

Aug 6, 2018
Final

Request for Qualifications
Architectural Services
Aransas County Texas New Courthouse/City Hall Complex-
DOWNTOWN ANCHOR PROJECT

QUALIFICATIONS ARE DUE on or before September 14, 2018 at 2:00 p.m. CST,
Qualifications received after the date and time may not be considered.

Addressed to:

Aransas County Project Manager c/o Judge's Office
2840 Hwy 35 N Attn: Downtown Anchor Project RFQ#2018-01 Rockport, TX 78382

I. General Information & Requirements

A. Request for Qualifications. Aransas County, Texas ("County") and City of Rockport ("City") collectively known as ("The Partners") requests statements of qualifications from ("architects") ("Architect" or "Respondent") with substantial experience in designing County Courthouses and City Halls to assist ("The Partners") in the design of the new combined County Courthouse and Rockport City Hall complex- Known as The Downtown Anchor (the "Project").

B. Scope of Services. ("The County") will serve as the lead agency in the partnership and is seeking an ("Architect") to design the Project - to be built on property owned by Aransas County. The selected ("Architect") will be required to provide a needs-assessment and programming to assist ("The Partners") in determining the size and features of ("The Project") that best fits their needs and which are constructible within ("The Partners") estimated construction budgets. ("The Partners") have initially estimated approx. 55,000 sq. ft. at a cost of \$18-19.3 million as the construction budget for the courthouse and ("The Partners") have initially estimated 28,000 sq. ft. at a cost of \$9-10 million as the construction budget for the city hall. The selected ("Architect") will be responsible for the design of the facilities and for providing contract administration services during construction. If ("The County") elects to use the Construction Manager at Risk ("CMR") method for ("The Project"), ("The Architect") will be required to assist ("The County") in the selection of the CMR and to work productively with the CMR during the design of ("The Project"). ("The Project") construction contract shall have a not-to-exceed cap of thirty million dollars \$30 Million.

C. Selection Process. ("The Partners") will perform an initial ranking of ("The Architects") based on the Responses received to this RFQ. ("The Partners"), at their option, may request one or more ("Respondents") to provide additional information or to be interviewed by a joint selection committee. Once ("The Partners") have obtained the information needed, it will rank ("The Respondents") from highest to lowest based on the selection criteria set out in Section K below. Contract negotiations will begin with the first-ranked ("Respondent"), and if the parties are unable to agree upon mutually-acceptable terms, ("The Partners") will terminate negotiations and move to the second-ranked ("Respondent"). This process will be followed until an agreement is reached or all

of ("The Respondents") are rejected. ("The County") Commissioners Court and the City Council will have the final decision in selecting the approved ("Architect").

("The Partners") reserve the right to terminate the selection process at any time, and to reject any and all ("Respondents").

D. Licensure/Compliance. All ("Respondents") must have legally required licensure so that all services required from them may be delivered in accordance with applicable law. ("Respondents") will also be checked for compliance with requirements of www.sam.gov

E. Inquiries and Contact Person. ("The Partners") will try to answer written inquiries concerning this RFQ, but shall not be obligated to do so. Firms who attempt to personally contact and/or influence any ("County") or ("City") public official may be automatically disqualified from the selection process. If an ("Architect") proposer believes the scope of services is unclear, or has a question regarding this RFQ, then ("The Architect") may make a written inquiry by email to the person identified below. Answers will be delivered by email, but ("The Partners") may issue addenda to this RFQ prior to the deadline for submission, or delay the date and time of submission in order to ensure that all prospective ("Respondents") are aware of and have had sufficient time to consider the addenda. **The final date for written questions and inquiries is September 4, 2018 at 12:00 noon.**

All questions should be addressed to the following contact person **BY EMAIL:**
Attn: Project Manager

Email: rfq1-questions@aransascounty.org

F. Public Information. Aransas County and the City of Rockport are political subdivisions of the State of Texas and is subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code). Any information submitted to ("The Partners") is presumed to be public information and available to the public. Any information or materials submitted to ("The Partners") that ("The Respondent") considers confidential and exempt from public disclosure under applicable law must be clearly marked "CONFIDENTIAL." The word "CONFIDENTIAL" should also appear prominently at the top of each page on which the information appears. If a request is made to review or obtain copies of the information marked Confidential under the Texas Public Information Act, ("The Partners") will endeavor to advise ("The Respondent") of the request. If requested by ("The Respondent"), ("The Partners") will ask for an Open Records Decision or Ruling from the Texas Attorney General's Office, but ("The Respondent"), at ("Respondents") sole cost and expense, will be responsible for asserting any appropriate exceptions to disclosure and information to support ("The Respondents") position. ("The Partners") will abide by the decision of the Texas Attorney General.

G. Waiver of Formalities. (“The Partners”) reserve the right to reschedule, extend, or cancel this RFQ at any time. (“The Partners”) reserve the right to reject any or all Responses, and to waive formalities or irregularities in connection with this RFQ and may consider submissions not made in compliance with this request for qualifications if it elects to do so, to the extent permitted by law, although (“The Partners”) will have no obligation for such consideration.

H. Terms of the RFQ. (“Respondents”) should read and understand all terms and conditions contained in this RFQ and in any addenda issued in connection with this RFQ. (“Respondents”) are responsible for determining whether any addenda have been issued prior to submission of their Responses.

I. No Reimbursement for Costs. (“Respondent”) acknowledges and accepts that (“The Partners”) will not reimburse (“Respondent”) for any costs incurred by (“Respondent”) in responding to this RFQ or otherwise participating in this selection process.

J. Submission of Responses. (“The Partners”) will receive Responses, consisting of the Statements of Qualifications and required documents and information as described in Article II below, at the time and location described below:

RESPONSES MUST BE RECEIVED on or before September 14, 2018 at 2:00p.m. CST at the following office:

**Aransas County Project Manager c/o Judge’s Office
RFQ#2018-01
2840 Hwy 35 N Rockport, TX 78382
Re: RFQ/Architect**

Responses received after the date and time specified will not be considered. The deadline for submitting written questions for this RFQ is September 4, 2018 @ 2:00 pm. No potential (“Respondent”) shall contact the staff or partners associated with this RFQ or seek to influence the staff of the partners or any partner officials. All Contacts must be sent to rfq1-questions@aransascounty.org.

K. Evaluation Methodology

1. Criteria for Evaluation. (“The Partners”) will identify (“The Respondent”) or (“Respondents”) that (“The Partners”) believe to be the most highly qualified providers to perform the required services in accordance with federal law including 2 C.F.R. 200.317 – 200.318, as applicable, and Chapter 2254 of the Texas Government Code, based on the following criteria and the information submitted by (“The Respondents”) pursuant to Article II below:

- a) Experience **25 points**
- b) Technical competency **20 points**
- c) Capacity to perform **20 points**
- d) Past performance of the proposal team and members of the team **15 points**
- e) Other appropriate factors submitted by the team or firm **10 points**
- f) Certification that each engineer or architect of the team was selected based on demonstrated competence and qualifications **10 points**

2. Acceptance of Evaluation Methodology. By submitting its Response to this RFQ, each Respondent accepts the evaluation process and acknowledges and accepts that determination of the "most highly qualified" firm will require subjective judgments by ("The Partners").

L. Architect Contract. The selected ("Architect") and ("The Partners") will enter into a contract based on negotiations which sets out the scope of services and the agreed-upon fees and reimbursable expenses prior to any services being performed. The contract will be substantially in the form attached hereto as Attachment 1, modified as necessary to reflect requirements of Federal Law including 2 C.F.R. 200.317-.328 and the ("Architects") responsibilities in connection with ("The Project").

II. Submission Requirements for Responses

("The Respondents") Response should consist of (i) the Statement of Qualifications described in Section A below and (ii) the accompanying information described in Section B below.

- A. ("The Respondents") Statement of Qualifications should contain the following information:
 - a. State the business name, principal business address and telephone and fax numbers of ("The Respondent");
 - b. the name of the individual representing ("The Respondent") with regard to this RFQ, and that person's title, phone number and email address;
 - c. a statement of interest for this RFQ including a brief narrative describing ("The Respondents") unique qualifications to perform design services for ("The Project");

- d. a statement of availability and commitment of ("The Respondent") and its principal(s) and assigned professionals to undertake the services described in this RFQ;
 - e. work experience and professional registration information for professional team members assigned to ("The Project");
 - f. a brief history of ("The Respondent") and each principal or consultant who will work on ("The Project");
 - g. a list of all staff members who perform services in connection with projects, including, but not limited to, staff architects (other than "The Architect" principally responsible for performing the design services) and compliance personnel;
 - h. a brief description of at least three (3) county courthouses and/or city hall facilities designed by ("The Respondent") (or designed by an architect of record who is now a principal or employee of ("The Respondent") and constructed within the last five (5) years. The response should provide ("Partners") with information by which to evaluate ("The Respondent") based on the Selection Criteria set out in Article I, Section K, and should include the following information with regard to each ("Project"):
- (1) the name and location of the facility,
 - (2) the name of the current owner of the facility,
 - (3) a description of the services performed by ("The Respondent"), or the current principal/employee of ("The Respondent"), in connection with the facility (e.g. design and contract administration services),
 - (4) a brief description of any assistance which ("The Respondent") provided to facility owners in resolving construction problems that arose during construction and/or the one-year warranty period following substantial completion;
 - (5) a statement as to whether the project was constructed within the contract amount, timeframe, and if not, the reason why it was not;
 - (6) a statement as to whether the project was substantially completed by the required substantial completion date, and if not, the reason why it was not; and
 - (7) The name and current contact information/phone and e-mail for at least one employee or representative of the facility owner who has

actual knowledge of ("The Project") and can provide specific information on the design, construction process, pricing and/or operation of the facility and/or the ("Architects") services.

B. The Statement of Qualifications should be accompanied by the following:

- a. Copies of ("Respondents") financial statements for the past three (3) years, and its financial rating, if available;
- b. A specimen Certificate of Insurance showing the amount and types of insurance coverage currently maintained by ("The Respondent"); and
- c. A written response to the following questions:
 - i) Disclosure Statement- Has your firm, or any principals or professionals of your firm been suspended, debarred, or involved in a dispute with an owner involving mediation, arbitration and/or litigation, or an investigation by a professional board arising in connect with a design or professional services contract or in connection with services performed?
 - ii) If the answer to (i) is "Yes", provide a detailed explanation of the events, the basis for the dispute or complaint, and the resolution.

III. Qualifications Statement Format

A. All submittals must be on 8 1/2" X 11" paper, typed with at least 11 point font, double-spaced, with a maximum of forty (40) pages excluding required insurance certificates/disclosures. Requestors/Proposers must submit one digital copy via CD or flash drive and 12 printed copies of a complete proposal (including a Statement of Qualifications, Experience, Resumes, References and Proposed Cost of Services. Proposals shall also include representative project examples and any/all Required forms. Deadline: Proposals must be received no later than September 14, 2018 at 2:00 pm CST.

B. Each ("Respondent") should submit one original Response, signed by a duly authorized representative of ("The Respondent"), and twelve (12) copies of the Response.

IV. Communication

("Respondents") intending to submit a proposal to this RFQ may not contact any officers or personnel of any Jurisdiction regarding this RFQ. All communications regarding this RFQ must be directed in writing only to rfq1-questions@aransascounty.org. All responses to written questions will be posted to ("The County") web site in the bid/RFP projects section of the site. ("Respondents")

who attempt any contacts outside this prescribed process may be automatically disqualified at the sole discretion of ("The Partners").

The deadline for submitting any written questions will be ten (10) calendar days prior to the response deadline. The Jurisdictions will determine at their sole discretion whether such communications warrant a response, which shall be in writing and made available along with the original communication to all service providers as an addendum. (Posts will be provided via the Aransas County Web-Site). No questions submitted after the written question deadline will be responded to by staff.

SCHEDULE OUTLINE:

| | |
|------------------|------------------------------|
| RFQ Issued | August 8, 2018 on or about |
| RFQ Q&A Deadline | September 4, 2018 @ 2:00 PM |
| RFQ Opening | September 14, 2018 @ 2:01 PM |

Committee Review and Evaluation (Estimated after September 25, 2018)

Notification regarding award --- Will be posted to ("The County") Web site Following Committee Review. Anticipate last week in November first week of December 2018. All Q&A responsive to this RFQ will be posted on ("The County") web site as well.

V. Additional Information/Interview

("The Partners") may require additional information or a personal interview from one or more of ("The Respondents"). ("Respondents") agree to promptly provide ("The Partners") with additional information reasonably requested by ("The Partners") in connection with this RFQ.

If ("The Partners") elect to interview a ("Respondent"), ("The Partners") will provide ("Respondent") with information on the date(s) set aside for interviews.

