

REQUEST FOR QUALIFICATIONS
STEPHEN C. BEACHY CENTRAL
PARK IMPROVEMENTS



CITY OF COLLEGE STATION
Home of Texas A&M University®

RFQ No. 10-28
DUE DATE: JANUARY 14, 2010
@ 4:00 P.M. C.S.T.

CITY OF COLLEGE STATION, TEXAS
1101 Texas Ave.
College Station, TX 77842
(979) 764-3555
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The City of College Station is soliciting Statements of Qualifications (SOQs) from firms who are interested and qualified to perform the necessary evaluation, design, and related functions required for development of plans and specifications for the City.

It is the intent of the City of College Station to select a single consultant to accomplish all the services outlined in this Request for Qualifications.

Response packages will be accepted electronically (only) until 4:00 p.m. CST on Thursday, January 24, 2010 and must be uploaded at <http://brazosbid.cstx.gov>. Please note that the City of College Station is not responsible for high internet traffic/demand at or near the time the response packages are due and that firms submitting their response package during peak traffic times risk their submittal not being received by the due date and time.

Schedule of Important Dates

The tentative schedule for this Request for Qualifications is as follows:

Release RFQ to Consultants: December 17, 2009

Advertisement Dates: December 17, 2009 & December 24, 2009

Deadline for Questions and Inquiries: Thursday, January 7, 2010

SOQ Submission Deadline: Thursday, January 14, 2010

Definitions

In order to simplify the language throughout this Request for Qualification, the following definitions shall apply:

CITY – The government of the City of College Station, Texas.

CITY OF COLLEGE STATION – Same as City.

CITY COUNCIL – The elected officials of the City of College Station, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and Laws.

CONTRACT – An agreement between the City and a Consultant to furnish professional services over a designated period of time during which repeated purchases are made of the commodity and/or service specified.

FIRM – An entity submitting a Statement of Qualifications (SOQ) in response to this Request for Qualifications (RFQ).

RFQ – Request for Qualifications; this solicitation

SOQ - Statement of Qualification; a firms response to this solicitation

Certification

SOQs must be completed and submitted as required in this document. Certification form must be fully completed.

Communication

The City shall not be responsible for any verbal communication between any employee of the City and any potential firm. Only timely and properly submitted written SOQ's will be considered.

Disclosure

There will be no disclosure of contents to competing firms and all SOQs will be kept confidential during the selection process to the degree permitted by law. The City of College Station is subject to the Texas Public Information Act, Texas Government Code, Chapter 552. Government Code 552.110 excepts from required public disclosure a trade secret or commercial or financial information that may be privileged or confidential by statute or judicial decision. However, the City of College Station considers all information, documentation, and other materials requested to be submitted in response to this RFQ to be non-confidential and/or non-proprietary and therefore subject to public disclosure after the contract is executed.

Electronic Documents

Firms may be supplied with the original documents in electronic form to aid in the preparation of an SOQ. By accepting these electronic documents, Firms agree not to edit or change the language or format of these documents. Submission of an SOQ by Firms signifies full agreement with this requirement.

Management

Should there be a change in ownership or management, any and all contracts that result from this RFQ shall be canceled unless a mutual agreement is reached with the new owner or manager to

continue the contract with its present provisions, requirements, terms, conditions, schedule, and fees. This contract is nontransferable by either party.

Payment Terms

Payment will be made in accordance with the contract terms and conditions.

Questions and Inquiries

Written questions and inquiries about this RFQ should be directed Cynthia Sciulli, C.P.M., Buyer, csciulli@cstx.gov.

Receipt of Statement of Qualifications

The submitted SOQ must be received electronically by the Purchasing Services Division through the Brazos Valley Online Bidding System prior to the time and date specified. **Any SOQ received after the deadline will be considered non-responsive and will be rejected. Any incomplete SOQ (i.e. submittals that do not include a signed Certification and Acknowledgement of Addenda) will be considered non-responsive and will be rejected.**

Reimbursements

There is no express or implied obligation for The City of College Station to reimburse responding Firms for any expenses incurred in preparing SOQs in response to this RFQ and City of College Station will not reimburse responding firms for these expenses, nor will City pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Reservations

The City reserves the right to accept or reject any or all SOQs as a result of this request, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this RFQ if found in the best interest of the City. All SOQs become the property of the City of College Station.

