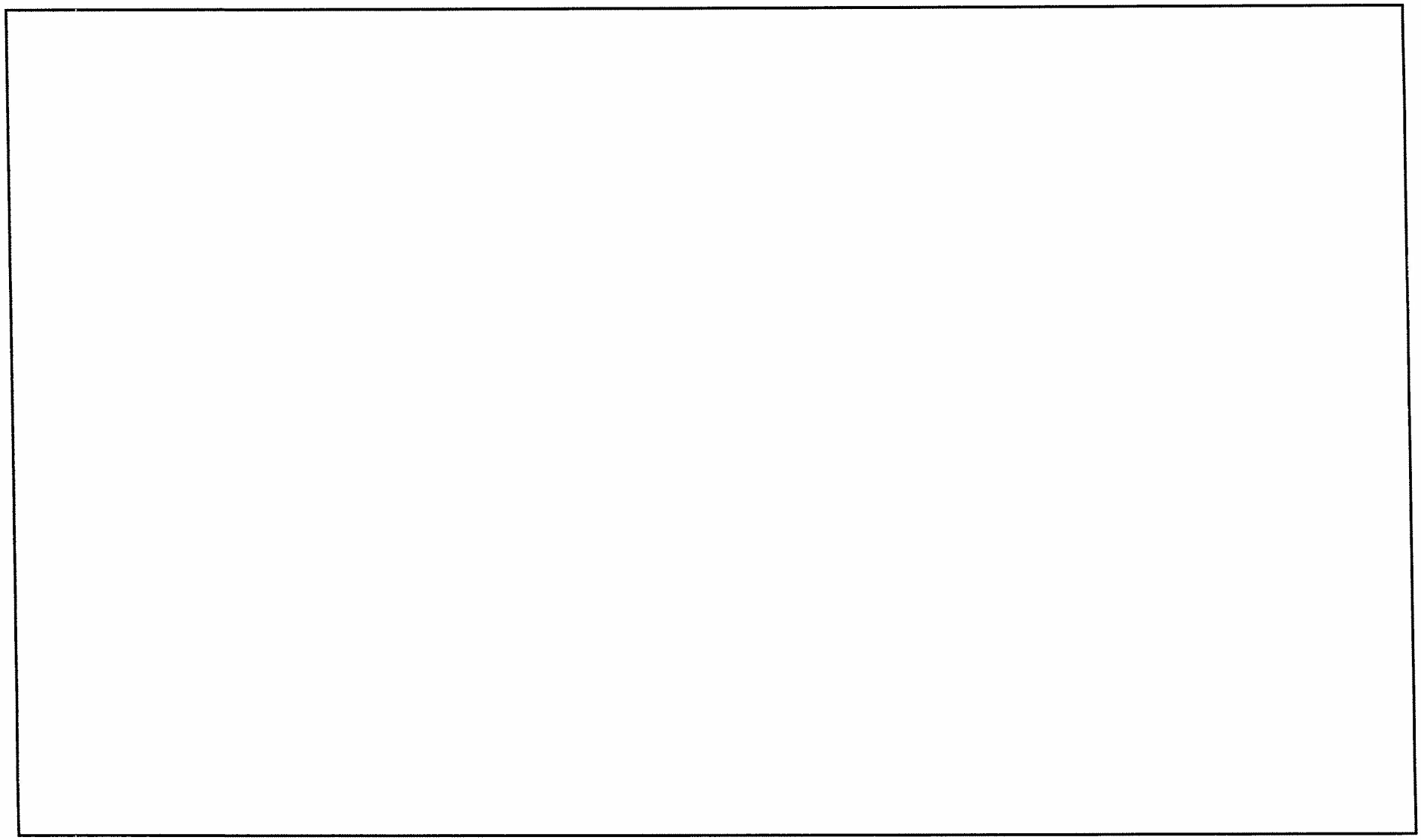
REQUEST FOR OF QUALIFICATIONS (RFQ)
FOR PROFESSIONAL ARCHITECTURAL SERVICES
Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3

6.1 COMMUNITY ENGAGEMENT. *Provide a narrative describing how the Respondent will engage the local community and bring the community's suggestions to the COH for approval. A maximum of two pages is allowed. Do not insert additional pages in this section.*

REQUEST FOR OF QUALIFICATIONS (RFQ)

FOR PROFESSIONAL ARCHITECTURAL SERVICES

Project Name / Number: NEW SUNNYSIDE PARK MULTI-SERVICE CENTER and HEALTH CENTER / H-000091-0001-3



7.1 REQUIRED FORMS. *All Respondents must include with the SOQ the following forms.*

- City of Houston Ownership Information Form - 00455
  http://purchasing.houstontx.gov/forms.shtml

- POP1 - Pay or Play Acknowledgement Form
  http://www.houstontx.gov/obo/payorplay/pop1

- Provide construction cost estimates at various milestones during the design process.
- Prepare bid documents.
- Provide permitting services.
- Actively assist with procurement process, including bidding activities.
- Perform construction phase services, including construction administration.
- Coordinate commissioning activities.
- Assist in warranty reviews and meetings, and project closeout activities.

2.45 DESIGN PHASES

Pre-Design Phase

Pre-Design Services include: master plan, existing conditions survey, space plan, conceptual floor plans, and a cost estimate. The Architect will need to gather any existing records, if available. These documents will need to be verified by on-site inspection. The extent of this effort shall be as in-depth and as extensive as is required and necessary to support the design effort.

Design Phases

Phase I services include: Planning, Programming, Schematic Design, and Design Development. Phase II services include the development of Contract Documents and assistance in the bidding process. These services will include construction drawings using CADD; CSI-style specifications; and documentation for commissioning procedures, LEED™ procedures, FF&E, IT, and Security.

Phase I shall include outline specifications. The Architect shall coordinate and include all specification sections with the City's standard specification divisions 00 and 01. Contract Documents shall be suitable for the solicitation of competitive construction bids. All permit and other discrepancies must be fully resolved and changes incorporated into the Contract Documents, before approval can be given by the City for the 100% submittal.

Construction and Post-Construction Phases

Phase III and Phase IV services include: Construction Administration, commissioning procedures and documentation, LEED™ procedures and documentation, Close-out Document review, As-built documentation, and post-construction observations.