

## Request for Qualifications RFQ752-12-121624CS

December 21, 2011

Re: Request for Qualifications  
Architectural and Engineering Design Services  
UNT Discovery Park Engineering High Bay Shell Finish-out

The University of North Texas System (UNTS) requests firm's qualifications for Architectural and Engineering Design Services for the renovation of approximately 16,000 gross square feet located at Discovery Park on the UNT Denton Campus. The renovation will consist of open offices, wet/dry laboratories, and related support spaces. This request for qualifications covers the programming, design, bidding and construction administration phases.

The firm's submittal to the Request for Qualifications (RFQ) will be the basis of determining the competence and qualifications to perform the design services as required by the proposed project.

### I. Scope of Services

#### A. Project Design

The selected firm will be responsible for reviewing site conditions and developing the most suitable design for the renovation of approximately 16,000 gross square feet. The renovated area will accommodate wet and/or dry laboratories, open offices for staff, and other related support spaces on both the first and second floors. The construction budget is not anticipated to exceed \$4.0 million. In addition, the selected firm may, at the option of the UNT System, provide professional services for additional renovations in the high bay area of Discovery Park, for up to a three year period after substantial completion of this project.

Deliverables should include (but are not limited to) all the required programming, schematic design, design development, construction documents and specifications needed for the project to be delivered via construction manager at risk. In addition, the architect's design services must include preparation of construction cost estimates at the end of programming, schematic, design development, and construction documents for owner's review. It is imperative that the firm monitor the design along the various stages of the project so the established owner's construction budget is not exceeded.

The desired substantial completion date for the project is December 15, 2012. Please address in the response the approach to allow this completion date to be achieved.

- B. Bidding – The selected firm is to attend all pre-proposal meetings and provide any additional documentation required during the competitive sealed proposal process.
- C. Construction Administration – The selected firm will attend weekly construction meetings and provide any construction and post construction documentation including punch lists.

## II. Submission Requirements

The responses should address each of the following areas in the same order in which they are set forth below:

### A. Firm Data

1. General Qualifications;
2. Name and Address(es) of each firm;
3. Firm profile, i.e.:
  - i. Age
  - ii. Type of firm (partnership, professional corporation, etc.)
  - iii. Firm history
  - iv. Firm size (professionals by discipline) current and one year ago
  - v. Areas of specialty/concentration;

### B. Description of the Architectural and Engineering team:

1. Identification of the single point of contact for the Architectural and Engineering (A/E) team to include name, email address, and phone number;
2. Identification of key firm personnel to be assigned to the project;
3. Organizational chart illustrating reporting lines, responsibilities, names, and titles for key participants proposed by the firm and each of its consultants.
4. Resumes for each individual on the team and identification of that person's role in this project. List any education and registrations that may be relevant to this project.

## III. Relevant Experience and Capabilities

- A. Relevant experience (relevant shall be projects completed within the last ten (10) years) and capabilities will be judged through a review of both completed and ongoing projects; however, greater consideration will be given to completed projects similar in scope, size, and complexity. The key areas of interest for which project data and photographs should be submitted should be projects described in response to this RFQ.
- B. Provide detailed data for no more than five (5) projects on which the firm and/or team members have been involved in providing services and which best illustrated current experience and capabilities relevant to this project. For each project, please provide the following information:
  1. Project name and location.
  2. Brief project description including:
    - i. Size and scope;
    - ii. Firm's role in project;
    - iii. Key firm strengths exhibits by project and relevant to this Project.
  3. Owner's name, address, contact person, and telephone number.

4. Identification of proposed personnel involved in the submitted project along with explanations of their role in that project(s).
  5. No more than five (5) color photographs per project:
    - i. Photographs should not be selected to facilitate evaluation of design.
    - ii. Photographs need not be submitted for every project for which data is provided, but project data must be provided for all project photographs included.
  6. Schedule Data (any unusual events or occurrences that affected the schedule should be explained).
    - i. Date design began
    - ii. Design complete date
    - iii. Construction complete date
  7. Construction Cost Data:
    - i. Pre-design construction budget
    - ii. Pre-construction construction budget
    - iii. Actual construction budget
  8. Method of construction procurement utilized
- C. For no more than five (5) other projects relevant to the project scope and for each member of the A/E team (as appropriate), provide a list of project names, project sizes, project dates, and owner contact information which further illustrates experience and capabilities relevant to this project.
- D. Approach:
1. Most pertinent consideration in designing project -- State briefly what you believe to be the most pertinent consideration(s) and challenge(s) that must be addressed in the design of a project of this type. You may wish to include sketches, diagrams, analyses or other tools that will help illustrate the team's points.
  2. Unique qualifications -- State why you believe your team to be qualified to address the issues that you feel will be relevant to this project.
  3. Methods of team organization and communication -- Discuss how your firm would coordinate the development of design solutions, the production of contract documents, and construction administration. Be specific with regard to internal and external communications, quality control, cost estimating capabilities, construction specification system, and responsible individuals including their location (e.g., on-site or specific office). Also discuss the commitment level of your firm for availability for attending regular project meetings.
  4. Experience with and/or ability to work within an interactive design review process -- Explain how well your proposed team has performed on past projects which have included an interactive decision making process.

5. Schedule – Show a realistic preliminary schedule for the project. Develop a schedule of each phase of work to include:
  - i. Programming
  - ii. Schematic Design
  - iii. Design Development
  - iv. Construction Drawings
  - v. Construction Administration

#### **IV. Historical Underutilized Businesses**

Plan for participation of Historically Underutilized Businesses (HUB):

- A. It is the policy of the University of North Texas System to promote and encourage contracting and subcontracting opportunities for HUB in all contracts. A HUB Subcontracting Plan (HSP) must be submitted with this proposal as specified in "C" below.
- B. UNT System has determined sub-contracting opportunities are possible and have identified the following areas:
  - Landscape Architect
  - Civil Engineering
  - MEP Engineering
  - Structural Engineering
  - Printing and reproductive services
- C. All subcontracted work whether identified by UNTS or not, are required to be identified in the HSP. Please complete the attached HSP for all subcontracting opportunities to be utilized in the project. Failure to complete the HSP correctly may disqualify the firm's RFQ response. Please return the HSP in a clearly marked envelope, separate from your RFQ response.

#### **V. UNTS Contract**

Under a separate tab, include a copy of any modifications proposed to the standard UNTS Professional Services agreement (Attachment 1). These pages will not be included in the page limitation set forth in Section VI. Any proposed modification will be taken into consideration during the selection process. Only proposed modifications clearly noted on the attached agreement will be considered. References to changes on prior agreements will not be allowed.

#### **VI. Selection Procedure/ Description of Process**

The selection procedure starts after the RFQ is posted on the Electronic State Business Daily on the date listed in Section VII. Following this stage, the selection process is as follows:

- A. A pre-proposal meeting will be held at 2:00 PM (CDT) on the date and time listed in Section VII to answer any questions the potential bidders may have before completing their response. The pre-proposal meeting will be held in the BSC Conference Room located at:

University of North Texas System  
University Services Building  
2310 N-35E  
Denton, Texas

- B. Qualifications are due on or before 2:00 P.M., on the date and time listed in Section VII. Responses must be limited to no more than twenty-five (25) pages. Covers, table of contents and divider tabs will not count as pages provided no additional information is included on those pages. All documents should be printed one side and submitted in 8½" X 11" page size. Proposals received that are late or exceed the number of pages listed above will not be accepted. Provide three (3) copies of your submittal, one (1) paper copy loose and two (2) virus free CD ROM copies through overnight carrier or personal delivery to:

Carrie Stoeckert  
University of North Texas System  
Business Service Center  
University Services Building  
2310 N. I-35E  
Denton, TX 76205

Email or faxed responses will not be accepted.

The HSP is due on or before 2:00 PM (CDT) on the date and time listed in Section VII. The HSP must be in a clearly marked envelope, separate from your RFQ response as outlined in Section IV Subsection C.