Selection Process

The City may conduct interviews with one or more qualified Firms which timely and properly submit an SOQ. The City reserves the right to select a Firm without interviews based solely on the information contained in the SOQ.

Selection of Most Highly Qualified Firm

The successful Firm will be selected based on demonstrated competence and qualifications; and contract negotiations will begin with the most highly qualified Firm as determined by the City. If a satisfactory contract cannot be negotiated with the most highly qualified firm, as set out herein; the City shall formally end negotiations with such firm and shall select the next most qualified firm. The City shall negotiate with such firm at a fair and reasonable price. This process will continue until a successful agreement can be reached by both parties.

Standard Contracts

This RFQ includes the City's Standard Agreement for Professional Services; a statement of willingness to utilize such agreement must be provided. The Firm should review the attached Standard Form of Agreement thoroughly, and by **submitting a SOQ and completing the**

certification herein, the Firm is agreeing to sign the City's Standard Form of Agreement for Professional Services without modification.

Submittal Requirements

SOQ must be received electronically via the Brazos Valley Online Bidding System at <http://brazosbid.cstx.gov>. **SOQ's are strictly limited to twenty (20) pages – all inclusive (cover, coverletter, table of contents, criteria requested herein, certification, addenda, and all exhibits or attachments included). SOQ's shall be submitted online as a single .pdf document.** SOQ's shall be single spaced, 12-point minimum font utilizing 8-1/2 x 11 inch pages. **Submittals with an excess volume of information will be considered non-responsive, and will be rejected.**

The City recommends that submittals be limited to no more than 10 MB. If a firm chooses to submit a file larger than 10 MB, and the file does not properly load on the system, then the City is not responsible.

PROJECT HISTORY/BACKGROUND

This project will consist of the demolition and replacement of the existing concessions building in Stephen C. Beachy Central Park.

The existing Central Park concessions building is a 2-story wood frame building with a 900 s.f. footprint and was built in 1980. The building is currently used for concessions, bathrooms, storage and an umpire changing area.

SCOPE OF WORK

It is the City's intent that the successful firm will be involved for the full duration of the design development, preparation of construction and bidding documents, and construction administration phases of the project. The total budget for this project, including construction and design, is approximately \$930,000. A general description of the scope of work for this project is provided below.

The City will expect the successful firm to provide the following services:

- 1) Become familiarized with the project, its facilities, utilities, and history.
- 2) Evaluate existing conditions, including field survey within and immediately adjacent to the project area including floodplain and geotechnical considerations.
- 3) Meet the minimum requirements of the Unified Development Ordinance (UDO), the Site Plan Application and the Development Permit Application.

- 4) Prepare a set of construction documents including (but not limited to) plans, technical specifications, bid proposal, anticipated construction schedule, and cost estimate. City Staff shall review this design package and make comments at the 30%, 60%, 90%, and 100% completion stages.
- 5) Assist the City during the bidding process by providing clarifications of the construction package to the City, and by attending any pre-bid meetings. Successful firm shall evaluate bid results and make recommendation to City.
- 6) Assist the City during the construction process by providing clarifications of the construction package, attending and documenting all construction phase progress meetings, reviewing and approving pay applications, reviewing and approving change orders, preparing punch list(s), and providing alternate designs if the original designs prove unfeasible. The consultant will serve as the representative of the City during construction to oversee the construction work effort and to observe conformance by the Construction Contractor with the contract plans and specifications.
- 7) Provide certification that the project was built to conformance with the construction documents after final completion.

STATEMENT OF QUALIFICATIONS

The following is a description of items to receive consideration in the evaluation of submittals in response to this solicitation for Statement of Qualifications (SOQ) for providing Architectural, Engineering and Surveyor Services to the City of College Station.

A. Firm Introduction

Briefly introduce your firm, providing a summary of the administration, organization and staffing of your firm, including multiple offices, if applicable. Provide an organizational chart indicating the positions and names of the core management team which will undertake this engagement.

B. Design Team Qualifications

(1) Demonstrate the competence and qualifications of the individual who will be directly responsible for the management and delivery of the proposed work.