IN SUBMITTING A RESPONSE TO THIS RFQ, ("THE RESPONDENT") AGREES THAT IT WAIVES ANY CLAIMS IT HAS OR MAY HAVE AGAINST EITHER OF ("THE PARTNERS") OR ANY OF THEIR EMPLOYEES, OFFICERS, OFFICIALS, AGENTS, REPRESENTATIVES, AND THE MEMBERS OF OTHER ("PARTNER'S") GOVERNING BODY IN CONNECTION WITH OR ARISING OUT OF THIS RFQ, INCLUDING, THE ADMINISTRATION OF THE RFQ, THE BASIS FOR SELECTION, THE EVALUATIONS OF THE RESPONSES, THE METHOD USED FOR SELECTION AND ANY DISCLOSURE OF INFORMATION REGARDING THE RESPONSES OR EVALUATIONS. THE SUBMISSION OF A RESPONSE CONSTITUTES THE ACCEPTANCE BY ("THE RESPONDENT") OF THE EVALUATION TECHNIQUE DESCRIBED IN THIS RFQ.

Responders should be aware that all proposers will be reviewed for compliance with 2 C.F.R. § 200.323 (Cost/Price Analysis) and (“The Partners”) will comply with general standards set forth in 2 C.F.R. § 200.318 and, more specifically, with the provisions of 2 C.F.R. 200.318 – 200.328 as applicable.

END OF GENERAL INSTRUCTIONS

GENERAL SPECIFICATIONS

FOR

DOWNTOWN ANCHOR PROJECT 2840 HWY 35 N
ROCKPORT, TX 78382

RFQ #2018-01

CONTRACT PERIOD:
(Upon AWARD-)

DEADLINE: 2:00 P.M., September 14, 2018

Please refer to attachments 2-5 enclosed:

- Attachment #1 – SAMPLE ARCHITECT AGREEMENT
AIA STANDARD FORM OF AGREEMENT DOCUMENT*
- Attachment #2 – INSURANCE REQUIREMENTS FOR SERVICE CONTRACTS*
- Attachment #3 – WORKERS' COMPENSATION*
- Attachment #4 A, #4B & #4C General Concept Sketch*

ARANSAS COUNTY PROJECT MANAGER
c/o Judge' s Office 2840 HWY 35 N
ATTN: Downtown Anchor Project- RFQ #2018-01
ROCKPORT, TEXAS 78382

FIRM NAME

If the proposal which is prepared as described above is enclosed in an outer envelope for Express Mail, Overnight Express or Courier Delivery the title and number must still be indicated clearly on this outer envelope to assure proper receipt and handling. Note that the physical address & zip code for 2840 HWY 35 N is 78382. Faxed proposals will not be accepted.

ARANSAS COUNTY

c/o Judge's Office
2840 HWY 35 N
ROCKPORT, TEXAS 78382

NOTICE TO VENDORS

Sealed Statement of Qualifications as indicated, addressed to Aransas County Project Manager c/o Judge's Office, 2840 Hwy 35 N Attn: Downtown Anchor Project RFQ#2018-01 Rockport, Texas 78382 will be received until designated times, when they will be publicly opened. Forms and specifications may be obtained at <https://www.aransascountytexas.gov/main/publicnotices.php> or calling (361) 790-9496 or (361) 790-0100.

DOWNTOWN ANCHOR PROJECT

2840 HWY 35 N ROCKPORT, TX 78382

RFQ 2018-01

_September 14, 2018 2:00 PM_____

This Request for Qualifications (RFQ) is intended to solicit qualifications ("Respondents") with capabilities to design and construct improvements for Aransas County, Texas ("County") and City of Rockport ("City"), collectively known as ("The Partners"). For the purpose of this RFQ, ("Respondent") or ("Architect") refers to any entity or team that is qualified to provide all of the improvements as listed in this request. It is the intent of ("The Partners") to select the ("Respondent") demonstrating the best overall value to ("The Partners"), and to enter into an agreement to provide design and construction services for renovations to the Downtown Anchor Project. Improvements may include, but are not limited to, a new complex consisting of a courthouse, city hall, plaza, meeting rooms, and public restrooms, etc... See attached Illustration #4

("The Partners") reserve the right to reject any and/or all proposals and to make awards for individual items as they may appear to be in ("The Partners") best interest and to waive all formalities on bidding.

No proposal may be withdrawn for a period of ninety (90) days subsequent to the opening of bids/proposals without consent of ("The Partners").

("The Partners") are an Equal Opportunity Employer and encourages bids, quotes or proposals from any company or individual regardless of race, color, national origin, age, religion, sex, marital or veteran status, the presence of a medical condition, disability, membership or relationship to any organization, or any other legally protected status.

("The Partners") do not discriminate against any person on the basis of race, color, national origin, gender, disability, or age for admission, treatment, or participation in its educational programs, services and activities, or employment.

El distrito escolar de Aransas County no discrimina contra ninguna persona por motivos de raza, color, origen nacional, sexo, discapacidad o edad de admisión, tratamiento, o la participación en los programas educativos, servicios y actividades, o empleo.

Project Manager Office

PLEASE RELEASE OR PUBLISH THE ABOVE ON OR ABOUT: Date: August 8, 2018

Aransas County

RFQ Instructions for: **DOWNTOWN ANCHOR PROJECT 2840 HWY 35 N ROCKPORT, TX 78382. RFQ#2018-01**

LEGAL NOTICE

1. Sealed qualifications will be received for **The Project** in accordance with the attached specifications. Offers should address all specifications set forth in the qualifications. ("The Respondents") may suggest substitutions which they feel would be in the best interest of ("The Partners"). Strong rationale must be presented for any deviation from the specifications. ("The Partners") reserve the right to reject any deviations and their effect on the overall qualifications.
2. All qualifications must be submitted in a sealed envelope labeled, "**DOWNTOWN ANCHOR PROJECT RFQ #2018-01 2840 HWY 35 N ROCKPORT, TX 78382**" to The Partners c/o Judge's Office on or before 2:00 PM September 14, 2018. Any qualifications received after that time and date are disqualified from consideration and will not be opened.
3. ("The Partners") reserve the right to separate and accept, or eliminate any item(s) listed under this request for qualifications that it deems necessary to accommodate budgetary and/or operational requirements. ("The Partners") also reserve the right to reject any or all qualifications submitted, to waive any formalities or irregularities and to make whatever award is in the best interest of ("The Partners").

In determining to whom to award a contract, ("The Partners") may consider the criteria outlined in
Section K of this RFQ:

4. ("The Respondent") shall not substitute items named in the qualifications without the express written consent of ("The Partners"). Failure of the delivered item(s) to perform as specified, or failure to meet the stated delivery schedule shall release ("The Partners") from all obligations to the contracting party with regard to the item(s) in question.
5. Descriptive specifications are referenced in this request for qualifications to indicate the general kind and quality of supplies and/or equipment desired by ("The Partners"). Due to various styles and models of equipment, ("The Respondents") are required to include illustrations, specifications and service data with their qualifications, including catalogue numbers and any necessary reference.
6. No qualifications may be withdrawn within ninety (90) days from the scheduled time to open qualifications, without the written consent of ("The Partners").
7. **COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**
("The Respondent") shall be in compliance with all relevant requirements of the Americans with Disabilities Act (ADA) as applicable to their operations. By submission of a qualifications response, ("The Respondent") acknowledges intention to conform to the requirements of the ADA. Failure to comply with ADA constitutes good cause for ("The Partners") to suspend a contract with any successful ("Respondent").

8.

NOTIFICATION OF CRIMINAL HISTORY OF RESPONDENT:

- (a) A person or business entity that enters into a contract with a county must give advance notice to ("The County") if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.
- (b) A ("County") may terminate a contract with a person or business entity if ("The Partners") determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. ("The County") must compensate the person or business entity for services performed before the termination of the contract.
- (c) This section does not apply to a publicly held corporation.

ARANSAS COUNTY

STANDARD TERMS AND CONDITIONS

1. Invoices and Payments:

- a. For each purchase order (when used), ("The Architect") shall submit separate invoices, in duplicate, after each delivery, or for each thirty (30) day period, etc. Invoices shall indicate the purchase order(s) number, shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight weigh bill when applicable, should be attached to the invoice. Mail to: Aransas County Project Manager/Re: Downtown Anchor Project-RFQ#2018-01 c/o Judge's Office 2840 Hwy 35 N Rockport, TX 78382. Payment shall not be due until the above instruments are submitted. Suppliers should keep ("The County") Accounts Payable section advised of any changes in your remittance addresses.
- b. Under special conditions when purchase orders are not used and a representative of ("The County") is physically present to receive items, then a work order or a delivery order number is referenced on the delivery ticket, signed by ("The Partners") representative and dated. In this instance, invoices are normally prepared monthly and forwarded to ("The County") Accounts Payable office for processing and payment.
- c. Do NOT include Federal Excise, State or City Sales Tax. ("The Partners") shall furnish tax exemption certificate, if required.

2. Gratuities: ("The Partners") may, by written notice to ("The Architect"), cancel this contract without liability to ("The Partners") if it is determined by ("The Partners") that gratuities, in the form of entertainment, gifts, or anything of monetary value, were offered or given by ("The Architect"), or any agent, or representative of ("The Partners"), to any officer or employee of ("The Partners") with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by ("The Partners") pursuant to this provision, ("The Partners") shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by ("The Architect") in providing such gratuities.

3. Special Tools and Equipment: If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order(s), such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller assuch.

4. Warranty Price:

- a. The price to be paid by ("The Partners") shall be that contained in ("The Architects") offer which ("The Architect") warrants to be no higher than ("The Architects") current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event ("The Architect") breaches this warranty, the prices of the items shall be reduced to ("The Architects") current prices on orders by others, or, in the alternative, ("The Partners") may cancel this contract without liability to ("The Architect") for breach or ("The Architects") actual expense.
- b. ("The Architect") warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by ("The Architect") for the purpose of securing business. For breach or violation of this warranty, ("The Partners") shall have the right in addition to any other right or rights to cancel

c. This contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

5. Warranty Products: ("The Architect") shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of ("The Partners"). ("The Architect") warrants that the services furnished will conform to the specifications, drawings and descriptions listed in the procurement invitation and ("The Architects") expense.

6. No Warranty by the Partners Against Infringements: As part of this contract for sale ("The Architect") agrees to ascertain whether services manufactured in accordance with the specifications attached to the agreement will give rise to the rightful claim of any third person by way of infringement or the like. ("The Partners") make no warranty that the services according to the specification will not give rise to such a claim, and in no event shall ("The Partners") be liable to ("The Architect") for indemnification in the event that ("The Architect") is sued on the grounds of infringement or the like. If ("The Architect") is of the opinion that an infringement or the like will result, he will notify ("The Partners") to this effect in writing within two weeks after the signing of this agreement. Both parties retain the right to terminate this contract at no cost to the other party if either party independently ascertains the existence of a copyright/trademark violation or other infringement. The right to terminate can only be exercised upon sixty (60) days written notice to the other party.

In the event any article to be sold or delivered hereunder is covered by any patent, copyright, trademark, or application thereof, ("The Seller") shall indemnify and hold harmless ("The County"), its Trustees and employees from any and all loss, cost, expenses and legal fees on account of any claims, legal actions, or judgments on account of manufacture, sale, or use of such article in violation of infringement or the like, of rights under such patent, copyright, trademark or application.

7. Right of Inspection: ("The Partners") shall have the right to inspect the services at delivery before accepting them.

8. Cancellation: ("The Partners") shall have the right to cancel for default all or any part of the undelivered portion of this order if ("The Architect") breaches any of the terms hereof, including warranties of ("The Architect") or if ("The Architect") becomes insolvent or files for bankruptcy. Such right of cancellation is in addition to, and not in lieu of any other remedies which ("The Partners") may have in law or equity.

9. Termination: The performance of work under this order may be terminated in whole or in part by ("The Partners") for any reason. Termination of work hereunder shall be effected by the delivery to ("The Architect") of a Notice of Termination specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. ("The Architect") shall be paid only for the performance of work up to the date of termination if ("The Partners") exercise their right to terminate. Such right of termination is in addition to and not in lieu of rights of ("The Partners") set forth in Clause 15, herein.

10. Force Majeure: If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within ten (10) days after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the

control of the party claiming such inability. It is understood and agreed that settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

11. **Assignment Delegation:** No right or interest in this contract shall assign or delegate any obligation made by ("The Architect") without the written permission of ("The Partners"). Any attempted assignment or delegation by ("The Architect") shall be void and ineffective for all purposes unless made in conformity with this paragraph.
 12. **Waiver:** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right, unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved.
 13. **Modifications:** This contract can be modified or rescinded only by written amendment signed by both of the parties or their duly authorized agents.
 14. **Interpretation Parole Evidence:** This writing is intended by the parties as a sole and final expression of their agreement, and is intended also as a complete and exclusive statement of the terms of their agreement. This writing supersedes all prior oral and written agreements. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is controlling.
 15. **Applicable Law:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term Universal Commercial Code is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective on the date of this agreement.
 16. **Advertising:** ("The Architect") shall not advertise or publish, without ("The Partners") prior consent, the fact that ("Architect") has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.
 17. **Right to Assurance:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
 18. **Venue:** Both parties agree that venue for any litigation arising from this contract shall lie in Aransas County, Texas.
 19. **Prohibition Against Personal Interest in Contracts:** Any ("County") board member which has any substantial interest, either direct or indirect, in any business entity seeking to contract with ("The County"), shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. However, if a majority of the governing body are also required to file, and do file similar affidavits, then the member is not required to abstain from further participation.
- Vernon's Texas Codes Annotated, Local Government Code, Chapter 171.***
20. **Monetary Amounts:** Sums of money shall be indicated both by Unit Cost and Total Item Cost. In case of discrepancy, the Unit Cost shall govern.