- C. The owner may conduct formal interviews.
- D. The top-ranked firm will be notified on or about the date listed in Section VII.
- E. The UNTS expects to reach a contractual agreement with the top-rated firm shortly after notification and will expect the design work to begin immediately thereafter. All documents related to this Project shall be and become the property of the UNTS.
- F. The UNTS reserves the right to reject any or all qualifications at any point during this selection process.

#### **VII. Selection Schedule Summary:**

The schedule for selection is as follows:

RFQ posted on the Electronic Texas Marketplace	12/21/11	
Pre Solicitation Meeting	01/03/12	2:00 PM
Qualifications received no later than	01/18/12	2:00 PM
HSP received no later than	01/18/12	2:00 PM
Notify top-ranked firms if Owner elects to interview	on or about	01/21/12
Interview top-ranked firms if Owner elects to interview	on or about	01/27/12
Notify selected firm	02/20/12	
Approve Contract/ Notice to Proceed (est.)	04/05/11	

Additional information and amendments may be posted on <http://pps.unt.edu/bid-listing>.

#### **VIII. Evaluation Criteria:**

Architectural firms will be ranked and selected on the basis of experience and qualifications using the following criteria:

- A. Relevant successful experience will be evaluated on the basis of the design experience of those individual(s) named to the project team as a designer. Demonstrated successful experience in the design for other projects of similar character to this project will be given higher consideration.
- B. Quality of past and current similar projects.
- C. Current capabilities will be evaluated on the basis of the experience and capacity (current workload and availability) of the individuals assigned to your team.
- D. Management procedures and design methods will be evaluated based on presented materials for design process and procedures, project management procedures, quality assurance process and procedures, specific project approach (workplan/ schedule), and technical support capabilities.
- E. Quality and responsiveness of the RFQ submittal
- F. Local representation will be evaluated on the ability to respond quickly to issues during the duration of the project, especially throughout the construction phase.
- G. Proposed modifications to the UNTS standard Professional Services Agreement.

**IX. Questions:**

Please address your questions concerning this RFQ to Carrie Stoeckert via the Business Service Center website at <http://bsc.untsystem.edu/content/bid-inquiry>.

\*\*\*\*Please note the University will be closed December 23, 2011, through January 1, 2012, for the holidays. Any questions you may have will not be addressed until after the break.

**DO NOT CONTACT ANY OTHER INDIVIDUALS FROM THE UNIVERSITY OR UNTS. This may result in disqualification.**

# **Attachment 1**

# UNIVERSITY OF NORTH TEXAS SYSTEM™

## PROFESSIONAL SERVICES AGREEMENT

(For use with Construction Manager at Risk Agreement)

BETWEEN

UNIVERSITY OF NORTH TEXAS SYSTEM AND ARCHITECT

This Agreement made the \_\_\_\_ day of \_\_\_\_\_, by and between UNIVERSITY OF NORTH TEXAS SYSTEM, P O Box 311040, Denton, Texas 76203-1040, hereinafter called "UNT System" or "Owner," and \_\_\_\_\_ hereinafter called "Architect," duly licensed by the laws of the State of Texas to practice architecture in the State of Texas, hereby agree as follows:

### ARTICLE 1 THE PROJECT

#### 1.1 DESCRIPTION

The Owner does hereby engage the Architect and the Architect does hereby agree to perform for and furnish to the Owner under the terms and conditions of this Agreement all services, studies, investigations, and labor incident to the architectural and engineering design, preparation of Construction Documents, and administration of construction of the building, facility, or improvement identified as:

\_\_\_\_\_

hereinafter called "Project."

#### 1.2 BUDGET (TENTATIVE – SUBJECT TO REVISION AS ALLOWED UNDER THE TERMS OF THIS AGREEMENT)

1.2a The Project Budget for the Project to be constructed is determined by the Owner and includes all costs for design, construction, and related management costs and shall not exceed \_\_\_\_\_ (\_\_\_\_\_) except as provided herein.

1.2b The Construction Cost Limitation for the Project is \_\_\_\_\_ (\_\_\_\_\_) extended to the time of competitive bidding, herein identified as \_\_\_\_\_ (month & year).

1.2c The project budget is apportioned as described below including any applicable expense or fee multipliers:

Architects Fee		
Basic Services	\$	_____
Additional Services		
_____	\$	_____
_____	\$	_____
Total Architect's Fees	\$	_____
Reimbursable Expenses	\$	_____



1.3 The Project will consist of the following:

INSERT PROJECT NARRATIVE

1.4 UNT System shall be billed in accordance with Chapter 2251 of the Texas Government Code and interest, if any, on past due payments shall accrue and be paid in accordance with Chapter 2251 of the Texas Government Code. Payee must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur.

## **ARTICLE 2 DEFINITIONS**

For all purposes of this Agreement, the following definitions shall apply:

- 2.1 AGREEMENT shall include this document and all exhibits attached hereto.
- 2.2 PROJECT BUDGET shall mean the Owner's estimate of the total Project cost from inception to turn-over to the ultimate user.
- 2.3 CONSTRUCTION COST LIMITATION shall mean the actual amount applied toward the construction of the project, excluding all contingencies fees, and administrative costs. This limitation may not be changed without written approval of the Owner, and it shall not be exceeded during design.
- 2.4 ESTIMATED CONSTRUCTION COST shall mean the Contractor prepared and dated estimate, including all categories of construction work, of the entire cost of construction which is submitted to the Owner at the completion of each of three phases of design and for which the Owner's approval must be obtained before proceeding to the next succeeding phase of service.
- 2.5 MAJOR CATEGORIES OF WORK are described as applicable categories of construction work required for completion of construction of the entire Project, which may include but not be limited to the following: demolition, site preparation, grading and earth work, general construction, heating, ventilating, air conditioning, plumbing, electrical, special systems, and site improvements.
- 2.6 APPROPRIATE AUTHORITIES and GRANTING AGENCIES shall mean any private, local, municipal, county, state, regional, or federal authority agency which may be involved in the Project. It is intended to include the authorities and agencies which require information, drawings, and specifications, etc., concerning the Project.
- 2.7 CONSTRUCTION DOCUMENTS shall mean and include drawings, specifications, general conditions, supplementary general conditions, special conditions, information for bidders, bid proposal, addenda, and the Owner-Construction Manager Agreement for all aspects of designed function and construction.
- 2.8 CONTRACT DOCUMENTS shall mean and include the Owner-Construction Manager Agreement and all documents prepared by Architect and specified in the Agreement as may be necessary for the construction contract including drawings, specifications, general conditions, supplementary general conditions, special conditions, and all addenda thereto.
- 2.9 OWNER'S DESIGN REVIEW shall mean and refer to the Owner's review at each of three phases of design progress and the periods of which shall be included in the project design schedule. Drawings and specifications developed to that point in design progress and the estimated

construction cost shall be furnished to the Owner as required.

- 2.10 DESIGN shall mean and include all Architectural services for schematic design, design development, and contract document phase services.
- 2.11 CONTRACTOR shall mean the Construction Manager at Risk.
- 2.12 WORK shall mean all professional services provided by Architect under this Agreement.

### **ARTICLE 3 ARCHITECT'S BASIC SERVICES**

The Architect's Basic Services shall consist of all services described in this Article 3.

- 3.1 ARCHITECT SERVICES shall be performed and shall consist of the schematic, design development, and construction document phases, the bidding stage, and the construction stage services as hereinafter described. The Architect shall not proceed to any level or phase of design not expressly authorized by the Owner, except at the Architect's own financial risk. The Work, design, related data, and services required in accordance with these provisions shall be accomplished within the basic Construction Cost Limitation and Project scope stated above. Design reviews will be at 50% and 100 % schematic design, 50% and 100% design development and 30% and 60% construction document phases. Initial programming to be provided by the Owner. External Code Consultant may be required and is not included in the basic services. Code and ADA reviews will not significantly alter the layout of the buildings. Landscaping services will be provided under a separate contract.