City is interested in the individual's experience as a project manager on projects similar to that described in the solicitation. Only one individual should be designated and must be a licensed architect, engineer, or surveyor in the State of Texas at the time of submission and must be employed by the Firm and not by a subconsultant. Demonstrate project management experience, technical competency, qualifications and compliance with legal requirements by providing a resume which reflect:

- (a) documented specialized design expertise demonstrating such specialized capabilities pertinent to similar work experience as described in the solicitation by the individual;
- (b) descriptions and examples of specific projects or studies of a similar nature by the individual as described in the solicitation and their role in the work.
- (c) educational background;
- (d) license status, to include Texas registration number and expiration date of architect, engineer, or surveyor assuming professional responsibility on the project or study;
- (e) formal project management training and any certifications or accreditations offered by the Project Management Institute;
- (f) technical publications including books, papers or presentations.

(2) Demonstrate the technical adequacy of the personnel and subconsultants to be utilized for the proposed work.

City is interested in the technical qualifications and experience of the individual project team members of the Firm or subconsultant firms who will actually be performing work on

the project or study described in the solicitation. Demonstrate technical competency, qualifications and compliance with legal requirements by providing resumes which reflect:

- (a) documented specialized design expertise demonstrating such specialized capabilities pertinent to similar work experience as described in the solicitation by the individuals;
- (b) descriptions and examples of specific projects or studies of a similar nature by the individuals as described in the solicitation and their role in the work;
- (c) educational background;
- (d) license status, to include Texas registration number and expiration date of architects, engineers, or surveyors performing work and supervising subordinates in the production of design or study efforts;
- (e) technical publications including books, papers or presentations.

(3) Demonstrate the experience of the Firm based upon previous work similar to that of the type considered.

City is interested in the Firm's history with similar projects or studies as described in the solicitation. **List no more than five projects or studies meeting this criteria which have been completed within the last five years.** Include the project or study description, name of the team leader, description of the Firm's role, cost of the project or study, year of the work, and name and phone number of the agency contact who can respond to questions about the work. Provide no more than one page per documented project or study.

- (a) applicability of projects or studies similar in nature as described in the solicitation;
- (b) role of firm with the project or study.

(4) Demonstrate the success of the Firm based upon the record of performance on other projects (both City of College Station projects and projects for other entities).

City is interested in the Firm's success and performance record related to projects or studies for the City of College Station or other entities. List no more than five projects total. Projects other than those listed in Consideration Item (c) may be submitted which are not necessarily similar in nature to those described in the solicitation. For other projects or studies to be considered, include the project or study description, name of the team leader, and description of the Firm's role. Provide no more than one page per documented project or study.

- (a) number of change orders;
- (b) examples of innovative solutions that resulted in a cost savings during construction and/or operation;
- (c) responsiveness during construction and commitment to continued involvement throughout the life of the project.

(5) Demonstrate the Firm's history of accuracy of cost estimates and ability to perform within budget constraints.

City is interested in the accuracy and dependability of projected cost estimates and the ability of the Firm to be sensitive and responsive to project or study budget constraints. List project budgets, pre-bid cost estimates and bid ranges from low to high bid for projects listed in Consideration Item (c) or Consideration Item (d). Also provide a summary of the measures taken by the Firm to ensure the project was realized within the project budget.

C. Workload Capacity And History Of Performing Work Within A Specified Schedule

City is interested in the ability of the Firm to dedicate the necessary resources to the work described in the Scope of Work. City reserves the right to visit the location of the Firm to verify the capabilities and resources.

- (a) capabilities of the proposed project team and approach for handling multiple projects simultaneously at various stages of development;
- (b) demonstrate the Firm's ability to deliver projects within a specified schedule;
- (c) contingency plan and ability of the Firm to sustain a loss of a key team member without compromising project quality, schedule or budget considerations.

Proposed Approach For The Design Project Or Study

City is interested in the team's organizational structure and work plan for accomplishing the work as described in the Scope of Work.

- (a) organization and structure of the project team including percentage of work proposed to be done by subconsultants;
- (b) work plan indicating detailed approach for accomplishment of project, identified options, and proposed solutions;
- (c) approach to project management.

FORMAT REQUIREMENT

You may upload one (1) electronic proposal in the format prescribed herein on our website at <http://brazosbid.cstx.gov>.

The City of College Station requires comprehensive responses to every section within this RFQ. To facilitate the review of the responses, Firms shall follow the described proposal format. The intent of the proposal format requirements is to expedite review and evaluation. It is not the intent to constrain Firms with regard to content, but to assure that the specific requirements set forth in this RFQ are addressed in a uniform manner amenable to review and evaluation.