21. **Discounts:** Cash Discounts offered may be considered in determining the successful supplier. Cash discount period shall start from date of receipt of acceptable invoice or from date of receipt of acceptable material, whichever is the later. Purchase Order number must appear on all invoices and delivery tickets.
22. **Competitive Procurement:** Although in most instances, ("The Partners") are required to submit purchases of personal property of TWENTY FIVE THOUSAND DOLLARS (\$25,000) to competitive procurement, it is not required to accept the lowest offer. In such purchasing, the lowest offer may be rejected if the ("Partners"), in the exercise of its best judgment, feels that the offer of one other than the low offeror will best serve the interests of ("The Partners"). In addition, ("The Partners") reserves the right to reject all offers.
- Please note carefully:** In quoting, give complete information in space(s) provided; otherwise your offer may not be given consideration. All offers MUST be signed to be considered. Facsimile offers are not accepted; offers must be sealed and follow all instructions in the RFQ.
- Also, ("The Partners") reserve the right to accept or reject any or all offers by item or in entirety and to waive all formalities or irregularities. This inquiry implies no obligation on the part of ("The Architect"), nor does ("The Architect's") silence imply any acceptance or rejection of any offer.
23. **Item Quantities:** ("The Partners") reserve the right to increase or decrease quantities. Modification of Special Conditions and/or Specifications will be done by supplemental procurement instructions.
24. **Purchase Order:** Unless otherwise specified herein, services shall not be performed without a copy of a purchase order, issued to the supplier and signed by a duly authorized representative of ("The Partners").
25. **NON-APPROPRIATION OF FUNDS CLAUSE:**
Renewal of contracts (if appropriate) will be in accordance with **Local Government Code 271.903** concerning non-appropriation of funds for multi-year contracts. ("The Partners") reserve the right to rescind the contract at the end of each fiscal year (as of August 31) if it is determined that there are insufficient funds to extend the contract.
26. **Equal Opportunity:** ("The Partners") encourage offers from any company or individual regardless of race, color, national origin, age, religion, sex, marital or veteran status, the presence of a medical condition, disability, or any other legally protected status.
27. **Recycled Products:** ("The Partners") shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality.
28. **Label:** An adhesive label with ("The County's") return address is enclosed for your convenience. Please indicate the title and the number on the outside of all correspondence. The Project Manager may open unlabeled submittals to properly identify them. Vendors are therefore advised to correctly label their submittals in order to protect the integrity of their sealed offers and to fully avail themselves of the sealed bidding process.
29. **Federal Grant Funding:** Contractor understands and agrees that this Contract is funded by a federal grant from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) through Texas Department of Public Safety (DPS) / Texas Division of Emergency Management (TDEM), an agency of the State of Texas, and is therefore subject to certain Grant Terms and Conditions and federal regulations applicable to FEMA-4332-DR-TX, including, but not necessarily limited to: the Uniform Administrative Requirements of 2 C.F.R., Part 200. To the extent of a conflict or inconsistency between any requirement or provision of this Contract and any applicable Grant Terms and Conditions, such conflicts shall be resolved to permit compliance with applicable Grant Terms and Conditions and shall be interpreted and construed in such a manner as to accomplish the purpose of the grant.

("The Partners") do not discriminate against any person on the basis of race, color, national origin, gender, disability, or age for admission, treatment, or participation in its educational programs, services and activities, or employment.

El distrito escolar de Aransas County no discrimina contra ninguna persona por motivos de raza, color, origen nacional, sexo, discapacidad o edad de admisión, tratamiento, o la participación en los programas educativos, servicios y actividades, o empleo.

DEVIATION(S) FORM

If the undersigned ("Architect") intends to deviate from the specifications set forth, then ("The Architect") must list all deviations on this form. In the event that there are no deviations, ("The Architect") shall enter a 0 on the following page after the No Deviations. ("The Architect") then assures ("The Partners") (Aransas County and City of Rockport are subdivisions) of their full compliance with the specifications and conditions set forth.

FAILURE TO LIST SUCH DEVIATIONS [i.e. shipping/handling charges, minimum orders, firmness of price throughout contract date, stated price is for pick-up orders only, etc.] IN DETAIL, WILL RESULT IN DISQUALIFICATION OF ("THEARCHITECT").

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings visible.

FIRM NAME

SIGNATURE OF COMPANY OFFICIAL

DATE SIGNED _____

Aransas County

Bidding Instructions for: **DOWNTOWN ANCHOR PROJECT 2840 HWY 35 N ROCKPORT, TX 78382, RFQ #2018-01**

PROPOSAL SHEET

Project Manager
Aransas County
2840 Hwy 35 N
Rockport, TX 78382

Ladies & Gentlemen:

Having carefully examined the specifications and conditions prepared by the Project Manager, ("The Partners"), and agreeing to conform to conditions set out in the contract, we, the undersigned, propose to furnish all supplies as awarded per our proposal, to subsequently guarantee materials delivered to be set out in the specifications, and to replace any item damaged in shipment.

"The undersigned affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this proposal in collusion with any other vendor, and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned or by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal."

1. In the event the undersigned ("Architect") intends to deviate from the general terms and conditions or specifications contrary to those listed in the "Specifications", "Standard Terms and Conditions", "Instructions" and other information attached hereto, all such deviations must be attached along with complete and detailed conditions and information.
2. All ("Architect") must complete this page, sign, and return with proposal or proposal may be considered NON- RESPONSIVE.
3. Our proposal is submitted according to (check appropriately): No Deviation: _____ Yes Deviation: _____

IF YES ☐ PLEASE BE SPECIFIC BY STATING YOUR DEVIATION(S) ON FORM PROVIDED.

FIRM NAME

AGENT/TITLE/OFFICIAL POSITION

MAILING ADDRESS

CITY STATE ZIP

TELEPHONE NUMBER

FAX NUMBER

SIGNATURE OF COMPANY OFFICIAL
AUTHORIZING THIS BID

TERMS = NET _____ DAYS or ADDITIONAL DISCOUNT
OF _____ % FOR EARLY PAYMENT WITHIN _____ DAYS.

COMPANY OFFICIAL (PRINT NAME)

DELIVERY IN _____ DAYS
EMAIL: _____

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ATTACHMENT "A" -QUALIFICATIONS ACKNOWLEDGEMENT FORM

A-THE PARTNERS SUPPLIED INFORMATION

1. PURPOSE OF SOLICITATION

This Request for Qualifications (RFQ) is intended to solicit qualifications from design-build firms with capabilities to design, and construct a Downtown Anchor Project for Aransas County ("The Partners"). For the purpose of this RFQ, ("Respondent") refers to any entity or team that is qualified to provide all of the services as listed in item A-3 below. It is the intent of ("The Partners") to select the most qualified ("Respondent") to partner with that will provide design build and/or Construction Manager at Risk services to ("The Partners").

2. THE PARTNERS BACKGROUND

("The Partners") intend to construct a Downtown Anchor Project, RFQ#2018-01, 55,000 sq. ft for the County and 28,000 sq. ft for the City. Which would consist of a courthouse, city hall, plaza, parking, joint meeting rooms, and public restrooms. Some reconfiguring may be required for code and/or ADA purposes or as ("The Partners") require. Maps showing the general planned location of the improvement are included in Attachment 4.

3. SERVICES REQUESTED

("The Partners") request the turnkey services of a design-build firm

("Respondent") with the capability to complete the following scope of work:

1. Analysis and assessment of ("The Partners") facilities to determine structural, water, sewer, grading, and drainage needs associated with improvements.
2. Development of project proposal(s) for ("The Partners") consideration.
3. Design and Engineering of approved project.
4. Construction of the approved project.

4. PROJECT BUDGET

The Owner has budgeted a maximum of THIRTY MILLION DOLLARS (\$30,000,000) for the preliminary scope of work referred in Attachment 4. ("The Partners") understand and acknowledge that scope change may result in either an increase or decrease in budget.

5. PROCUREMENT PROCESS

a. Request for Qualifications (RFQ)

The RFQ is the first step in a multi-step process aimed at identifying one or more qualified respondents. ("The Partners") will evaluate each ("Respondents") experience, technical competence, and capability to perform, the past performance of ("The Respondents") team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted.

b. Selection of Qualified Provider or Short-list of Providers

A committee may be formed to review responses submitted. Based on the selection criteria described in this document, the committee may short-list a maximum of five (5) of the most qualified ("Respondents"). ("The Partners") retain the right to select only one ("Respondent") at this stage and negotiate a contract. ("The Partners") may also determine that no qualified submittals have been received and reject all submittals.

c. Oral Presentation ("The Partners") Option

Oral presentations may be required of each of the interested short-listed ("Respondents") covering any unique qualities, methodologies, or approaches taken to differentiate from other ("Respondents"). Short-listed ("Respondents") may be asked to provide additional information to ("The Partners") regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability to meet schedules, costing methodology, or other factors as appropriate. This additional information will be used in addition to prior information received in further evaluating the short-listed ("Respondents") to determine a rank-order of the short-listed firms.

d. Negotiate Project Development Agreement

("The Partners") shall select the Architect who has performed design-build and/or construction manager at risk projects. The firm that submits the qualifications offering the best value for ("The Partners") on the basis of the published selection criteria and on its ranking evaluations and enter into negotiations. It is anticipated that negotiations would encompass all phases of work, including but not limited to: engineering fees, preconstruction services, labor rates, contingency/risk, bonds, and markups for overhead and profit on subcontractors, as well as any other items ("The Partners") feel/determine are appropriate. If negotiations are successful, ("The Partners") and the highest ranking ("Respondent") will enter into an agreement to develop the project proposal as outlined in this RFQ. If an acceptable agreement cannot be reached between ("The Partners") and the highest-ranking ("Respondent"), ("The Partners") may choose to negotiate with the next highest ranking ("Respondent").

e. Project Development

The selected ("Respondent") will develop the project proposal based on the preliminary scope outlined in Attachment 4 and the overall information in this RFQ. ("The Partners") expect ("The Respondent") to complete the project development on a contingent basis (i.e. not bill for the development until completed and the implementation is funded) and roll the agreed upon cost of the development into the implementation cost. ("The Partners") reserve the right to pay for the development separately. At the conclusion of Project Development, ("Respondent") will provide ("The Partners") with a Guaranteed Maximum Price (GMP) for the agreed upon scope of work.

f. Project Implementation

After finalizing work scope and GMP, ("The Respondent") will provide turnkey engineering design and construction management services.

6. INSTRUCTIONS TO RESPONDENTS

a. Public Information

All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or Non-proprietary and are subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) after a contract is awarded. ("The Partners") strictly comply with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFQ information.

b. Type of Contract

Any contract resulting from this solicitation will be in the form that meets any and all requirements of the final financing options and/or statutory requirements related to project approval criteria.

c. Clarifications and Interpretations

Any clarifications or interpretations of this RFQ that materially affect or change its requirements will be included in an addendum and issued to each known potential ("Respondent"). It is the responsibility of all ("Respondents") to obtain this information in a timely manner. All such addenda issued by ("The Partners") before the qualifications are due shall become a part of the RFQ, and ("Respondents") shall acknowledge receipt of and incorporate each addendum in its response. ("Respondents") shall consider only those clarifications and interpretations that ("The Partners") issues by addenda at least two (2) days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on ("The Partners") and should not be relied on in preparing Qualifications.

d. **Deadline**

("The Partners") will receive Qualifications at the time described below.

September 14, 2018 @ 2:00 P.M., LOCAL TIME

Submit PDF of the Qualifications to:

Name: Aransas County Project Manager c/o Judge's Office
RFQ#2018-01
2840 Hwy 35 N.
Rockport, TX 78382
Name: Project Manager
Email: rfq1-questions@aransascounty.org

Late received Qualifications will not be considered for review.

e. **Delivery and Submission**

("The Partners") will not acknowledge or receive Qualifications that are delivered by telephone, facsimile (fax), or electronic mail (e-mail). Properly submitted Qualifications will not be returned to ("Respondents"). Qualifications materials must be included in one PDF. The submittal title must clearly identify the submittal deadline, the RFQ title, and the name of the ("Respondent").

f. **Point of Contact**

("The Partners") designate the following person as its representative and Point-of-Contact for this RFQ. ("Respondents") shall restrict all contact with ("The Owner") and direct all questions regarding this RFQ to:

Name: Project Manager
Email: rfq1-questions@aransascounty.org

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate in this RFQ. Service providers that intend to use subcontractors in providing any services within the Scope of Work must take the following affirmative steps:

- 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

SUBMISSION REQUIREMENTS

- A statement identifying conflicts of interests the proposing entity or key employees may have regarding these services must be submitted with the proposal response, if applicable.
- System for Award Management. Service providers and owners must not be not debarred or suspended from either the Excluded Parties List System (EPLS) in the System for Award Management (SAM) or the State of Texas Comptroller Debarred Vendor List. Include verification that your company as well as the company's principal(s) is not listed (is not debarred) through the System for Award Management (www.SAM.gov). A print out of the search results that includes the record date must be submitted with the proposal response.
- Completion of all attached forms/disclosures.