#### 3.1.1 INITIAL SERVICES

- 3.1.1a The Architect shall consult, to the extent necessary or required by the Owner, with designated representatives of University of North Texas System relative to the design and construction of the Project.
- 3.1.1b The Architect shall fully consider the professional consultative pre-project documents or studies provided by the Owner and shall cooperate with other professionals or consultants employed by the Owner for this project or for the design of other Work related to the Project.
- 3.1.1c The Architect shall designate in writing a principal or member of his staff satisfactory to the Owner as the Project Architect who shall, so long as his performance continues to be acceptable to the Owner, remain in charge of the architectural services for the project from the onset of design through to completion of construction and acceptance by the Owner.
- 3.1.1d The Architect shall contract for or employ, at his expense, consultants for design of the Project, including Architects, structural, mechanical and electrical engineers licensed as such by the State of Texas. The Architect shall submit for approval by the Owner the recommended consultants for each professional element of service of the Project, but the Architect will be responsible for the work of the consultants. Nothing in the foregoing requirement or procedure shall create any contractual relationship between the Owner and any consultants employed by the Architect under the terms of this Agreement.
- 3.1.1e The Architect shall assist the Owner in coordinating requirements set forth by Appropriate Authorities and Granting Agencies as designated by the Owner, whose participation in or interest impacts on the design, the cost, and/or the construction of the

Project.

- 3.1.1f The Architect shall perform all the services specified herein in accordance with generally accepted professional standards. All Work drawn and specified, shall conform to and be in compliance with all applicable codes, laws, ordinances, regulations, and published legal restrictions which shall include but not be limited to The International Building Code, 2006 Edition and NFPA 101 Life Safety Code, 2006 Edition.
- 3.1.1g All Work drawn and specified shall include incorporation of the provisions of the Energy Conservation Design Standard for New State Buildings as administered by the State Energy Conservation Office, State Comptroller's Office of the State of Texas. Architect shall provide the Owner with a Statement of Compliance and associated compliance documentation as required.
- 3.1.1h The Architect shall assist with and attend with Owner representatives an open meeting to be held pursuant to Section 2166.403(b) Texas Government Code, to verify the economic feasibility of incorporating alternative energy devices for space heating, cooling, water heating, electrical loads, and interior lighting into the building's design and proposed energy system. At a minimum, Architect shall provide an economic evaluation for the potential of renewable energy applications pursuant to the legislative requirements. Guidelines are available from the State Energy Conservation Office, or State Comptroller's Office.
- 3.1.1i The Architect shall become sufficiently familiar with the existing facilities, systems and conditions at the Project location so that the proposed Project will completely and properly interface functionally with them.
- 3.1.1j The Architect shall participate in the pre-design conference wherein the Work under this Agreement shall be outlined, to include the scope, budget, instructions, procedures, and schedules with a principal, Architect and other representative including approved consultants, as deemed necessary by Owner.
- 3.1.1k The Architect shall:
  - (1) furnish all labor and equipment and provide all of the materials required to complete the services;
  - (2) perform all services with promptness and diligence so that construction of the project may commence and may be completed as set forth in the recitals herein;
  - (3) properly perform all services specified herein;
  - (4) have full control and direction over the mode and manner of performing the services covered by this Agreement.

All professional services herein specified are to be performed wholly at the risk of the Architect, and the Architect shall take all precautions for the proper and safe performance thereof. Architect assumes all liability for this Work.

### 3.1.2 SCHEDULE OF SERVICES

- 3.1.2a Promptly after the execution of the Agreement and the pre-design conference, the Architect shall prepare and submit for approval to the Owner a schedule (in progress chart format) showing the coordinated order and time frame in which the Architect proposes to carry on the phases of the design stage work. The schedule shall include all major activities in each phase to ensure comprehensive and timely progress of the Work. The schedule shall apply to the completion of all services listed hereunder. The Architect shall, when requested, update the progress schedule and deliver three (3) copies to the

Owner within fourteen (14) calendar days.

- 3.1.2b After notification by the Owner of intent to award a Construction Contract, the Architect shall prepare and submit to the Owner, for approval, a schedule of services by major activity to be undertaken by the Architect during the construction stage. The general description of the requirements for the design stage progress chart for services, stated in Paragraph 3.1.2a above, shall apply to this schedule.

### 3.1.3 SCHEMATIC DESIGN PHASE SERVICES

- 3.1.3a The Architect shall review and validate the criteria furnished by the Owner to ascertain the requirements of the Project and shall confirm such requirements to the Owner.
- 3.1.3b Based on the building program approved by Owner, the Architect shall prepare schematic design studies consisting of design analysis, drawings, and other documents illustrating the scale and relationship of Project components for approval by the Owner. Five (5) sets shall be submitted for Owner's required approval.
- 3.1.3c The Architect shall review a written estimated project construction cost prepared by the Contractor in a format approved by the Owner based on documents provided to the Contractor at the conclusion of the Schematic Design Phase. The Architect shall adjust the scope of the project as required based on the Contractor's cost estimate.

### 3.1.4 DESIGN DEVELOPMENT PHASE SERVICES

Upon the Owner's approval of schematic design, the Architect shall proceed with the Design Development Phase and shall:

- 3.1.4a Prepare the design development documents and, upon completion, submit five (5) sets for approval by the Owner to include: the architectural, structural, mechanical, and electrical floor plans and distributions systems, cross-sections, and other required drawings; and the outline specifications in sufficient detail to describe the size, character, and quality as to kinds and locations of materials and the types and sizes of structural, mechanical, and electrical systems for the entire Project. Architect shall also provide a framed rendering of the Project.
- 3.1.4b The Architect shall review a written estimated project construction cost prepared by the Contractor in a format approved by the Owner based on documents provided to the Contractor at the conclusion of the Design Development Phase.

### 3.1.5 CONSTRUCTION DOCUMENTS PHASE SERVICES

Upon the Owner's approval, the Architect shall proceed from the approved Design Development Phase and shall:

- 3.1.5a Prepare the Construction Documents in accordance with the design schedule for approval by the Owner to include and consist of the standard documents as may be furnished by the Owner, and the final working drawings and technical specifications that set forth in detail all the requirements for construction of the entire Project. Prepare final drawings and specifications in full compliance with all applicable building codes, laws or ordinances, and other regulatory authorities.
- 3.1.5b All drawings shall be prepared on sheets 30" x 42" size (trimmed) and all specifications shall be prepared in bound form.

- 3.1.5c Submit for the Owner's review and approval, with comments as necessary, review sets of the working drawings and specifications when 50 percent (5 sets), 75 percent (5 sets), and 95% (5 sets), completion points are reached in this phase of design . Review documents (2 sets) will be provided to the Contractor for updating of their cost estimate at each review point.
- 3.1.5d Coordinate with the Contractor in his preparation and submission for the Owner's approval of a written final estimated construction cost upon 100 percent completion of the final drawings and specifications in accordance with the design schedule and the Owner approved format and detail. The estimate shall be itemized as necessary to include estimates for alternates (additives and/or deductive) and to conform to the form of proposal intended for bidding purposes.