The SOQ format should conform to the A/E Services Selection Criteria listed above. Any SOQ that does not meet all of the requirements contained herein will be considered non-responsive and will not be evaluated.

1. Responses shall be clearly identified and conform to the criteria as outlined in "A" through "D" of each the criteria listed above.
2. Project time-line: A proposed project schedule should be supplied identifying the beginning and ending of each phase of the work proposed for this project.
3. Return signed Certification and acknowledge any Addenda issued in response to this RFQ.

CERTIFICATION

The undersigned affirms that they are duly authorized and qualified to submit this SOQ. The undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement for Professional Services without modification.

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Bid Address: _____
P.O. Box or Street City State Zip

Order Address: _____
P.O. Box or Street City State Zip

Remit Address: _____
P.O. Box or Street City State Zip

Federal Tax ID No.: _____

Date: _____

END OF RFQ No. 10-28

EXHIBIT A

STANDARD FORM OF AGREEMENT CONTRACT

City of College Station

Architects & Engineering Professional Services Contract

This Contract is between the **City of College Station**, a Texas home-rule municipal corporation, (the “City”) and _____, a _____ corporation (the “Contractor”), whereby the Contractor agrees to provide the City with certain professional services as described herein and the City agrees to pay the Contractor for those services.

ARTICLE I Scope of Services

- 1.01 In consideration of the compensation stated in paragraph 2.01 herein below, the Contractor agrees to provide the City with the professional services as described in **Exhibit “A”**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: Stephen C. Beachy Central Park Improvements (the “Project”).

ARTICLE II Payment

- 2.01 In consideration of the Contractor’s provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Contractor according to the terms set forth in **Exhibit “B”**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed _____ and ___/100 Dollars (\$_____).

ARTICLE III Time of Performance and Construction Cost

- 3.01 The Contractor shall complete the professional services within the times set forth below. The Contractor shall exercise a degree of care and diligence in the performance of all services under this Contractor in accordance with the professional standards prevailing among Contractors in the location in which Contractor practices or College Station, Texas, whichever is the higher standard, skilled in design for projects of similar scope, and all of the Contractor services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Work.

[Conceptual Design: **calendar days** after the authorization to commence planning]

[Preliminary Project Design: **calendar days** after authorization to commence PPD]

[Final Design: **calendar days** after authorization to commence final design]

- 3.02 All design work and other professional services provided under this Contract must be completed by the following date: _____.
- 3.03 **Time is of the essence of this Contract.** The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Contractor shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Contractor's services to meet the City's project milestone dates which are included in this Contract. The Contractor's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Contractor has control shall not be exceeded without written approval from the City.
- 3.04 The Contractor's services consist of all of the services required to be performed by Contractor, Contractor's employees and Contractor's consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Contractor shall contract and employ at his expense consultants necessary for the design of the Project, and such consultants shall be licensed as required by the State of Texas and approved in writing by the City.
- 3.05 The Contractor shall designate a principal of the firm reasonably satisfactory to the City who shall, so long as employed by Contractor and acceptable to the City, remain in charge of professional services through completion and be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.
- 3.06 Contractor shall be responsible for the coordination of all drawings and design documents relating to Contractor's design and used on the Project, regardless of whether such drawings and documents are prepared by Contractor. Contractor shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Contractor and for their compliance with all applicable codes, ordinances, regulations, laws and statutes.
- 3.07 Contractor's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Contractor's best judgment as a design professional familiar with the construction industry.
- 3.08 The construction budget for this Project, which is established as a condition of this Contract is \$_____. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE IV

Conceptual Design

- 4.01 Upon the Contractor's receipt from the City of a letter of authorization to commence planning, the Contractor shall meet with the City for the purpose of determining the nature of the Project. The Contractor shall inquire in writing as to the information he believes the City may have in its possession that is necessary for the Contractor's performance. The City shall provide the information within its possession that it can make available to the Contractor. The City shall designate a representative to act as the contact person on behalf of the City.
- 4.02 The Contractor shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal Projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Contractor shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Contractor shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Contractor shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Contractor shall confirm that the Project can be designed and constructed for the dollar amount of the project budget, if applicable.
- 4.03 The Contractor shall prepare a conceptual design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The conceptual design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Contractor shall meet with City staff and the City Council to make a presentation of his report.