INSTRUCTIONS FOR SUBMISSION

No proposal response shall be more than 40 pages in length (Excluding Mandatory Forms). Requestors/Proposers must submit one digital copy via CD or flash drive and 12 printed copies of a complete proposal (including a Statement of Qualifications, Experience, Resumes, References and Proposed Cost of Services. Proposals shall also include representative project examples and any/all Required Forms. Proposal Deadline: Proposals must be received no later than September 14, 2018 at 2:00pm CST.

COMMUNICATION

Service providers intending to submit proposal responses to this RFP may not contact any officers or personnel of any Jurisdiction regarding this RFQ. All communications regarding this RFQ must be directed in writing only to the following email address: RFQ #2018- #1 rfq1-questions@aransascounty.org or 2840 Hwy. 35 North Attn: Judge Mills Office Rockport, Tx. 78382. All responses will be posted to the County web site in the bid/RFP projects section of the site.

The deadline for submitting any written questions will be 10 calendar days, September 4, 2018 @ 2:00 PM, prior to the response deadline at 2:00 pm. The Jurisdictions will determine at their sole discretion whether such communications warrant a response, which shall be in writing and be made available along with the original communication to all service providers as an addendum. (Posts will be provided via the Aransas County Web-Site). No questions submitted after the written question deadline will be responded to by staff.

SCHEDULE OUTLINE:

RFQ Issued
RFQ Q&A Deadline
RFQ Opening

Committee Review and Evaluation (Estimated Time 30-60 days)

Notification regarding award --- Will be posted to the County Web site Following Committee Review.

g. **Evaluation of Qualifications**

The evaluation of the Qualifications shall be based on the requirements described in this RFQ. All properly submitted Qualifications will be reviewed, evaluated, and ranked by ("The Owner"). Qualifications shall not include respondent's fees, pricing, or other compensation.

h. **Owner's Reservation of Rights**

("The Owner") makes no representations of any kind that an award will be made as a result of this RFQ, or subsequent RFP and no such representation is intended or should be construed by the issuance of this RFQ. ("The Owner") reserves the right to reject any and all Qualifications and re-solicit for new Qualifications, or to reject any and all proposals and temporarily or permanently abandon ("The Project"). ("The Owner") reserves the right to waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFQ when deemed to be in ("The Owners") best interest.

i. **Acceptance of Evaluation Methodology**

By submitting its Qualifications in response to this RFQ, respondent accepts the evaluation process and acknowledges and accepts that determination of the "most qualified" firm(s) will require subjective judgments by ("The Owner").

j. **No Reimbursement for Costs**

("Respondent") acknowledges and accepts that any costs incurred from ("The Respondents") participation in this RFQ shall be at the sole risk and responsibility of the ("Respondent").

B - RESPONDENT'S SUBMITTAL

1. **General Instructions**

Qualifications shall be prepared simply and economically, providing a straightforward, concise description of ("The Respondents") ability to meet the requirements of this RFQ. Emphasis shall be on the quality, completeness, clarity of content, responsiveness to the requirements, and an understanding of ("The Partners") needs.

("The Respondents") shall carefully read the information contained in this RFQ and submit a complete response to all requirements and questions as directed. Incomplete Qualifications will be considered non-responsive and subject to rejection.

Failure to comply with all requirements contained in this Request for Qualifications may result in the rejection of the Qualifications.

Qualifications shall consist of answers to questions identified in this RFQ. It is not necessary to repeat the question in the Qualifications; however, it is essential to reference the question number with the corresponding answer. Qualifications that are qualified with conditional clauses, alterations, items not called for in the RFQ documents, or irregularities of any kind are subject to rejection by ("The Partners"), at their option.

2. Format

A. Page Size, Binding, Dividers, and Tabs

Qualifications shall be a MAXIMUM OF FORTY (40) PRINTED PAGES (excluding mandatory forms). All submittals must be on 8 1/2 " X 11" paper, typed with at least 11 point font, double-spaced. Requestors/Proposers must submit one digital copy via CD or flash drive and 12 printed copies of a complete proposal (including a Statement of Qualifications, Experience, Resumes, References and Proposed Cost of Services. Proposals shall also include representative project examples and any/all Required Forms. Proposal deadline: Proposals must be received no later than September 14, 2018 at 2:00 pm CST.

B. Pagination

Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.).

3. Required Information for RFQ

Criteria 1: Unique Qualifications

- 1.1. Provide a statement of interest for ("The Project") including a narrative describing ("The Respondent's") (and any sub-consultants') unique qualifications as they pertain to ("The Project"). Limit this section to five (5) pages.

Criteria 2: Corporate Qualifications

- 2.1 Provide a brief history of your firm and any proposed Sub-consultants and/or subcontractors. At a minimum, include the following information:
- Number of years your firm has been in business under its present name
 - All other names by which your firm has been known and length of time known by each name
 - The address of your firm's website, if applicable
 - Location of parent company headquarters. If international, please list both international headquarters and US headquarters
 - Location of office from which project will be managed
 - Revenues for each of the last three (3) years for work performed by ("The Respondent").
- 2.2 List the complete range of services and capabilities your firm offers (e.g. drainage design, construction management, etc.). Indicate all services which your firm performs with your own employees, and those which are usually subcontracted.
- 2.3 List any equipment manufactured by your company that may be included with this project.
Describe your willingness to include other manufacturer's products. Especially if manufacturer products are more cost effective for ("The Partners") project. Identify and describe any business associations with equipment manufacturers or suppliers that might be specified for this project.
- 2.4 List past or present litigation in which your company is a defendant pertaining to Design-Build in.

- 2.5 List any contracts in for other clients in the last ten (10) years that were terminated by the owner prior to completion due to non-performance.
- 2.6 Provide a claims history under professional malpractice insurance for the past five (5) years for ("The Respondent") and any sub-consultants or team members proposed to provide professional engineering services.
- 2.7 Provide name of bonding company, name and address of agent. Provide a letter from the bonding company indicating that Performance and Payment Bonds for 100% of the construction costs will be provided upon submission of the Guaranteed Maximum Price (GMP). Submit letter from bonding company on Bonding Company letterhead stating the maximum single project bendable amount. This letter shall state the bonding company will bond the contractor for at least the amount of the project budget (including Design Build Fee, salaries, bonds, insurance, General Conditions).
- 2.8 Required insurance - including workman's compensation must be maintained by the successful Design-Build Contractor throughout ("The Project"). Please describe your organization's insurance coverage. The successful respondent shall be required to provide to carry contractor's protective Liability Policy in limits of a minimum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) with combined single limit naming ("The Owner") as insured for each project.
- 2.9 ("The Respondent") shall certify to ("The Partners") the each ("Architect") or engineer who is a member of ("The Respondents") firm was selected based on demonstrated competence and qualifications in the manner provided by Tx. Govt. Code Section 2254.004.
- 2.10 Provide Professional Liability Insurance information stating ("The Architect") design team carries and maintains errors and omissions insurance in the amount of ONE MILLION DOLLARS (\$1,000,000).

The successful Design-Build firm shall upon approval of the contract, provide a Scope to Budget Estimate based on the Design Criteria Package. If the 11,150 Sq. ft. Scope to Budget Estimate is more than ("The Partners") Construction Budget of ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000), before moving further into the Design of the improvements project, the Design Contractor shall work with ("The Partners") to "Value Engineer" the project and scope to bring the project within a budget acceptable to ("The Partners"). Upon approval of the revised Scope to Budget Estimate by ("The Partners"), the project shall proceed forward into Design by the Architect/Engineer Team. If an acceptable construction cost is not reached, ("The Partners") have the right to cancel the project.

The above Total Construction Budget Cost includes Design Construction Fees, NE Design Fees, Building Permit, General Conditions, Administration, Personnel, Bonding, Insurance Costs and Subcontractor Cost of the Work.

Criteria 3: Personnel Qualifications

Provide information regarding capabilities and experience of personnel directly assigned to this project that include the following:

- 3.1 Clearly identify who will have primary technical responsibility for engineering and design work, contract negotiations, construction management, and any other aspect of ("The Project") implementation. Please do not list individuals that will not be assigned to ("The Project").
- 3.2 List all current projects (and their respective locations) assigned to each individual on the team, with Client contact names and numbers for reference checks.
- 3.3 Provide an organizational chart that clearly describes your firm's project organization with supervisory reporting for this program, along with each Sub-consultant and their area of responsibility.
- 3.4 Professional resumes for key personnel and their responsibilities for the duration of the Contract.
Resumes should include a list of previous projects, similar in size and complexity, in which the team member has played a significant role.

Criteria 4: Program and Project Methodology

- 4.1 Describe your firm's methodology of developing previous projects for past clients. Address in detail the following key components, if provided by your firm or team, and how you would approach each one:
 - Project development
 - Engineering and design
 - Construction and project management
 - Safety precautions in active campuses.

Criteria 5: References

- 5.1 Discuss your project team's experience with implementing design build projects at similar facilities. List a maximum of five (5) references indicating experience with improvements with owners of similar size and complexity. Include the following specific information for each project :
 - Year project was completed
 - Project title and location(s)
 - Name, address, and phone number of Partners' representative
 - Team member(s) involved and nature of team member's responsibility
 - General scope of work for the project
 - Total dollar contract amount

Criteria 6: Non-Collusion Affidavit

- 6.1 Please complete and submit as part of your proposal the attached Exhibit "A" form.

Criteria 7: Safety

- 7.1 Submit information on your firm's accident rate, multiplier and history for the last (5) five years 2012 thru 2017.

4. Criteria for Selection

Phase One – (“The Partners”) shall prepare a request for qualifications and evaluate each qualification submittal based on the following:

- Experience 25 points
- Technical competency 20 points
- Capacity to perform 20 points
- Past performance of the proposal team and members of the team 15 points
- Other appropriate factors submitted by the team or firm 10 points
- Certification that each engineer or architect of the team was selected based on demonstrated competence and qualifications 10 points

(“The Partners”) shall qualify a maximum of five (5) submissions to provide additional information and, (“The Partners”) MAY interview each for final selection.

Phase Two – (“The Partners”) shall evaluate the information submitted by (“The Respondents”) on the basis of the selection criteria (above) and the results of the interview. (“The Partners”) may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of (“The Project”), the feasibility of implementing (“The Project”) as proposed, the ability of (“The Respondent”) to meet schedules, costing methodology or other factors as appropriate. (“The Partners”) may not require (“The Respondent”) to submit detailed engineering or architectural design as part of the qualifications submittal.

A Selection Committee may recommend the Design firm that submits the qualifications offering the best value to the institution on the basis of the published selection criteria and on its ranking evaluations. Notwithstanding, (“The Partners”) retain authority to determine all qualifications, ranking evaluations and to make all determinations of the published selection criteria and to make all selections of Design firms.

Selection and Contract Negotiations

(“The Partners”) shall first attempt to negotiate with the selected Design team a contract. If (“The Partners”) are unable to negotiate a contract with the selected team, the institution shall formally, and in writing end all negotiations with that team and proceed to negotiate with the next team in the order of the selection ranking until a contract is reached or negotiations with all ranked teams end.

Note: Cost considerations are factors in the selection and contract negotiation period.

Ranking Criteria

Each proposal will be rated on a scale of 1 (least) to 5 (best) in the following categories. Each category is of equal weight.

- General Experience
- Experience In Design-Build Type Projects and/or Construction Manager At Risk Projects
- Competency/Capacity to Perform
- Past Performance
- Professional Reputation
- Certifications

EXHIBIT "A"

QUALIFICATIONS ACKNOWLEDGMENT FORM

Submitted by: _____

Date: _____

Phone No.: _____

To: _____

In submitting this proposal, the undersigned acknowledges and agrees to the following:

1. Receipt of the Request for Qualifications and attached Exhibit "A".
2. To hold open this submittal for a period of sixty (60) days following its submission.
3. To accept the right of ("The Partners") to reject any and all qualifications submittals, to waive formalities and to accept the proposal ("The Partners") considers most advantageous.
4. To enter into a contract with ("The Partners") for "Construction Manager at Risk" as specified in the Request for Qualifications and the response to the Request for Qualifications.
5. By signing, the undersigned affirms that, to the best of his knowledge, the Qualifications submittal has been developed independently and is submitted without collusion with any other ("Respondent") or with anyone that would serve to limit competition in the award of this contract.

Authorized Signature

Name/Title

Name of Contracting Firm

Address

Telephone

Date

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

OFFICE USE ONLY

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

☐

Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐

Yes

☐

No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

☐☐

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

☐

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Texas Ethics Commission – Form 1295

https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Here you will find:

New Form 1295 Certificate of Interested Parties Electronic Filing Application!