### 3.1.6 BIDDING STAGE SERVICES

Upon the Owner's approval to proceed, the Architect shall assist the Construction Manager as required in the solicitation of competitive subcontractor bids; said solicitation to be by the Construction Manager, and the Architect shall:

- 3.1.6a Furnish and distribute the following amounts of sets of Construction Documents (plans and specifications):
    - (1) One set to the Owner at the time documents are released to the bidders;
    - (2) Up to thirty (30) sets of Construction Documents shall be furnished to the Contractor to be distributed to Sub-Contract Bidders. (The Architect may require deposits or may sell at cost additional complete or partial sets of documents, at his discretion.)
    - (3) Up to ten (10) sets of Construction Documents and electronic files shall be furnished to Plan Services, as determined by the Owner and the Architect. A maximum of two (2) sets shall be furnished to each location.
- All sets of Construction Documents (plans and specifications) shall be numbered in consecutive order.
- 3.1.6b Prepare and issue addenda to the Construction Documents, including drawings when appropriate, as may be required to clarify or interpret the Documents.
  - 3.1.6c Attend the subcontractor pre-bid conference(s), if scheduled, and the scheduled bid opening(s).
  - 3.1.6d Assist the Construction Manager with the review, evaluation, and recommendations for selection of subcontractors.
  - 3.1.6e Assist the Construction Manager as otherwise may be required.
  - 3.1.6f Review the Contractor's final estimated construction cost prepared before bid opening(s). If the estimated construction cost for the final design and specifications (Construction Documents) exceeds the original or Owner-adjusted (if so done in writing during the design stage) Construction Cost Limitation, the Owner may, at its discretion and decision, exercise one or more of the rights reserved to the Owner under Paragraph 3.1.6g below:
  - 3.1.6g If the final estimated construction cost prepared by the Contractor prior to bid opening, or the lowest and best bid(s) received exceeds the original or latest adjusted Construction Cost Limitation of the project budget by more than ten percent (10%), the Owner may, at its discretion:

- (a) give written approval of an increase in the construction cost portion of the project budget; or,
- (b) direct the Architect to make such changes at no additional expense to the Owner in the Construction Documents to permit re-bidding of the Project within the shortest, reasonable time; or,
- (c) direct the Architect to revise the scope or quality, or both, of the Project, so as to reduce the project construction cost; in which case the Architect shall at his expense, if so directed by the Owner, modify the Construction Documents, as directed, in order to reduce the estimated project construction cost to be within the adjusted construction cost portion of the project budget; or,
- (d) Assist the Construction Manager in negotiating with lowest and best bidder(s); or,
- (e) abandon the project, in which case the appropriate part of the Architect fee to be paid for the design stage of work shall be based on the latest adjusted construction cost portion of the project budget. This fee shall not be exceeded if the Project is later awarded at a cost still in excess of that portion of the Project budget.

### 3.1.7 CONSTRUCTION STAGE SERVICES

The Architect shall:

- 3.1.7a Provide all the administrative services set forth in these Construction Documents and as required by the Contract Documents to permit timely prosecution of the construction work.
- 3.1.7b
  1. Furnish to the Owner two (2) additional sets of Construction Documents complete with all addenda issued during the bidding which are in suitable condition for use during construction. (These sets may be those previously issued to bidders or Plan Services, except that no marks or notations or other defacements shall be permitted.)
  2. Furnish to the Owner's designated reproduction company electronic files of the Construction Documents for the Owner and Construction Manager's use in constructing the project.
- 3.1.7c Prepare and submit for approval by the Owner the schedule of services hereinbefore described under Paragraph 3.1.2b.
- 3.1.7d Make visits to the Project not less often than once a week and when conditions require shall make more frequent visits to the site to observe the progress and quality of the executed Construction Work and to determine if the Work is proceeding in accordance with the Contract Documents. These visits shall be performed by an experienced and qualified design professional. The Architect shall use reasonable diligence to detect defects and deficiencies of the Work of the Contractor and to recommend in writing to the Owner the disapproval or rejection of work as failing to conform to the Contract Documents. The Architect shall notify in writing the Construction Manager and the Owner of any detected noncompliance of the Construction Manager or his subcontractors with the Contract Documents and shall make such recommendations in writing to the Owner or his representatives for remedial work or rework necessary to obtain compliance with the Contract Documents. The Architect will not be responsible for construction management, methods or safety provisions employed by the Construction

Manager in the prosecution of the Work. The Architect shall keep the Owner informed of the status of the project including significant milestones reached, problems resolved and those pending, and other important items by the submission of written reports not less often than once a month.

- 3.1.7e Review the Construction Manager's periodic estimates for partial payments, determine the amount owed to the Construction Manager, and issue certificates for payment on such amounts. The certificate for payment shall constitute the Architect's representation to the Owner that Work has progressed to the value indicated; the quality of the Work is considered to be in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified.
- 3.1.7f Interpret the Contract Documents and, within a reasonable time, render such interpretations as necessary for the proper and timely execution or progress of the work. Reasonable time as used herein shall be such time as available prior to delay of the work or not more than ten (10) calendar days.
- 3.1.7g Prepare for Owner's approval, change orders to the Construction Documents which are necessary as a result of such interpretations and/or clarifications, Construction Manager inquiries, or Owner requests. The Architect shall prepare cost and time extension estimates for each contract change, analyze price and time proposals received from the Construction Manager for change orders, compare his estimate with the proposal, advise the Owner as to the acceptability of the Construction Manager's proposal and assist the Owner, if requested, in resolving any discrepancy between the estimate and Contractor's Proposal. Such assistance shall be accomplished within the reasonable time frame hereinbefore defined in Paragraph 3.1.7f above.
- 3.1.7h Review and advise the Owner, prior to or concurrent with notification to the Construction Manager, as to acceptability of work schedules prepared by the Construction Manager in accordance with the Owner's requirements; shop drawings, laboratory samples; fabrication, erection and setting drawings; wiring and control diagrams; materials delivery schedules; shop drawing submittal schedules; lists of materials and equipment; mockups; equipment or systems testing procedures and schedules; and, other descriptive data pertaining to materials and equipment for compliance with the design concept for the Project and with the information given in the Contract Documents. Unless otherwise specifically stated by the Owner, such review, advice, and assistance as required in each instance shall be accomplished within the reasonable time hereinbefore defined in Paragraph 3.1.7f.
- 3.1.7i Analyze and advise the Owner as to the acceptability of test reports, test methods, materials, equipment, and systems.
- 3.1.7j Make all necessary revisions to the Contract Documents to correct errors, conflicts, omissions, or deficiencies at no additional expense to the Owner.
- 3.1.7k Review and advise the Owner as to the acceptability of substitutions proposed by the Construction Manager.
- 3.1.7l Provide a color schedule and samples of textures and finishes of all materials in the Project for review and approval of the Owner.
- 3.1.7m Provide a list of fixed and installed equipment to include the type/size, location and quantity, to the Owner for review and approval.
- 3.1.7n Provide technical assistance to and design interpretation of the Contract Documents for

the Construction Manager and Owner's Representative(s) and advise said personnel of all decisions rendered or recommendations made. The Architect shall review the inspection reports prepared by the Construction Manager a minimum of once weekly and shall issue, subject to the concurrence of the Owner, such directives as the evaluation of the report (s) data dictates as necessary to obtain compliance with the requirements of the Contract Documents. The Owner's representative shall be notified immediately of any instructions given to the Contractor. All instructions which result in revisions to or change in scope of the work shall be promptly confirmed in writing by the Architect with copies to all parties concerned.

- 3.1.7o Have authority to reject work, with concurrence of the Owner, which does not conform to the Contract Documents. The Architect shall recommend in writing to the Owner that the work be stopped whenever in his reasonable and professional opinion it may be necessary for the proper performance of the Construction Contract.
- 3.1.7p Make recommendations to the Owner on all claims of the Construction Manager relating to the execution and progress of the work and on all matters or questions related thereto. Such recommendations shall be prepared and forwarded in writing to the Owner within fifteen (15) calendar days of the date of the written notification by the Construction Manager of such claim.
- 3.1.7q Arrange and conduct inspections, in coordination with the Owner and the Construction Manager, to determine construction deficiencies to be corrected by the Construction Manager and to determine the dates of substantial completion, beneficial occupancy (in whole or parts thereof) and final completion, as such terms shall be defined in the Contract Documents, and advise in writing to the Owner as to the acceptability of the work performed by the Construction Manager. Observe and evaluate the performance tests of equipment and systems tests required by the Contract Documents.
- 3.1.7r Assist the Owner in fulfilling the requirements of the Appropriate Authorities and Granting Agencies relative to disbursements made under the Contract Documents for the Project and to periodic progress reports required to be submitted to these authorities and/or agencies for the project.
- 3.1.7s The Architect shall advise in writing and consult the Owner on all significant matters related to performance under the Contract Documents.
- 3.1.7t At the completion of the project, furnish to the Owner one complete set of prints (full size) of the project drawings which have been corrected to show all construction which was different from the original Contract Documents as reported by the Contractor. Architect shall also furnish complete electronic files of record drawings using the most current release of AutoCAD software and also .pdf full-size format. Prior to submitting the final record drawings, furnish one complete check set of revised project drawings for owner review.

### 3.1.8 OTHER RESPONSIBILITIES OF ARCHITECT

- 3.1.8a The Architect shall comply, at his own expense, with the provisions of all state, local, and federal laws, regulations, ordinances, published legal requirements, and codes which are applicable to the performance of Work or services hereunder or applicable to the Architect as an employer of labor or otherwise. The Architect shall further comply with all laws, rules, regulations, and licensing requirements pertaining to his professional status and that of his employees, partners, associates, subcontractors, consultants, and others employed or retained by him to render any services hereunder.



- 3.1.8b Any approvals by the Owner of the Architect's professional services shall not waive, relieve, limit, or release the Architect from any of his responsibility or liability for his professional services or from the terms of or performance of this Agreement; nor shall any such approvals estop or be a defense against the Owner.
- 3.1.8c Article Not Exclusive: The Architect's liabilities, responsibilities and obligations provided for in this Article shall not limit or supersede any of the Architect's other liabilities, responsibilities, and obligations either at law or otherwise under this Agreement.
- 3.1.8d Architect shall attend bid openings and assist the Construction Manager in selecting the lowest and best bid and in preparing a tabulation of bids in a form acceptable to Owner.
- 3.1.8e Architect shall make recommendations to the Owner as to the approval or disapproval of the Contractor's requests for payments.
- 3.1.8f Architect shall participate in the final construction inspection and prepare the punchlist with the Owner, and Contractor.
- 3.1.8g The Architect agrees to allocate work to consultants that are historically underutilized businesses in accordance with the Historically Underutilized Business Subcontracting Plan attached as **Exhibit 1** hereto and incorporated by reference for all purposes ("HUB Plan"). No changes to the HUB Plan may be made unless approved in writing by the Owner. While this Agreement is in effect and until the expiration of one year after final completion, the Owner may require information from the Architect, and may conduct audits, to assure that the Plan is followed.
- 3.1.8h Architect agrees and acknowledges that Owner is entering into this Agreement in reliance on Architect's represented professional abilities with respect to performing Architect's services, duties, and obligations under this Agreement. Architect shall perform its Services diligently and shall endeavor to further the interest of the Owner in accordance with Owner's requirements and procedures. Architect agrees to perform its services (i) in accordance with the usual and customary professional standards of care, skill and diligence consistent with good architectural practices for architectural firms in Texas that provide professional design services for projects that are similar in size, scope, and budget to the Project, and (ii) in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. There are no obligations, commitments, or impediments of any kind known to the Architect that will limit or prevent performance by Architect of its services. Architect hereby agrees to correct, at its own cost, any of its services, and the services of its consultants, that do not meet the standard of care.

#### **ARTICLE 4 EXTRA ARCHITECT SERVICES**

The following services of the Architect, when authorized by the Owner in writing, shall be paid for by the Owner in accordance with the provisions of Article 7 of this Agreement.

- 4.1 Making measured drawings of existing construction when required for planning or designing additions or alterations to existing buildings or facilities. This does not include the responsibility of the Architect to confirm critical dimensions on Owner-furnished drawings or documents or existing facilities or buildings, excluding underground utilities, for which the planning or design of additions and/or alteration are to be provided under this Agreement.

- 4.2 Revising previously approved drawings, specifications, or other documents to accommodate changes when so directed by the Owner, provided, however, that no compensation for extra services shall be paid for the following revisions which:
- (1) may be directed by the Owner pursuant to Paragraph 3.1.6.g.;
  - (2) corrections of design errors or omissions;
  - (3) changes initiated by the Architect and;
  - (4) changes necessitated to bring the design development within the Construction Cost Limitation as specified herein or adjusted by the Owner with the agreement of the Architect.
- 4.3 Providing professional services made necessary by the default of the Construction Manager in the performance of the work under the Contract Documents.
- 4.4 Providing Construction Contract administration of construction after the latest extended construction contract time has been exceeded by more than ten percent (10%) through no fault of the Architect.
- 4.5 Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth in Article 3, as may be required in connection with the replacement of such damaged work.
- 4.6 Preparing supporting data and other service in connection with change orders if the change is not the fault or negligence of the Architect and if contract sum is not commensurate with the services required of the Architect.
- 4.7 Provide and submit drawings and applications to the U.S. Green Building Council (USGBC) for compliance review to obtain a minimum Silver rating in accordance with the USGBC LEED rating system.

## **ARTICLE 5 OWNER RESPONSIBILITIES**

The Owner shall:

- 5.1 Designate a representative or representatives authorized to act in its behalf with the Architect.
- 5.2 Examine or cause its representative(s) to examine documents submitted by the Architect and render decisions pertaining thereto promptly or within a reasonable time to avoid unreasonable delay in the progress of the Architect's Work.
- 5.3 Provide a project budget and Construction Cost Limitation for the Project including information as to the gross area and major facility requirements, budget limitations, and project scheduling. If the scope of work changes, adjust the Construction Cost Limitation as required by subsequent approved estimates.
- 5.4 Furnish a land survey of the project site giving, as applicable, the best available information concerning grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, deed restrictions, boundaries, and topography of the site; as-built drawings or location, dimensions and first floor elevations of existing buildings, other improvements and trees (when necessary); and all available information concerning available service and utility lines on or serving the site, both public and private. Owner does not guarantee that the furnished information is correct. The Architect shall have the duty and responsibility to review the survey and construction site to determine any gross errors in the survey.

- 5.5 Furnish all available information on surface and subsurface soil conditions to include reports, test borings, test pits data, soil bearing values, or related information. When the Architect determines and recommends that additional subsoil investigations are necessary, the Owner shall procure the direct professional services of a registered soils engineer to obtain the required information and data in a timely manner. The Owner does not guarantee that the furnished information is correct.
- 5.6 Furnish structural, mechanical, chemical, and other laboratory tests, inspections, and reports as required by law or the Contract Documents unless otherwise noted in the specifications.
- 5.7 Be represented at the site from time to time by an employee or other representative(s); provided, however, that such representation by the Owner, if any, at the site shall not at any time relieve the Architect, in whole or in part, from any duty or responsibility placed upon the Architect under the terms of this Agreement.
- 5.8 Provide construction representatives as described under applicable sections of Paragraph 3.1.7 as the Owner may deem advisable.
- 5.9 Give prompt written notice thereof to the Architect if the Owner or its representative observes or otherwise becomes aware of any fault or defect in the project or conformances by the Construction Manager with the Contract Documents.
- 5.10 Provide necessary forms of contracts, bonds, uniform general conditions of the contract, supplementary general conditions, and advertisement for bids (as the Owner may require).
- 5.11 Furnish information required as expeditiously as necessary for the orderly progress of the work.
- 5.12 Furnish any provisions or sections that the Owner may desire incorporated in the specifications.
- 5.13 Notify the Architect, in writing, of apparent deficiencies in materials, workmanship, or equipment and systems during Construction Manager's warranty period.
- 5.14 Nothing in this Agreement nor any act or failure to act on the part of the Owner shall be construed as a waiver of claim by the Owner for any defects or deficiencies in the drawings and specifications or as an assumption of any responsibility of the Architect under this Agreement.
- 5.15 Furnish all granting agency guidelines to the Architect.
- 5.16 Make payments in a timely manner as required under Article 8.
- 5.17 The Owner is responsible for identifying hazardous materials prior to commencement of demolition. The Owner is responsible for removal of hazardous materials prior to or concurrent with demolition. The Architect excludes all survey, removal instructions, observation or services related to such substances.

## **ARTICLE 6 CONSTRUCTION COST**

- 6.1 Construction cost does not include the fees of the Architect and his consultants, the Owner's management costs and expenses or allowances established by the Owner.
- 6.2 The Architect is responsible to maintain adequate control throughout the design Work of the Estimated Construction Cost of the entire project to ensure the Construction Cost Limitation is not exceeded. The Architect may require a design contingency or such other cost growth factor for

design development within the Construction Cost Limitation, as deemed necessary to permit development of final design within this limitation. The Architect shall coordinate with the Contractor in his submission of a full scope and detailed cost estimate for the construction contract work for the entire project at the intervals called for herein. The Contractor shall prepare and submit a final estimated project construction cost prior to releasing the Contract Documents to the bidders.