Implementation of HB 1295
Frequently Asked Questions (FAQ)

Instructional Videos for Business Entities: **Instructional Videos for Governmental Entities and State Agencies:**

- [*Logging In the First Time - Business User*](#)
- [*How To Create a Certificate*](#)
- [*Logging In the First Time - Government User*](#)
- [*How To Acknowledge a Certificate*](#)

Acceptable computers to use for filing include: **Your web browser must be at a minimum browser level:**

- Personal computer or laptop
- Mac desktop computer or MacBook
- Tablet
- Chrome 4
- Firefox 15
- Internet Explorer 9
- Opera 12.1
- Safari 4

CERTIFICATE OF INTERESTED PARTIES**FORM 1295****OFFICE USE ONLY**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

| 4 Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|-------------------------------|---|---------------------------------------|--------------|
| | | Controlling | Intermediary |
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5 Check only if there is NO Interested Party.

☐**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day
of _____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

**2 CFR §200 CERTIFICATIONS
REQUIRED BY FEDERAL EMERGENCY MANAGEMENT AGENCY UNDER THE
UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR
FEDERAL AWARDS (2 CFR 200 and Appendix II)**

For each of the items below, ("Respondent") must certify ("Respondents") agreement and/or compliance, where applicable, by having ("Respondents") authorized representative initial the applicable certification following each statement and signing the certification at the end of this form. Failure to respond to any of the items may, if applicable to the solicitation/contract, will impact the ability of ("The County") to purchase from the ("Respondent").

I. Equal Employment Opportunity.

To the extent that this Contract is for a Contract sum greater than TEN THOUSAND DOLLARS (\$10,000), ("Respondent") must certify that during the performance of the Contract it will comply with the following;

1.1.1. it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. ("The Respondent") will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination;

1.1.2 it will, in all solicitations or advertisements for employees placed by or on behalf of ("The Respondent"), state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin;

1.1.3. it will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with ("Respondents") legal duty to furnish information;

1.1.4 it 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 labor union or workers' representative of the commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

1.1.5 it will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor;

1.1.6 it will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders;

1.1.7 in the event of ("Respondents") non-compliance with the nondiscrimination clauses of ("The Respondent") or with any of such rules, regulations, or orders, the Contract may be canceled, terminated or suspended in whole or in part and ("The Respondent") may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law; and

1.1.8 It will include the provisions of Sub-paragraphs 3.1.1 through 3.1.8 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 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or ("Respondent"). ("Respondent") will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event ("Respondent") becomes involved in, or is threatened with, litigation with a subcontractor or ("Respondent") as a result of such direction, ("The Respondent") may request the United States to enter into such litigation to protect its interests.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, to the extent that this the Contract Sum greater than TEN THOUSAND DOLLARS (\$10,000.00) during the performance of the Contract ("Respondent") will comply with the provisions of 1.1.1 through 1.1.8 as set out above. YES, I so certify and agree. (Initial: _____)

2. Violation or Breach of Contract Terms:

Contracts for more than the "simplified acquisition threshold" (currently set at ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Provisions regarding Proposer violation or breach of the contract terms and the administrative, contractual or legal remedies, sanctions and penalties are included in the Form of Contract attached hereto as RCSP Appendix A. Any Contract award above the "simplified acquisition threshold" will be subject to these terms. The remedies in the Form of Contract are in addition to any other remedies that may be available to ("The County") at law or in equity.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if this the solicitation is in excess of the Simplified Threshold Amount (currently ONE HUNDRED FIFTY THOUSAND DOLLARS (150,000.00) ("The Respondent") will comply with the administrative, contractual, legal remedies sanctions and penalties for violation or breach which are included in the Form of Contract. YES, I so certify and agree. (Initial: _____)

3. Termination for Cause or Convenience:

A purchase or contract in excess of TEN THOUSAND DOLLARS (\$10,000.00) made using federal funds, must contain provisions for termination for cause and for convenience by ("The County") including the manner by which it will be effected and the basis for settlement. The required provisions regarding termination for Cause and Convenience are included in the Form of Contract attached hereto as RCSP Appendix A.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if this the solicitation is in excess of TEN THOUSAND DOLLARS (\$10,000.00) the Proposer will comply with the provisions regarding termination for Cause and Convenience included in the Form of Contract. YES, I so certify and agree. (Initial: _____)

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

Where applicable, all contracts awarded by the non-Federal entity in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of

intelligence. The required provisions requiring computation of the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours and requiring all work by such mechanic or laborer in excess of the standard work week to be compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week unless the mechanic or laborer receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week ("Requirement") are included in the Form of Contract to be signed by the successful ("Respondent").

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if ("Respondent") is awarded a contract in connection with this solicitation in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), ("Respondent") understands that: two (1) in the event of any violation of the Requirement ("The Respondent") and any subcontractor responsible therefor, shall be liable for the unpaid wages; two (2) ("The Respondent") and subcontractor will be liable to the United States for liquidated damages;

(3) such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the Requirement, in the sum of ten dollars (\$10.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours (40) without payment of the overtime wages required by the Requirement;

(4) ("The Partners") will upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by ("The Respondent") or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided above. ("The Respondent") further certifies that, if selected it will insert in any subcontracts it enters into in connection with this ("Project"), the clauses set forth in this Certification, as well as a clause requiring its subcontractors to include these clauses in any lower tier subcontracts it might enter into in connection with ("The Project"), and that ("Respondent") understands that as the prime contractor for ("The Project") it will be responsible for compliance by any subcontractor or lower tier subcontractor hired in connection on ("The Project") with the clauses set forth in this Certification.

If ("Respondent") is awarded a contract in connection with this solicitation, the solicitation is in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), ("The Respondent") certifies that it agrees to and will comply with the provisions regarding contract work hours as provided above and included in the Form of Contract.

YES, I so certify and agree. (Initial: _____)

5. Clean Air Act and Federal Water Pollution Control Act:

Contracts and sub-grants of amounts in excess of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) must contain a provision that requires the non-Federal awardee to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of the Proposer that, if Proposer is awarded a Contract in connection with this solicitation and the contract is in excess of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), the Proposer will and comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387), and will report each violation to ("The County"). Proposer further certifies that it understands and agrees that ("The County") will, in turn, report each violation as required, to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office, to include violation of these requirements. The Proposer certifies that, if selected it will insert in each of its subcontracts exceeding ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), the clauses set forth in this Certification; as well as, a clause requiring its subcontractors to include these clauses in any lower tier subcontracts it might enter into in connection with ("the Project").

YES, I so certify and agree. (Initial: _____)

6. Debarment and Suspension (Executive Orders 12549 and 12689):

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235). This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, which restricts awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded or ineligible from participation in federally assistance programs and activities. As a result, the Contractor is required to certify that neither the Contractor, any of its principals (defined at 2 C.F.R. § 180.995), nor its affiliates (defined at 2 C.F.R. § 180.905) are "excluded" as defined at 2 C.F.R. § 180.935 or "disqualified" as defined at 2 C.F.R. § 180.935.

Note: ("The Respondent") Certification in this Section is a material representation of fact upon which ("The County") and the Federal Government will place its reliance. ("The Respondent") certifies and acknowledges that if it is later determined that ("Respondent") knowingly rendered an erroneous certification, in addition to the other remedies available to ("The Partners"), ("The Partners") will be permitted to terminate the Contract entered by the parties for default by Proposer and the Government may pursue available remedies, including, but not limited to, suspension and debarment.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I certify, on behalf of ("The Respondent"), that neither ("The Respondent"), its Principals (defined at 2 C.F.R. § 180.995) nor its Affiliates (defined at 2 C.F.R. § 180.905) "excluded" parties as defined at 2 C.F.R. § 180.935 or "disqualified" as defined at 2 C.F.R. § 180.935 and are not currently listed on the government-wide exclusions in SAM, that neither ("The Respondent"), its Principals nor its Affiliates are debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. ("Respondent") further certifies and agrees, on behalf of ("The Respondent") and its principals to immediately provide written notification to ("The County") if, at any time prior to award, ("Respondent") or one of its principals learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances, or if ("Respondent") or one of its principals is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractor further certifies that it understands that failure to timely notify ("The County") of erroneous information or change in circumstances within five (5) business days of the change, shall be grounds for immediate termination, and that termination of Contractor shall not be an election of remedy by ("The County") ("The Respondent") certifies that it will comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C during period of its contract with ("The County"); and that, if selected it will insert in each of its subcontracts the clauses set forth in this Certification; as well as, a clause requiring its subcontractors to include these clauses in any lower tier subcontracts it might enter into in connection with ("The Project"). YES, I so certify and agree. (Initial: _____)

7. Byrd Anti-Lobbying Amendment (31 USC 1352):

("Respondent") that apply or bid for an award exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) must file this certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.

Note: The certification in this Section is a material representation of fact upon which the Partners will place its reliance. Submission of this certification is a prerequisite for making or entering into this transaction, which is imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than TEN THOUSAND DOLLARS (\$10,000.00) and not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for each such failure.

The Certification and Disclosure. By its initials and execution below, the Pro ("Respondent") poser certifies and affirms the truthfulness and accuracy of each statements in this Certification and the Disclosures made in this Paragraph 6, and understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., providing administrative remedies for false statements, apply to this Certification and Disclosure, if any. ("The Respondent") Certifies and Discloses as follows:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) ("The Respondent"), if selected, will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- (4) ("Respondent") will file all Certifications and Disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352). YES, I so certify and agree. (Initial:___)

8. Mandatory Standards and Policies Relating to Energy Efficiency.

A purchase or contract made using federal funds, must contain provisions for require compliance with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201) which are generally found in Tex. Government Code, Chapter 447.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if selected to enter into a Contract with ("The Partners"), ("Respondent") will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201), which are generally found in Chapter 447 of the Tex. Government Code. YES, I so certify and agree. (Initial:___)

9. Procurement of Recovered Materials (2 CFR 200.322).

Where the purchase price of an item exceeds TEN THOUSAND DOLLARS (\$10,000.00) or the value of the quantity acquired by ("The County") during the preceding fiscal year exceeded TEN THOUSAND DOLLARS (\$10,000.00), Section 6002 requires that ("The Respondent") procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Information about this requirement, along with the list of EPA designated items, is available at the EPA Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpq-program>.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if ("The Partners") will purchase the same item or items from the successful ("Respondent"), under its Contract with ("The Partners"), which were purchased by ("The Partners") during the preceding fiscal year, and the purchase exceeded TEN THOUSAND DOLLARS (\$10,000), ("The Respondent"), in the performance of the Contract, will make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired: one (1) competitively within a timeframe providing for compliance with the contract performance schedule; two (2) meeting contract performance requirements; or three (3) at a

reasonable price. YES, I so certify and agree. (Initial: _____)

10. Contract Modifications - Profit as a Separate Element of Price [2 CFR 200.323(b)].

To be eligible for FEMA assistance the cost of a change, modification, change order, or constructive change, must be allowable, allocable, within the scope of ("The County's") FEMA funding and reasonable for the completion of ("The Project") scope. Provisions describing how changes can be made by either party to alter the method, price, or schedule of the Work without breaching the Contract are included in the Form of Contract attached hereto as RCSP Appendix A-1. In addition, ("Respondent") will be required provide written documentation in connection with any Change (i.e. Change Order, Request for Use of Contingency or other modification) prior to commencement of the Work associated with the Change, confirming that the change is: one (1) within the scope of ("The County's") FEMA funding, two (2) is reasonable

Under the circumstances and three (3) will ("The Respondent") provide cost documentation of all requested changes, including any markup for overhead and profit as a separate element of the price.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that ("Respondent"), if selected, will provide the written documentation required above in connection with any Change or Modification to the Contract with ("The County"), in such form and content as requested by ("The Partners") for the purpose of conducting the required cost/price analysis, will list markup for overhead and profit as a separate element of the price for the Change, and will negotiate such change in good faith with ("The Partners"). YES, I so certify and agree. (Initial: _____)

11. Records Retention [2 CFR § 200.333] and Access to Records [2 CFR 200.336].

The provisions of 2 CFR § 200.333 require that financial records, supporting documents, statistical records, and all other ("Respondent") records pertinent to a Federal award (i.e. the Contract, ("The Project") and the Work performed under the Contract) must be retained for a period of three (3) years from the date of submission of the final expenditure report. FEMA and ("The Partners") Contract requires retention of records related to the Contract scope, including but not limited to, accounting records (hard copy as well as computer readable data), correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data, for a period of five (5) years, after ("The Partners") make final payment or for such period as may be required by law. Since the FEMA requires retention of documents for a longer period of time, all records pertinent to the Contract, ("The Project") and the Work performed under the Contract, including not limited to financial records, supporting documents, statistical records, accounting records (hard copy as well as computer readable data), correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data, shall be maintained for such purposes for the greater period of five (5) years after the later of the date of ("The Partners") final payment or from the date of ("The Partners") submission of the final expenditure report to FEMA ("Retention Period"). ("The Partners"), FEMA, the Inspectors General, and the Comptroller of the United States, or any of their authorized representatives, shall have the right, at any time during the Retention Period, to access any documents, papers, or other records of the Proposer pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I certify, on behalf of ("The Respondent"), that ("Respondent") understands and will comply with the record retention requirements detailed above and will retain all records pertinent to the Contract, ("The Project") and the Work performed under the Contract, including not limited to financial records, supporting documents, statistical records, accounting records (hard copy as well as computer readable data), correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data for the five (5) year Retention Period required by FEMA Regulation and 2 CFR § 200.333. In addition, ("Respondent") understands and certifies its agreement allow access to the County, FEMA, the Inspectors General, and the Comptroller of the United States, or any of their authorized representatives to any documents, papers, or other records of ("The Respondent") pertinent to the Contract, ("The Project") and the Work performed under the Contract (which is funded by FEMA funds), to allow these parties to make audits, examinations, excerpts, and transcripts. YES, I so certify and agree. (Initial: _____)