- 6.2a The format and detailed content of the cost estimate shall be approved by the Owner. Said estimate shall include the Major Categories of Work for the entire project and shall be detailed under each category to show the individual items of work in both quantity and unit cost for labor and materials which are to be directly incorporated in the work by the Construction Manager. Estimate summaries shall show the above direct quantity-cost by Major Categories of Work and such indirect costs as appropriate by separate identification to estimate the project construction cost which the Owner may expect at the time of competitive bidding.
- 6.2b The final cost estimate prepared and submitted by the Contractor shall be a continuation and expansion of previous estimates prepared and submitted.
- 6.3 If the lowest and best bona fide competitive bid received exceeds the latest approved (final) Estimated Construction Cost, the Owner may, at its discretion and decision, exercise one or more of the alternatives of Paragraph 3.1.6g of Article 3.

## **ARTICLE 7 COMPENSATION**

The Owner shall compensate the Architect in accordance with the terms and conditions of the Agreement, as follows:

- 7.1 For the Architect's basic services as described in Article 3, a fee of \_\_\_\_\_ (\$ \_\_\_\_\_) including professional services and reimbursements as required to utilize the funds allocated to construction contingency.
- 7.2 For Architect's extra services as described in Article 4, a fee computed as follows:
  - 7.2a Principal's time at the fixed rate of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per hour. For the purpose of this Agreement, the principal is \_\_\_\_\_
  - 7.2b FEES FOR OTHER TEAM MEMBERS  
TEAM MEMBER NAME
  - 7.2c FEES FOR OTHER TEAM MEMBERS  
TEAM MEMBER NAME
  - 7.2d Services of professional consultants at a multiple of \_\_\_\_\_ (\_\_\_\_) times the amount billed to the Architect for such services.
- 7.3 It is agreed and understood that the Architect shall have experienced and qualified personnel for the design and engineering of the structural, mechanical, and electrical equipment and/or systems for the complete structure. The Owner reserves the right to reject any of such persons

or firms the Owner may deem not qualified or competent to provide such services. Such pay or compensation and expenses associated therewith as will be required to be paid to these persons or firms shall be paid by the Architect out of the fees provided for in this Agreement, and the Owner accepts no responsibility whatsoever for any such person or firm.

- 7.4 For Architect reimbursable expenses, approved and agreed to by the Owner prior to incurring same, compensation shall be made by the Owner only for the following incidental expenses after submission of a request for payment of same with supporting documentation of expenses that are approved by Owner:
- 7.4a Reproduction of Construction Documents for Bidding and Construction Phases in excess of the sets enumerated in Article 3.1.6a
  - 7.4b Fees for special consultants, as authorized and approved in advance by the Owner for other than structural, mechanical, and electrical engineering services, and estimating services; or other services specifically agreed to in writing or included herein at a multiple of \_\_\_\_\_ (\_\_\_\_\_) times the amount billed to the Architect.
  - 7.4c Fees for long distance communication; expenditures for travel; printing and printing supplies; plotting, photography; renderings; postage; delivery and handling materials at actual expense incurred.
- 7.5 Owner shall be billed in accordance with Chapter 2251 of the Texas Government Code and interest, if any, on past due payments shall accrue and be paid in accordance with Chapter 2251 of the Texas Government Code. Payee must be in good standing, not indebted to the State of Texas and current on all taxes owed to the State of Texas for Payment to occur.

## **ARTICLE 8 SCHEDULE OF PAYMENTS**

Payments on account of the Architect's basic services shall be made monthly in proportion to the services performed to increase the compensation for basic services to the following maximum percentages of the basic fee at the completion of each of the phases of Work.

8.1 The following cumulative payment percentages shall apply:

8.1.1 Design Stage

8.1.1a	Schematic Design Phase	15%
8.1.1b	Design Development Phase	35%
8.1.1c	Construction Document Phase.	65%
8.1.1d	Bidding Stage (Award of Construction Contract)	70%
8.1.1e	Construction Phase through acceptance by Owner (monthly payments in increments based on progress to completion)	95%
8.1.1f	Receipt of record drawing files, reproducibles and CD, ROM	100%

8.2 Payments for extra services of the Architect as defined in Article 4, for reimbursable expenses as defined in Paragraph 7.4, shall be made monthly upon presentation of the Architect's Statement of Services Rendered which shall be reviewed and approved by the Owner prior to payment.

8.3 No deductions will be made from the Architect's compensation on account of penalty, liquidated damages, or other contractual retainage's withheld from payments to Construction Manager.

- 8.4 All invoices submitted for payment must include a HUB Progress Assessment Report (PAR). The PAR should document compliance with the HUB Plan in Section 3.1.8h.

## **ARTICLE 9 TERMINATION OF AGREEMENT**

The provisions for termination of the Agreement are as follows:

- 9.1 The Owner reserves and has the right and privilege of canceling, suspending or abandoning execution of all or any Work in connection with this Agreement at any time upon written notice to the Architect. The Architect may terminate this Agreement upon seven days written notice to the Owner only if the Owner substantially fails to perform obligations under Article 5 of this Agreement or fails to timely pay the Architect as required under Article 8, and after adequate written notice is delivered to Owner and Owner has failed to take action within 30 days in order to begin to correct the problem.
- 9.1a In the event of termination that is not the fault of the Architect, the Owner shall pay to the Architect as full payment for all services performed and all expenses incurred under this Agreement, the appropriate portion of sum due under Paragraph 7.1 and as specified under Article 8 as shall have become payable because of the progress in the Work as the services actually rendered hereunder by the Architect bear to the total services necessary, plus any sum due the Architect for extra services described under Article 4 herein which were previously approved by the Owner.
- 9.1b In ascertaining the services actually rendered hereunder up to the date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other related documents, whether delivered to the Owner or in possession of the Architect and to authorized and approved reimbursable expenses as herein described in Paragraph 7.4.
- 9.1c For any said sum paid under this Article, the Architect agrees to accept same in full settlement of all claims for services rendered under this Agreement.
- 9.2 If, upon payment of the amount required to be paid under this Article following the termination of this Agreement, the Owner thereafter should determine to complete the original project or, substantially, the same project without major change in scope; the Owner, for such purposes, shall have the right of utilization of any and all original tracings, drawings, calculations, design analysis, specifications, estimates, related data, and other documents including Construction Documents, prepared under this Agreement by the Architect who shall make them available to the Owner upon request, with compensation to the Architect limited to actual reproduction costs. The Owner agrees to credit the Architect with such authorship as may be due to him but is not required to renew this Agreement.
- 9.3 Upon request at the termination of this Agreement, the Architect agrees to furnish to the Owner copies of the latest documents prepared by Architect for the Project.
- 9.4 A termination under this Article 9 shall not relieve Architect or any of its employees of liability for violations of this Agreement, or any willful, negligent or accidental act or omission of Architect. In the event of a termination under this Article 9, Architect hereby consents to employment by Owner of a substitute Architect to complete the services under this Agreement, with the substitute Architect having all rights and privileges of the original Architect of the Project.

## **ARTICLE 10 DOCUMENTS**

Document ownership, reproduction, and re-use shall be as follows:

- 10.1 **OWNERSHIP OF DOCUMENTS:** Drawings and specifications, as instruments of service, shall be considered by the Owner to remain the property of the Owner whether the project for which they are made is executed or not. They are not to be used by the Architect for any other project except by agreement in writing except as provided in Section 10.3d. They may be used by the Owner on other projects or extensions to this project. All additional or confirmatory land survey field notes, sketches, and related data and additional or confirmatory soils engineering or investigations, samples, calculations, test results and reports, for which the Owner has paid for such direct services, shall become the sole property of the Owner.
- 10.2 **REPRODUCTION OF DOCUMENTS:** The Architect shall provide a copy of all documents required. The Architect shall provide sets of the Construction Documents as provided for in Article 3.
- 10.3 **RE-USE OF DOCUMENTS:** In the event the Owner ever desires to erect all or part of another structure which would be similar to the Project and if the Architect is commissioned by the Owner:
  - 10.3a The Architect consents to re-use of his design, subject to compensation in an amount agreed upon by the Owner and the Architect prior to the commencement of the services, and shall form the basis of a separate agreement.
  - 10.3b The Architect will be permitted to re-use specific details of the drawings relating to the project for other projects, but shall not use them as a major portion or as a whole without written authorization by the Owner.
  - 10.3c The Architect reserves the right to remove professional seal and title block from documents turned to the Owner.

## **ARTICLE 11 SUCCESSORS AND ASSIGNS**

The Owner and the Architect each binds himself, his partners, successors, assigns, and legal representatives to the other party of this Agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet, or transfer his services or obligations as stated in this Agreement without the written consent of the other.

## **ARTICLE 12 DEATH OR INCAPACITY**

If the Architect transacts business as an individual, his death or incapacity shall automatically terminate this Agreement as of the date of such event, and neither he nor his estate shall have any further right to perform hereunder; and Owner shall pay him or his estate the compensation payable under Article 7 for any services rendered prior to such termination. If the Architect is a firm comprised of more than one principal and any one of the members thereof dies or becomes incapacitated and the other members continue to render the professional services covered herein, the Owner will make payments to those continuing as though there had been no such death or incapacity, and the Owner will not be obliged to take any account of the person who died or became incapacitated or to make any payment to such person or his estate. This provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as the Architect herein; and if death or incapacity

befalls the last one of such group before this contract is fully performed, then the rights shall be as if there had been only one Architect. In any event, notice of the death or incapacity of any principal shall be given to the Owner by any surviving principal within a reasonable time.

### **ARTICLE 13 MISCELLANEOUS PROVISIONS**

- 13.1 Captions. The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.
- 13.2 Governing Law and Venue. This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas and venue shall be in Denton County, Texas for any legal proceeding pertaining to this Agreement.
- 13.3 Waivers. No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.
- 13.4 Severability. In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included herein.
- 13.5 Independent Contractor. This is not a brokerage agreement or an agreement of joint venture, or partnership or of employment. Architect recognizes that Architect is engaged as an independent contractor and acknowledges that Owner shall have no responsibility to provide Architect or its employees with transportation, insurance or other fringe benefits normally associated with employee status. Architect, in accordance with Architect's status as an independent contractor, covenants and agrees that Architect shall conduct Architect's Services consistent with such status, that Architect will neither hold Architect out as nor claim to be an officer, partner, employee or agent of Owner by reason hereof, and that Architect shall not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner by reason hereof, and that Architect shall not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Architect hereby agrees to make Architect's own arrangements for any of such benefits as Architect may desire and agrees that Architect is responsible for all income taxes required by applicable law.
- 13.6 Child Support Certification. Pursuant to Section 231.006, Texas Family Code, Architect certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- 13.7 Eligibility Certification. Pursuant to Section 2155.004, Texas Government Code, Architect certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.



- 13.8 Franchise Tax Certification. If a corporate or limited liability company, Architect certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.
- 13.9 Payment of Debt or Delinquency to the State. Pursuant to Sections 2107.008 and 2252.093, Texas Government Code, Architect agrees that any payments owing to Architect under this Agreement may be applied directly toward any debt or delinquency that Architect owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 13.10 Loss of Funding. Performance by Owner under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Architect and Owner may terminate this Agreement in accordance with Article 9. Architect acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.
- 13.11 Proprietary Interests. All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by Architect in the performance of services for Owner, which is not generally known to the public, shall be confidential and Architect shall not, beginning on the date of first association or communication between Owner and Architect and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Architect's own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Architect shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Architect as an independent contractor of Owner in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of Owner. Architect shall obtain assurances similar to those contained in this Subparagraph from persons, contractors, and subcontractors retained by Architect. Architect acknowledges and agrees that a breach by Architect of the provisions hereof will cause Owner irreparable injury and damage. Architect, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.
- 13.12 Appointment. Owner hereby expressly reserves the right from time to time to designate by notice to Architect, a representative to act partially or wholly for Owner in connection with the performance of Owner's obligations hereunder. Architect shall act only upon instructions from such representative unless otherwise specifically notified to the contrary.
- 13.13 Records. Records of Architect costs, reimbursable expenses pertaining to the Project and payments shall be kept on a generally recognized accounting basis and shall be made available to Owner or its authorized representative during business hours for audit or other purposes as determined by Owner. Such records shall be maintained by the Architect and shall be available to the Owner or his authorized representative for a period of at least three (3) years after final completion of the Project.
- 13.14 Notices. All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner:  
Associate Vice Chancellor for System Facilities  
University of North Texas  
P O Box 311040  
Denton, Texas 76203-1040

If to Architect:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

#### **ARTICLE 14 EXTENT OF AGREEMENT**

This Agreement represents the entire and integrated Agreement between the Owner and the Architect with respect to the Project. This Agreement supersedes all prior negotiations, representations or agreements, either written or oral, with respect to the Project and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a subsequent writing signed by Owner and Architect.

#### **ARTICLE 15 INSURANCE**

**INSURANCE:** The Design Professional shall procure, pay for and maintain with insurance carriers the following:

**15.1 Workers' Compensation Insurance:**

- 15.1a The Design Professional shall secure and keep in effect such insurance as will protect contractor from claims under all Worker's Compensation Laws including occupational Disease as required by the State of Texas.
- 15.1b Certificates of such insurance shall be filed by the Design Professional with the Owner and shall be subject to the Owner's approval as to carrier and adequacy, prior to commencement of work.
- 15.1c The Design Professional shall ascertain that all Sub-Contractors secure and keep in effect similar insurance covering their employees.
- 15.1d Workers Compensation at statutory limits and include Employer's Liability at the following limits:
  - (1) \$500,000 each accident (bodily injury by accident)
  - (2) \$500,000 policy limit (bodily injury by disease)
  - (3) \$500,000 each employee (bodily injury by disease)

Waiver of subrogation for workers' compensation in favor of the Owner.

- 15.2 Liability Insurance:** The Design Professional shall maintain and pay for Commercial General Liability Insurance, including Contractual Liability and Automobile Liability Insurance, in a company or companies satisfactory to the Owner, and file with the Owner certificates of such insurance with minimum limits specified below:

- 15.3 Commercial General Liability: with the Owner, University of North Texas (UNT) and the Owner's and UNT's Board of Regents named as an additional insured where its interest may appear and waiver of subrogation in favor of the Owner.
  - 15.3a \$1,000,000 each occurrence
  - 15.3b \$2,000,000 aggregate
- 15.4 Business Automobile Liability with the Owner, UNT and the Owner's and UNT's Board of Regents named as an additional insured where its interest may appear and waiver of subrogation in favor of the Owner:
  - 15.4a Combined Single Limit \$1,000,000 each occurrence
- 15.5 Professional Liability or errors and omissions insurance with a minimum coverage of \$2,000,000.
- 15.6 The insurance certificate must:
  - 15.6a Show that the Contractual Liability Coverage is applicable to the Agreement, and set forth the address and specific location of the project.
  - 15.6b Set forth in full a hold harmless agreement acceptable to the Owner.
  - 15.6c Include a provision that the Owner will be given thirty (30) days written notice of cancellation, non-renewal or material changes of insurance coverage.
- 15.7 Certificates indicating coverage to be enforced shall be filed with the UNTS prior to commencement of work. Furthermore, certificates shall include no disclaimer for failure to notify UNTS and will clearly state, notice of cancellation of policy will be given to UNTS in writing. No work shall be performed under this Agreement unless the insurance coverage required hereunder shall be in full force and effect. Failure to give notice will not relieve insurance carrier of responsibility.
- 15.8 Vendor shall provide UNTS with proper insurance documentation.