12. Organizational Conflicts of Interest.

An organizational conflict of interest can arise within the context of Contractors that are not related organizations. An organizational conflict of interest arises in these cases where a person, because of other activities or relationships with other persons, is unable or potentially unable to render impartial assistance or advice to ("The Partners") because the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such requirements.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I certify, on behalf of ("The Respondent") that ("The Respondent") did not develop or draft all or any part of the specifications, requirements, statements of work, invitation for bids or request for proposals for this Solicitation, nor did Proposer assist ("The Partners") in development or drafting all or any part of the specifications, requirements, statements of work, invitation for bids or request for proposals for this Solicitation. YES, I so certify and agree. (Initial:)

13. Small Minority, Women's' Business Enterprises and Labor Surplus Affirmative Steps.

If any subcontracts are to be let by the successful ("Respondent") in connection with ("The Project"), it will be required to shall take affirmative steps to encourage participation by and facilitate contracting with small and minority businesses, women's business enterprises and labor surplus area business firms as set out in 2 CFR §200.321. The affirmative steps include the following:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The Certification. By submitting a Proposal in response to this solicitation and initialing below, I agree and certify, on behalf of ("The Respondent") that, if selected to enter a Contract with ("The Partners") for ("the Project"), ("the Respondent") will take the affirmative steps listed in this Paragraph 13 and set out in 2 CFR §200.321 to encourage participation by and facilitate contracting with small and minority businesses, women's business enterprises and labor surplus area business firms. YES, I so certify and agree. (Initial:)

By my signature below and my initials providing the certifications, disclosures, acknowledgments, and agreement with each item above, I certify, as the individual, acting on behalf of ("The Respondent"), that the information in this Federal Certification Form (2 C.F.R. 200) is true, complete, and accurate and that I am authorized to make the certifications, disclosures, acknowledgments, and agreements contained herein.

Respondent Organization

Signature of Respondent's Authorized Official

Printed Name and Title

CERTIFICATION

BEFORE ME, a Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon his oath stated that he/she is the _____ of _____, ("The Respondent") Organization named above; that he/she certified and affirms the truthfulness and accuracy of each statement contained in the certifications, disclosures, acknowledgments, and agreements above; that he/she is authorized to execute the this document; and that said instrument is executed on behalf of the for ("The Respondent") Organization named above for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

Notary Public, State of Texas

SUPPLEMENTARY CONTRACT PROVISIONS
REQUIRED BY FEDERAL EMERGENCY MANAGEMENT AGENCY UNDER THE UNIFORM
ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR
FEDERAL AWARDS AT 2 C.F.R. 200

The Partners:

Aransas County
Project Manager
2840 Hwy 35 N.
Rockport, TX 78382
361) 790-0194
E-mail: rfq1-questions@aransascounty.org

Project:

Underlying Contract:

Architect Team:

I. Introduction.

1.1 The Federal Emergency Management Agency ("FEMA") provides Federal disaster assistance through various programs under the authority of various Federal laws. ("The Partners") are, or expects to be, the recipient or a sub-recipient of Federal public assistance funding provided by FEMA under one or more of these programs; and thus, ("The Partners") are required to comply with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Uniform Rules") at 2 C.F.R. Part 200, as adopted by the Department of Homeland Security ("DHS") at 2 C.F.R. Part 3002, and the Terms and Conditions of the FEMA Grant and other FEMA Regulatory Guidance.

1.2 The following Contract provisions are required to be included in all contracts in connection with ("The Project") when ("The Project") will be funded, in whole or in part with federal FEMA funds. These provisions, are hereby incorporated in any Contract in connection with ("The Project") between ("The Partners") and any of the following: ("Architect"), Engineer (for either Design and Administration, or as a Consultant), any Prime Contractor or Construction Manager at Risk, and any Construction or Material Suppliers contracted directly by ("The County") ("Underlying Agreements") In addition, these parties in privity with ("The Partners") shall include these provisions (as required below) in any subcontracts entered into in connection with ("The Project"); as well as, a clause requiring the subcontractors to include these clauses in any lower tier subcontracts related to ("The Project"). The Prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

1.3 These Contract provisions shall supplement, modify, amend, and/or replace provisions in the Underlying Agreements, as applicable, and control to the extent of any conflict with the standard provisions of the Underlying Agreements, including any General Conditions applicable

thereto, unless the provisions of the Underlying Agreements require a more stringent standard. Where a portion of the Underlying Agreements is not supplemented, modified, amended, and/or deleted by these provisions, such unaltered portions of the Underlying Agreements shall remain in effect.

II. Definitions Used in these Supplementary Contract Provisions.

2.1 **Work.** The term "Work" means the professional services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by ("The Respondent") to fulfill ("The Respondent's") obligations. The Work may constitute the whole or a part of ("The Project(s)").

2.2 **Project.** ("The Project"), is ("The Project") or ("Projects") specified above and includes the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by ("The Partners") and by Separate Contractors.

2.3 **Drawings.** The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

2.4 **Specifications.** The Specifications are that portion of the Contract Documents consisting of the written requirements for, standards and workmanship for the Work, and performance of related services. Where noted above, the Specifications may be those prepared by the County and appended to the Contract.

III. Required Provisions, Disclosures and Certifications.

Contractor acknowledges that federal funds will be utilized to fund the Work under this Contract. Contractor warrants and certifies that it will abide by all applicable federal laws, rules, and regulations, executive orders, OMB circulars, policies, procedures and directives applicable to the Contract, terms and conditions of FEMA Grant, and FEMA **and/or Other Federal** and State Agencies contributing Project funds to the partners as well as approved provisions of the Contract, including but not limited to the following:

2 C.F.R. 200 PROVISIONS

1.1 TERMINATION.

1.1.1 **Termination for Convenience.** Notwithstanding any provision to the contrary contained in this Contract, if this Contract is for an amount greater than TEN THOUSAND DOLLARS (\$10,000), ("The County"), reserves the right to terminate this Contract for convenience with three (3) days' notice in writing to Contractor. In such event, the Contractor will be compensated for work performed and goods procured as of the termination date.

1.1.2 **Termination for Cause.** ("The Partners") may terminate the Contract if ("The Architect"):

A. repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

B. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

C. repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or

D. otherwise is guilty of substantial breach of a provision of the Contract Documents.

1.1.3 When any of the above reasons exist ("The Partners") may without prejudice to any other rights or remedies of ("The Partners") and after giving ("the Architect") and ("The Architect's") Surety, if any, seven (7) days written notice, terminate its engagement with ("The Architect") and may, subject to any prior rights of the Surety:

- A. Take possession of the site and of all materials, equipment, tools, and construction equipment, and machinery thereof owned by ("The Architect").
- B. Accept assignment of subcontracts.
- C. Finish the Work by whatever reasonable method ("The Partners") may deem expedient.

1.1.4 In any such event, title to the Work and any products thereof, whether completed or partially completed, as well as all materials prepared, procured or set aside by ("The Architect") for use in the Work, shall vest in ("The Partners") at ("The Partners") option, and ("The Partners") may enter ("The Architects") premises and remove the same therefrom. No election hereunder shall be construed as a waiver of any rights or remedies of ("The Partners") with regard to any breach of the Contract Documents.

2.1 CONTRACTUAL REMEDIES. If this Contract is for an amount which exceeds the Simplified Acquisition Threshold currently set at *ONE HUNDRED FIFTY THOUSAND DOLLARS* (\$150,000.00), ("The Architect") agrees, in addition to abiding by the Termination provisions in the previous paragraph to comply with all administrative, contractual, or legal remedies and other sanctions and penalties for violation or breach contained in the Contract Documents in instances where ("The Architect") violates or breaches the Contract terms.

3.1. EQUAL EMPLOYMENT OPPORTUNITY. To the extent that this Contract is for a Contract sum greater than *TEN THOUSAND DOLLARS* (\$10,000.00), ("Architect") represents, warrants and certifies that, during the performance of the Contract;

3.1.1. It will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination;

3.1.2 it will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin;

3.1.3. it will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information;

3.1.4 it 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 labor union or workers' representative of the commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

3.1.5 it will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor;

3.1.6 it will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or

pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders;

3.1.7 in the event of ("The Architects") non-compliance with the nondiscrimination clauses of the Contract or with any of such rules, regulations, or orders, the Contract may be canceled, terminated or suspended in whole or in part and ("The Architect") may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law; and

3.1.8 it will include the provisions of Sub-paragraphs 3.1.1 through 3.1.8 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 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or ("The Architect"). ("The Architect") will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event ("The Architect") becomes involved in, or is threatened with, litigation with a subcontractor or ("The Architect") as a result of such direction, ("The Architect") may request the United States to enter into such litigation to protect its interests.

4.1 DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT.

NOTE: The Davis-Bacon Act only applies Construction Contracts funded with the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program. The Parties should determine the funding mechanism under which ("The Project(s)") is funded and indicated by the Parties' respective initials the applicability of these provisions:

FOR COUNTY USE ONLY - THE PROVISIONS OF THIS SECTION 4.1:

- ☐ ARE APPLICABLE TO THE PROJECT(S) Initial Here: _____
- ☐ ARE NOT APPLICABLE TO THE PROJECT(S) Initial Here: _____

4.1.1 Davis Bacon Act Compliance.

A. If the Contract Sum for this Contract is in excess of TWO THOUSAND DOLLARS (\$2,000.00), ("The Architect") shall comply with the following provisions requiring ("The Architects") compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148), as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). A breach of the contract clauses in this Sub-paragraph 4.1.1 may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

B. All laborers and mechanics employed or working upon the site of the Work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)], the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto as Exhibit B, and made a part hereof, regardless of any contractual relationship which may be alleged to exist between ("The Architect") and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Sub-paragraph 4.1.1.H. below; also, regular contributions made or costs incurred for more than a weekly period (but not less often

than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under Sub-paragraph 4.1.1.C. below, and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

C. ("The Architect") shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. ("The Architect") shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- i. The work to be performed by the classification requested is not performed by a classification in the wage determination;
- ii. The classification is utilized in the area by the construction industry; and
- iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

D. If ("The Architect") and the laborers and mechanics to be employed in the classification (if known), or their representatives, and ("The Architect") agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

E. In the event ("The Architect"), the laborers or mechanics to be employed in the classification of their representatives, and ("The Architect") do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), ("The Architect") shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and advise the contracting officer or will notify the contracting officer within the thirty (30) day period that additional time is necessary.

F. The wage rate (including fringe benefits where appropriate) determined pursuant to Sub-paragraphs 4.1.1.D or 4.1.1.E, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

G. Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

H. If ("The Architect") does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, that the Secretary of Labor has found, upon the written

request of ("The Architect"), that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

I. Each service employee employed in the performance of this Contract by ("The Architect") or any Subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this Contract.

J. Withholding. ("The Partners") shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from ("The Architect") under this Contract or any other Federal contract with the same ("Architect"), or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same ("Architect"), so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by ("The Architect") or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the Work, all or part of the wages required by the Contract, ("The Partners") may, after written notice to ("The Architect"), take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

K. Payrolls and Basic Records.

i. Payrolls and basic records relating thereto shall be maintained by ("The Architect") during the course of the Work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the Work. Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under Sub-paragraph 4.1.1 H. that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, ("The Architect") shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. If ("The Architect") employs apprentices or trainees under an approved program, ("The Architect") shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. ("The Architect") shall submit weekly for each week in which any Work is performed a copy of all payrolls to ("The Partners"). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Sub-paragraph 4.1.1.K(i) (This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents U.S. Government Printing Office, Washington, D.C. 20402). ("The Architects") responsible for the submission of copies of payrolls by Subcontractors.

Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by ("The Architect") or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract, which shall certify the following:

a. that the payroll for the payroll period contains the information required to be maintained under Sub-paragraph 4.1.1.K(i) and such information is correct and complete;

b. that each laborer or mechanic (including each helper, apprentice and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

c. that each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of Work performed, as specified in the applicable wage determination incorporated in the Contract.

iii. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by Sub-paragraph 4.1.1.K(iii).

iv. The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

v. ("The Architect") or Subcontractor shall make the records required under Sub-paragraph 4.1.1.K(i) available for inspection, copying or transcription by ("The Partners") or authorized representatives of ("The County") or the Department of Labor. ("The Architect") or Subcontractor shall permit ("The Partners") or representatives of ("The Partners") or the Department of Labor to interview employees during working hours on the job. If ("The Architect") or Subcontractor fails to submit the required records or to make them available, ("The Partners") may, after written notice to ("The Architect"), take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

vi. ("The Architect") or Subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing contained in this Sub-paragraph 4.1.1.K(vii) shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis Bacon Act. The records to be maintained under this Sub-paragraph 4.1.1.K(vii) shall be made available by ("the Architect") or Subcontractor for inspection, copying or transcription by the authorized representatives of ("the Partners") and the Department of Labor, and ("The Architect") or Subcontractor shall permit such representatives to interview employees during working hours on the job

L. Apprentices and Trainees.

i. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the Work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration,

Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of Work actually performed. In addition, any apprentice performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the Work actually performed. Where the Contractor is performing construction on a Project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman's hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the Work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman's hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman's wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of Work actually performed. In addition, any trainee performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the Work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees

at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

M. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

4.1.2 Compliance with Copeland "Anti-Kickback" Act. If the Contract Sum of this Contract is greater than TWO THOUSAND DOLLARS (\$2000.00):

A. Contractor. The Contractor shall comply with the requirements of 18 USC § 874, 40 USC §3145, and 29 CFR part 3, which are incorporated by reference in these Supplementary Conditions and the Contract.

B. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

C. Breach. A breach of the contract clauses in this Paragraph 4.1.2 may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5.1 **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).** To the extent that this Contract is for a Contract Sum greater than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and involves the employment of mechanics or laborers, Contractor shall to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) as follows:

5.1.1 Overtime Requirements. Neither Contractor nor any Subcontractor contracting for any part of the contract Work on the Project(s), which may require or involve the employment of laborers or mechanics, shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week.

5.1.2 Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in Sub-paragraph 5.1.1 of this Paragraph the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Sub-paragraph 5.1.1 of this Paragraph, in the sum of TEN DOLLARS (\$10.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in Sub-paragraph 5.1.1 of this Paragraph.

5.1.3 Withholding for Unpaid Wages and Liquidated Damages. ("The County") shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or

Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Sub-paragraph 5.1.2 of this Paragraph.

5.1.4 Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in Sub-paragraphs 5.1.1 through 5.1.4 of this Paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Sub-paragraphs 5.1.1 through 5.1.4 of this Paragraph.

6.1 **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**. If the Contract Sum of this Contract is greater than ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), Contractor agrees as follows:

6.1.1 Clean Air Act.

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

B. The Contractor agrees to report each violation to ("The County") and understands and agrees that ("The County") will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

C. The Contractor agrees to include these requirements in each subcontract exceeding ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) financed in whole or in part with Federal assistance provided by the Federal Emergency Management Agency.

6.1.2. Federal Water Pollution Control Act

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

B. The Contractor agrees to report each violation to ("The Partners") and understands and agrees that ("The Partners") will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. The Contractor agrees to include these requirements in each subcontract exceeding ONE HUNDRED THOUSAND DOLLARS (\$150,000.00) financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency.

7.1 **DEBARMENT AND SUSPENSION**.

7.1.1 This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000., which restricts awards, sub awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded or ineligible from participation in federally assistance programs and activities. As a result, the Contractor is required to certify that neither the Contractor, any of its principals (defined at 2 C.F.R. § 180.995), nor its affiliates (defined at 2 C.F.R. § 180.905) are "excluded" as defined at 2 C.F.R. § 180.935 or "disqualified" as defined at 2 C.F.R. § 180.935.

7.1.2 Certifications Regarding Compliance. By execution of this Contract, Contractor certifies, that neither the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are "excluded" parties as defined at 2 C.F.R. § 180.935 or "disqualified" as defined at 2 C.F.R. § 180.935 and are not currently listed on the government-wide exclusions in SAM, that neither the Contractor, its principals or Contractor's affiliates are debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractor further certifies and agrees on behalf of the Contractor and its principals to immediately provide written notification to ("The County") if, at any time prior to award, Proposer or one of its principals learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances, or if Contractor or one of its principals is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractor

certifies that it understands that failure to timely notify ("The Partners") of erroneous information or change in circumstances within five (5) business days of the change, shall be grounds for immediate termination, and that termination of Contractor shall not be an election of remedy by ("The County").

7.1.3 The certifications in the foregoing Paragraph 8.1 are material representations of fact upon which ("The Partners") will place its reliance. The Contractor acknowledges that if it is later determined that Contractor did not comply with 2 CFR pt. 108, Subpart C and CFR Part 3000, Subpart C and, knowingly rendered an erroneous certification, in addition to the remedies available to ("Partners"), the Federal Government may pursue available remedies including, but not limited to, suspension and debarment.

7.1.4 The Contractor will comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, Subpart C during period of this Contract and shall include a provision requiring compliance with these regulations in any contract with any lower tier covered transaction under this Contract.

8.1 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352.

8.1.1 By execution of this Contract, Contractor's authorized representative certifies to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. Contractor will require the language of this certification to be included in the solicitation and contract award documents for all sub awards (subcontracts) at all tiers and that all sub recipients shall certify and disclose accordingly.

8.1.2 The certifications in this Paragraph 9.1 are material representations of fact upon which reliance was placed when this transaction was made or entered into. Submission of these certifications is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than TEN THOUSAND DOLLARS (\$10,000.00) and not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for each such failure.

8.1.3 By its execution of this Contract, Contractor certifies and affirms the truthfulness and accuracy of each statement of its certifications in this Paragraph 9.1 and disclosures made in connection with such certifications, and understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., providing administrative remedies for false statements, apply to this certification and disclosure, if any.

9. PROCUREMENT OF RECOVERED MATERIALS/SOLID WASTE DISPOSAL ACT. If ("The County") will purchase the same item or items from the Contractor under this Contract, which were purchased by ("The County") during the preceding fiscal year, and the prior purchase exceeded TEN THOUSAND DOLLARS (\$10,000.00), Contractor agrees that:

9.1.1 In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

A. Competitively within a timeframe providing for compliance with the contract performance schedule;

B. Meeting contract performance requirements; or

C. At a reasonable price.

9.1.2 Information about this requirement, along with the list of EPA designated items, is available at the EPA Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

10.1 COMPLIANCE WITH MANDATORY PROVISIONS OF STATE ENERGY CONSERVATION PLAN. Contractor shall comply with the all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201), generally found in Chapter 447 of the Texas Government Code.

ADDITIONAL FEMA REQUIREMENTS

11.1 CHANGES IN THE WORK. To be eligible for FEMA assistance the cost of a change, modification, change order, or constructive change must be allowable, allocable, within the scope of the County's FEMA funding and reasonable for the completion of the Project scope. The Agreement documents underlying this Addendum, contain provisions describing how, if at all, changes can be made by either party to alter the method, price, or schedule of the Work without breaching the Contract. In addition to the requirements, in the Contract underlying this Addendum, Contractor shall provide written documentation in connection with any Change in the Work (i.e. Change Order, Request for Use of Contingency or other modification) that the change is: one (1) within the scope of ("The County's") FEMA funding, two (2) is reasonable under the circumstances and three (3) will provide cost documentation of all requested changes, including any markup for overhead and profit as a separate element of the price.

12.1 RETENTION AND ACCESS TO RECORDS.

12.1.1 Retention. In order to comply with retention requirements of FEMA, the Contractor shall retain all books, documents, papers, and financial records and supporting documentation, statistical records and all other records of the Contractor, which are directly pertinent to the Contract, ("The Project") and the Work performed under the Contract, for a period of not less than five (5) years after ("The County") makes final payment under this Contract and all other pending matters between the Parties, or between ("The County") and FEMA are closed, for the purposes of making and responding to audits, examinations, excerpts, and transcriptions

12.1.2 Access. The following access to records requirements apply to this Contract:

A. The Contractor agrees to provide ("The County"), the FEMA Administrator, the Comptroller General of the United States, the Texas Department of Public Safety (DPS)/Texas Division of Emergency Management (TDEM), or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract; including, but not limited to, financial records, supporting documents, statistical records, and all other records pertinent to a Federal funding) for the purposes of making audits, examinations, excerpts, and transcriptions ("Required Records").

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide ("The Partners"), the FEMA Administrator, the Comptroller General of the United States, the Texas Department of Public Safety (DPS)/Texas Division of Emergency Management (TDEM), or any of their authorized representatives access to construction or other work sites pertaining to the Work being completed under the Contract at all reasonable times to review ("The Project") accomplishments and management control systems and to provide such technical

assistance as may be required and to provide all reasonable facilities and assistance for the safety and convenience of these government representatives in the performance of their duties.

13.1 SMALL, MINORITY, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AFFIRMATIVE STEPS. If any subcontracts are to be let by the Contractor, Contractor will be required to shall take affirmative steps to encourage participation by and facilitate contracting with small and minority businesses, women's business enterprises and labor surplus area business firms as set out in 2 CFR §200.321. The affirmative steps include the following:

14.1.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

14.1.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

14.1.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

14.1.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

14.1.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

14.1 NO OBLIGATION BY FEDERAL GOVERNMENT. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to ("The Partners"), Contractor, or any other party pertaining to any matter resulting from the Contract.

15.1 USE OF DHS SEAL, LOGO AND FLAGS. All Project participants, including but not limited to Design Professionals (e.g. Architects/Engineers and their Sub consultants, Contractors, and all tiers of subcontractors, must obtain permission from their DHS Field Audit Office (FAO), prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

16.1 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to this Contract and the Contractor's actions pertaining to this Contract.

17.1 APPLICABLE DEPT. OF HOMELAND SECURITY STANDARD TERMS AND CONDITIONS FOR 2017.

17.1.1 Acknowledgment of Federal Funding from DHS. All ("Project") participants, including but not limited to Design Professionals (e.g. Architects/Engineers and their Sub consultants, Contractors, and all tiers of subcontractors, must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing the Project as it is funded in whole or in part with federal funds.

17.1.2 Age Discrimination Act of 1975. All Project participants, including but not limited to Design Professionals (e.g. Architects/Engineers and their Sub consultants, Contractors, and all tiers of subcontractors, must comply with the requirements of the *Age Discrimination Act of 1975* (Title 42 U.S. Code, § 6101 *et seq.*), which prohibits discrimination on the basis of age in the Project as it is funded in whole or in part with federal funds.

17.1.3 Civil Rights Act of 1964 - Title VI. All Project participants, including but not limited to Design Professionals (e.g. Architects/Engineers and their Sub consultants, Contractors, and all tiers of subcontractors must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination in connection with ("The Project") as it is receiving federal financial assistance. DHS implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).

17.1.4 Copyright. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers") and their Sub consultants, Contractors, and all tiers of subcontractors must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

17.1.5 Drug-Free Workplace Regulations. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors must comply with the *Drug-Free Workplace Act of 1988* ([41 U.S.C. § 701 et seq.](#)), which requires all organizations receiving grants from any federal agency to agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at [2 C.F.R Part 3001](#).

17.1.6 Duplication of Benefits. Any cost allocable to a particular federal financial assistance award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

17.1.7 False Claims Act and Program Fraud Civil Remedies. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors must comply with the requirements of [31 U.S.C. § 3729-3733](#) which prohibits the submission of false or fraudulent claims for payment to the federal government. (See [31 U.S.C. § 3801-3812](#) which details the administrative remedies for false claims and statements made.)

17.1.8 Federal Debt Status. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See [OMB Circular A129](#).)

17.1.9 Federal Leadership on Reducing Text Messaging while Driving. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors are encouraged to adopt and enforce policies that ban text messaging while driving as described in [E.O. 13513](#), including conducting initiatives described in Section 3(a) of the Order (considering new rules and programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving) when on official government business or when performing any work for or on behalf of the federal government.

17.1.10 National Environmental Policy Act. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors must comply with the requirements of the [National Environmental Policy Act](#) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

17.1.11 USA Patriot Act of 2001. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors, as applicable, must comply with [E.O. 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations

associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

17.1.12 Whistleblower Protection Act. All ("Project") participants, including but not limited to Design Professionals (e.g. "Architects/Engineers" and their Sub consultants, Contractors, and all tiers of subcontractors must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

Executed on this the ____ day of _____, 2018 to evidence the Contracting Party's Agreement, Certification, where required and the truthfulness of disclosures provided in connection with these Provisions.

CONTRACTING PARTY:

Name of Entity

By: _____

Signature

Printed Name of Signatory

Title of Signatory

Attachment 1

Standard Base Architect Contract

All proposers to this RFQ should be advised that the attachment sample contract (Attachment 1) is a sample base contract. This document will be used by ("The County") as a starting point for negotiations and shall be fully subject to the requirements of 2 C.F.R. § 200.323 (Cost/Price Analysis), 2 C.F.R. 200.326 and all other applicable federal statutes and regulations. See specifically 2 C.F.R. 200.326, App. II to Part 200.



AIA[®]

Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

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

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

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

Init.