**ARTICLE 16  
INDEMNIFICATION**

The Architect agrees to indemnify, defend and hold Owner, UNT and the Owner's and UNT's Board of Regents, employees and agents harmless from any loss, damage or expense arising out of any occurrence relating to this Agreement or its performance and shall indemnify, defend and hold Owner, UNT and the Owner's and UNT's Board of Regents, employees and agents harmless against any damage or claim of any type arising from the negligent or intentional acts or omission of the Architect, its employees, agents, subcontractors or assigns.

**ARTICLE 17  
DISPUTE RESOLUTION**

- 17.1 To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by Owner and Architect to attempt to resolve any claim for breach of contract made by Architect:
  - 17.1a Architect's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Architect shall submit written notice, as required by subchapter B of

Chapter 2260, to Owner in accordance with the notice provisions in this Agreement. Architect's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that Owner allegedly breached, the amount of damages Architect seeks, and the method used to calculate the damages. Compliance by Architect with subchapter B of Chapter 2260 is a required prerequisite to Architect's filing of a contested case proceeding under subchapter C of Chapter 2260. The UNT System Vice Chancellor for Administrative Services of Owner, or such other officer of Owner as may be designated from time to time by Owner by written notice thereof to Architect, shall examine Architect's claim and any counterclaim and negotiate with Architect in an effort to resolve such claims.

- 17.1b If the parties are unable to resolve their disputes under subparagraph 17.01.a, the contested case process provided in subchapter C of Chapter 2260 is Architect's sole and exclusive process for seeking a remedy for any and all of Architect's claims for breach of this Agreement by Owner.
- 17.1c Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by Owner nor any other conduct, action or inaction of any representative of Owner relating to this Agreement constitutes or is intended to constitute a waiver of Owner's or the state's sovereign immunity to suit and (ii) Owner has not waived its right to seek redress in the courts.
- 17.2 The submission, processing and resolution of Architect's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
- 17.3 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Architect, in whole or in part. Owner and Architect agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.
- 17.4 It is agreed that such process is not invoked if Owner initiates the dispute by first bringing a claim against Architect, except at Owner's sole option. If Owner makes a claim against Architect and Architect then makes a counterclaim against Owner as a claim under Chapter 2260 and in compliance therewith, the Owner's original claim against Architect does not become a counterclaim and is not subject to the mandatory counterclaim provisions of Chapter 2260 of the Texas Government Code, except at the sole option of the Owner.

## **ARTICLE 18 EXHIBITS**

The following exhibits are incorporated by reference and made a part of this Agreement for all purposes and the Parties agree to abide by the terms and conditions of the attachments as if set forth herein:

- Exhibit 1      Historically Underutilized Business Subcontracting Plan

IN WITNESS WHEREOF, the OWNER and the ARCHITECT have executed this Agreement, the day and year first above written.

OWNER:  
UNIVERSITY OF NORTH TEXAS SYSTEM

By: \_\_\_\_\_  
(signature)

Richard Escalante  
Vice Chancellor for Administrative Services

ARCHITECT:  
\_\_\_\_\_

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(typed name and title)

\_\_\_\_\_  
Street/PO Box

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
11 Digit State of TX Vendor ID Number

**EXHIBIT 1  
HISTORICALLY UNDERUTILIZED BUSINESS  
SUBCONTRACTING PLAN**

SEE ATTACHED HUB SUBCONTRACTING PLAN  
Dated \_\_\_\_\_

DRAFT

This Exhibit contains the Historically Underutilized Business Subcontracting Plan and supporting documentation for that Plan, all of which is made part of the Agreement between Owner and Architect.

Initialed by Architect

\_\_\_\_\_

Initialed by Owner

\_\_\_\_\_



# HUB SUBCONTRACTING PLAN (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

**NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).**

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders contracts,**
- **32.7 percent for all special trade construction contracts,**
- **23.6 percent for professional services contracts,**
- **24.6 percent for all other services contracts, and**
- **21 percent for commodities contracts.**

### - - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

## SECTION 1 RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: \_\_\_\_\_ State of Texas VID #: \_\_\_\_\_  
 Point of Contact: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ Fax #: \_\_\_\_\_
- b. Is your company a State of Texas certified HUB?  - Yes  - No
- c. Requisition #: \_\_\_\_\_ Bid Open Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
(mm/dd/yyyy)

Enter your company's name here: \_\_\_\_\_

Requisition #: \_\_\_\_\_

**SECTION 2 SUBCONTRACTING INTENTIONS**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b, of this SECTION and continue to Item c of this SECTION.)

- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If **No**, continue to SECTION 3.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have had contracts in place for <u>five (5) years or less.</u>	Percentage of the contract expected to be subcontracted to HUBs with which you have had contracts in place for <u>more than five (5) years.</u>	Percentage of the contract expected to be subcontracted to non-HUBs .
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
<b>Aggregate percentages of the contract expected to be subcontracted:</b>		<b>%</b>	<b>%</b>	<b>%</b>

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the **aggregate expected percentage** of the contract you will subcontract with Texas certified HUBs with which you have had contracts in place with for five (5) years or less **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

- **Yes** (If **Yes**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

- **No** (If **No**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)







# HSP Good Faith Effort - Method A (Attachment A)

(Rev. 10/11)

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

**IMPORTANT:** If you responded “Yes” to SECTION 2, Items c or d of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for **each** of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-A.doc>

**SECTION A-1 SUBCONTRACTING OPPORTUNITY**

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: \_\_\_\_\_ Description: \_\_\_\_\_

**SECTION A-2 SUBCONTRACTOR SELECTION**

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas Certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas Certified HUB	VID # (Required if Texas Certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

# HSP Good Faith Effort - Method B (Attachment B)

(Rev. 10/11)

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

**IMPORTANT:** If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-B.doc>

## SECTION B-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: \_\_\_\_\_ Description: \_\_\_\_\_

## SECTION B-2 MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, to continue to SECTION B-4.)
- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3.)

## SECTION B-3 NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and minority or women trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person.

When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and minority or women trade organizations or development centers.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>. HUB Status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID #	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to minority or women trade organizations or development centers to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to minority or women trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency.

A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>

- d. Enter the name of the minority or women trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Minority/Women Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
	/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
	/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No

# HSP Good Faith Effort - Method B (Attachment B) *Cont.*

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

## SECTION B-4 SUBCONTRACTOR SELECTION

- a. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas Certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas Certified HUB	VID # <small>(Required if Texas Certified HUB)</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- b. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

# HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, the respondent must provide notice of each of its subcontracting opportunities to minority/women trade organizations or development centers at least seven (7) working days prior to submitting its bid response to the contracting agency.

We respectfully request that vendors interested in bidding on the subcontracting opportunity identified in **Section C** reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

<b>Section A</b>	<b>PRIME CONTRACTOR'S INFORMATION</b>
Company Name: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

<b>Section B</b>	<b>CONTRACTING STATE AGENCY AND REQUISITION INFORMATION</b>
Agency Name: _____	
Point-of-Contact: _____	Phone #: _____
Requisition #: _____	Bid Open Date: _____

<b>Section C</b>	<b>SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION</b>
1.  Potential Subcontractor's Bid Response Due Date:	<p><b>Our firm must receive your bid response to this subcontracting opportunity no later than 5:00 P.M., Central Daylight Standard Time on: _____</b> (Date)</p> <p>(Note: In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to <u>at least three (3)</u> Texas certified HUBs, and allow the HUBs <u>at least seven (7) working days</u> to respond to the notice prior to submitting our bid response to the contracting agency. In addition, we must provide the same notice to minority/women trade organizations or development centers <u>at least seven (7) working days</u> prior to submitting our bid response to the contracting agency.)</p>
2.  Scope of Work:	
3.  Required Qualifications:  <input type="checkbox"/> - Not Applicable	
4.  Bonding/Insurance Requirements:  <input type="checkbox"/> - Not Applicable	
5.  Location to review plans/specifications:  <input type="checkbox"/> - Not Applicable	