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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

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

.1 Commencement of construction date:

.2 Substantial Completion date:

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

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

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

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

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

- .1 General Liability
- .2 Automobile Liability
- .3 Workers' Compensation
- .4 Professional Liability

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

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

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

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

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

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

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

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

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

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

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

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

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

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

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

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and

electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

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

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

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

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

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

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

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

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

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

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

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

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

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§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

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

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

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

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

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

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

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

§ 3.6.2 EVALUATIONS OF THE WORK

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

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

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

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

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

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

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

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

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

§ 3.6.4 SUBMITTALS

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

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

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests

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for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

§ 3.6.5 CHANGES IN THE WORK

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

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

§ 3.6.6 PROJECT COMPLETION

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

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

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

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

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

ARTICLE 4 ADDITIONAL SERVICES

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

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

| Additional Services | Responsibility (Architect, Owner or Not Provided) | Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below) |
|--------------------------------------|--|--|
| § 4.1.1 Programming (B202™-2009) | | |
| § 4.1.2 Multiple preliminary designs | | |
| § 4.1.3 Measured drawings | | |
| § 4.1.4 Existing facilities surveys | | |

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|----------|---|--|--|
| § 4.1.5 | Site Evaluation and Planning (B203™–2007) | | |
| § 4.1.6 | Building Information Modeling (E202™–2008) | | |
| § 4.1.7 | Civil engineering | | |
| § 4.1.8 | Landscape design | | |
| § 4.1.9 | Architectural Interior Design (B252™–2007) | | |
| § 4.1.10 | Value Analysis (B204™–2007) | | |
| § 4.1.11 | Detailed cost estimating | | |
| § 4.1.12 | On-site Project Representation (B207™–2008) | | |
| § 4.1.13 | Conformed construction documents | | |
| § 4.1.14 | As-Designed Record drawings | | |
| § 4.1.15 | As-Constructed Record drawings | | |
| § 4.1.16 | Post occupancy evaluation | | |
| § 4.1.17 | Facility Support Services (B210™–2007) | | |
| § 4.1.18 | Tenant-related services | | |
| § 4.1.19 | Coordination of Owner's consultants | | |
| § 4.1.20 | Telecommunications/data design | | |
| § 4.1.21 | Security Evaluation and Planning (B206™–2007) | | |
| § 4.1.22 | Commissioning (B211™–2007) | | |
| § 4.1.23 | Extensive environmentally responsible design | | |
| § 4.1.24 | LEED® Certification (B214™–2012) | | |
| § 4.1.25 | Fast-track design services | | |
| § 4.1.26 | Historic Preservation (B205™–2007) | | |
| § 4.1.27 | Furniture, Furnishings, and Equipment Design (B253™–2007) | | |
| | | | |

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

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

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- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

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

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

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

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

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

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

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

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

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

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

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

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither

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the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

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

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

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

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

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

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

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

§ 8.2 MEDIATION

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

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

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

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

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

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☐ Other (Specify)

§ 8.3 ARBITRATION

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 CONSOLIDATION OR JOINDER

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

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the

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Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

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

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

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

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

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

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

ARTICLE 11 COMPENSATION

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

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

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

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

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

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

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

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

| | |
|------------------------------|--|
| Schematic Design Phase | percent (%) |
| Design Development Phase | percent (%) |
| Construction Documents Phase | percent (%) |
| Bidding or Negotiation Phase | percent (%) |
| Construction Phase | percent (%) |
| Total Basic Compensation | one hundred percent (100 %) |

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category

Rate

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (%) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of (\$) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

%

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™–2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

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

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

Additions and Deletions Report for AIA[®] Document B101[™] – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:39:14 on 08/04/2015.

There are no differences.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:39:14 on 08/04/2015 under Order No. 3191564844_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

Attachment #2

ARANSAS COUNTY

INSURANCE REQUIREMENTS FOR SERVICE CONTRACTS:

1. GENERAL

- a. No work will be commenced until all requirements of this section have been approved by the County in writing. The County shall be furnished a Certificate of Insurance prior to the commencement of any work that includes the terms listed below and any additional coverages required by The County.
- b. The Certificate of Insurance shall contain a provision that at least thirty (30) days prior written notice shall be given to ("The County") in the event of cancellation, material change or non-renewal. Further, this notification is a material term to any and all service contracts and the term cannot be delegated to any insurance companies' agents.
- c. Insurance shall be underwritten by a company rated not less than B+VII in the Best's latest published guide.
- d. There shall be a hold harmless agreement in which the contractor assumes liability on the contract and holds ("The County") harmless. This agreement will include indemnity language with the full force of Texas law.
- e. The contractor shall purchase and maintain in force the following (see below paragraphs) kinds of insurance (and bonds, when requested specifically) for operations under contracts as specified in each section.
- f. A Certificate of Insurance shall contain a waiver of subrogation as well as coverage for ("The County") as an additional insured on the policy(ies). A written authorized statement from the insurance company "outlining the exclusions" may also be required as well as a copy of the insurance policy, when requested by ("The County").

2. WORKERS' COMPENSATION

Worker's Compensation requirements are outlined specifically. Coverage must comply with Texas law as a subscriber and non-subscriber contracts will not be allowed.

3. COMMERCIAL GENERAL INSURANCE (Occurrence basis only)

- a. Bodily Injury and Property Damage Each Occurrence to equal two times the amount of the contractor's bid(s) and umbrella coverage for the cost of the entire project. The minimum coverage for any contractor shall be \$1,000,000.00/\$3,000,000.00.
- b. Products/Completed & Operations Aggregate amount of the entire project and at no time less than the amount of the construction manager/general contractor's bid.
- c. Personal and Advertising; Injury Occurrence \$1,000,000.00/\$3,000,000.00.
- d. Fire Damage, Legal- Liability any one fire \$1,000,000.00/\$3,000,000.00.
- e. Medical Expenses Any One Person \$25,000.00, and to include no exclusions for additional workers compensation coverage.

**ARANSAS COUNTY
INSURANCE REQUIREMENTS FOR SERVICE CONTRACTS (continued):**

4. BUSINESS (Commercial) AUTOMOTIVE LIABILITY INSURANCE

Coverage required for all contractor owned, non-owned and hired vehicles.

- a. Bodily Injury Each Person
\$1,000,000.00/\$3,000,000.00
- b. Each Accident \$300,000.00
- c. Property Damage Each Occurrence
\$500,000.00

5. DELETIONS AND EXCLUSIONS

- a. No deletions/exclusions from the standard coverage form are allowed without the written consent of ("The County"); Policy(ies) subject to refusal after review by ("The County").
- b. Questions concerning policy coverage should be referred to ("The County") Project Manager, 2840 Hwy 35 N. Rockport, TX 78382; or by telephone at (361) 790-0194; or email jstrothman@aransascounty.org.

6. UMBRELLA LIABILITY INSURANCE (\$30M)

- a. ("The County") shall be named as an Additional Insured on the contractor's policy for work performed for and projects ordered by ("The County").
- b. This policy shall provide excess coverage over all required underlying policies such as Worker's Compensation, Commercial General Liability and Business Automobile Liability.

Attachment #3

REQUIRED WORKERS' COMPENSATION COVERAGE (28 TAC 110.110 c (7), adopted to implement Texas Labor Code 406.096)

A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of ("The Project").

Duration of ("The Project") includes the time from the beginning of the work on ("The Project") until the contractor's/person's work on ("The Project") has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in Texas Labor Code 406.096) include all persons or entities performing all or part of the services the contractor has undertaken to perform on ("The Project"), regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner- operators, employees of any such entity, or employees of any such entity, or employees of any entity that furnishes persons to provide services on the project.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor transportation, or other service related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the contractor providing services on the project for the duration of ("The Project").

The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

If the coverage period shown on the contractor's current certificate of coverage ends during the duration of ("The Project"), the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

The contractor shall obtain from each person providing services on a project, and provide to the governmental entity.

- 1.) A certificate of coverage, prior to that person beginning work on ("The Project"), so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on ("The Project"); and

- 2.) No later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage and during the duration of ("The Project").

The contractor shall retain all required certificates of coverage for the duration of ("The Project") and for one (1) year thereafter.

The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on ("The Project").

The contractor shall post on each ("Project") site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on ("The Project") that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- 1.) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all its employees providing services on the project for the duration of ("The Project");
- 2) Provide to the contractor, prior to that person beginning work on ("The Project"), a Certificate of Coverage showing that coverage is being provided for all employees of the person providing services on ("The Project") for the duration of ("The Project").
- 3.) Provide the contractor, prior to the end of the coverage period, a new Certificate of Coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of ("The Project").
- 4.) Obtain from each other person with whom it contracts, and provide to the contractor:
 - a.) a Certificate of Coverage, prior to the other person beginning work on ("The Project");
 - and b.) A new Certificate of Coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current Certificate of Coverage ends during the duration of ("The Project").
- 5.) Retain all required certificates of coverage on file for the duration of ("The Project") and for one (1) year thereafter;
- 6.) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on ("The Project"); and

- 7.) Contractually require each person with whom it contracts to perform as required by items 1-7, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract (bid pricing sheet) or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who provide services on ("The Project") will be covered by workers' compensation coverage for the duration of ("The Project"), that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The contractor's failure to comply with any of these provisions is a breach of contract by the contractor that entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the government entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC 110.110(i)

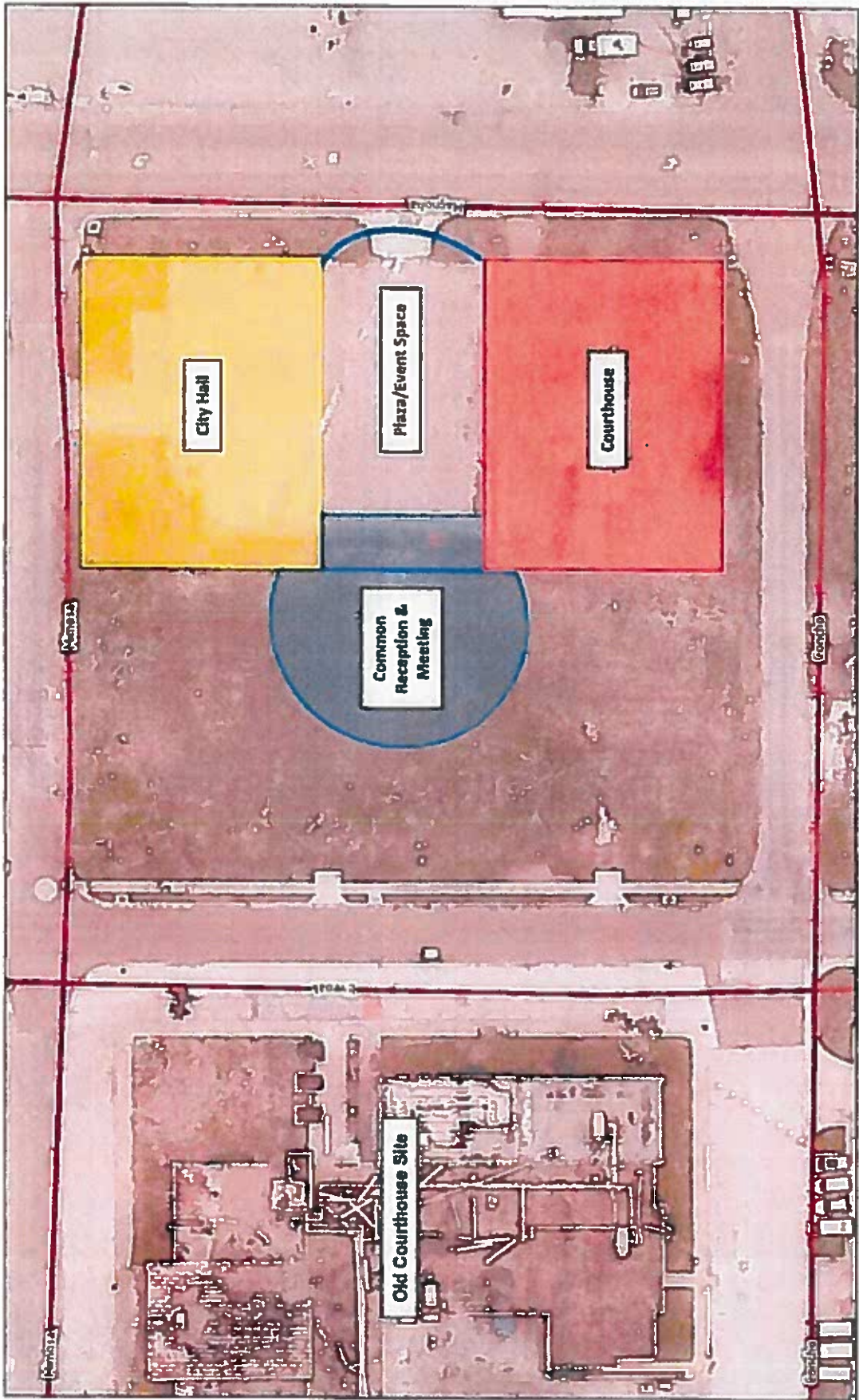
NOTE: Communications with Potential Respondents/Proposers:

All communications and instructions for this RFQ will be posted on the Aransas County web site. No communications regarding this RFQ of a verbal nature will be accepted by "The Partners". Any and all questions of respondents/proposers must be provided in writing to the project manager e-mail address published in this RFQ. Any and all responses will be published and shared on the County web site with all respondents/proposers.

"4A"



4B



"4C"