ARTICLE V

Preliminary Design

- 5.01 The City shall direct the Contractor to commence work on the Project design by sending to the Contractor a "letter of authorization" to begin work on the preliminary Project design pursuant to this Contract. Upon receipt of the Letter of Authorization to commence preliminary Project design, the Contractor shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.
- 5.02 The Contractor shall prepare the preliminary design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Contractor shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

- 5.03 Upon completion of the preliminary design of the Project, the Contractor shall so notify the City. Upon request the Contractor shall meet with the City staff and City Council to make a presentation of his preliminary design of the Project. The Contractor shall provide an explanation of the preliminary design and cost estimate and shall verify that, to the best of Contractor's belief, the Project requirements and construction can be completed within the project budget and schedule.

ARTICLE VI

Final Design

- 6.01 The City shall direct the Contractor to commence work on the final design of the Project by sending to the Contractor a "letter of authorization" to begin work on the final design phase of the Project. Upon receipt of the Letter of Authorization to proceed with final design of the Project, the Contractor shall immediately prepare the final design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The final design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.
- 6.02 Notwithstanding the City's approval of the final design, the Contractor warrants that the final design will be sufficient and adequate to fulfill the purposes of the Project.
- 6.03 **The Contractor shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the contractor. The Contractor hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.**
- 6.04 The Contractor shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the final design of the Project, with the submission of the complete contract documents, and upon request of the City, the Contractor shall meet with City Staff and the City Council to present the final design of the Project. The Contractor shall provide an explanation of the final design and cost estimate.

ARTICLE VII

Bid Preparations & Evaluation

- 7.01 The Contractor shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Contractor shall meet with City Staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.
- 7.02 The Contractor shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Contractor shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the final design of the Project, then the Contractor, at his sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the final design of the Project.
- 7.03 Where substitutions are requested by a construction contractor, the Contractor shall review the substitution requested and approve or disapprove such substitutions.

ARTICLE VIII

Construction

- 8.01 The Contractor shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Contractor shall have authority to act on behalf of the City only to the extent provided in this Agreement unless modified by written instrument.
- 8.02 The Contractor shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and his subcontractors and to determine if such work is proceeding in accordance with the contract documents. Contractor shall periodically review the as-built drawings for accuracy and completeness, and shall report his findings to the City.
- 8.03 The Contractor shall keep the City informed of the progress and quality of the work. The Contractor shall exercise the utmost care and diligence in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform with the contract documents.
- 8.04 The Contractor shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Contractor's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

- 8.05 The Contractor shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Contractor shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.
- 8.06 The Contractor shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Contractor shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Contractor shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the Work. Contractor shall receive no additional compensation for providing clarification of the Drawings and Specifications.
- 8.07 The Contractor shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Contractor's recommendation of payment, being based upon the Contractor's on-site inspections and his experience and qualifications as a design professional, shall constitute a recommendation by the Contractor to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Contractor's recommendation for payment.
- 8.08 Upon notification from the construction contractor that the Project is substantially complete, the Contractor shall conduct an inspection of the site to determine if the Project is substantially complete. The Contractor shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Contractor for completion have been completed, the Contractor shall inspect the Project to verify final completion.
- 8.09 The Contractor shall not be responsible for the work of the construction contractor or any of his subcontractors, except that the Contractor shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Contractor's negligent acts or omissions. This provision shall not alter the Contractor's duties to the City arising from the performance of the Contractor's obligations under this Contract.
- 8.10 The Contractor shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.
- 8.11 The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.
- 8.12 The Contractor shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.

- 8.13 The Contractor shall assist the construction contractor and City in obtaining an Occupancy Permit by accompanying governing officials during inspections of the Project if requested to do so by the City.

ARTICLE IX

Change Orders & Documents & Materials

- 9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project.
- 9.02 Written change orders may be approved by the City Manager or his delegate provided that the change order does not increase the amount set forth in paragraph 2 of this Contract by more than **five percent (5%)**. Changes in excess of this amount must be approved by the City Council prior to commencement of the services or work. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.
- 9.03 The Contractor shall furnish the City _____ (____) sets of plans and specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Contractor shall provide the City _____ (____) sets of reproducible, mylar-record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Contractor. The Contractor shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Contractor. The foregoing documentation, the Contractor's work product, and other information in the Contractor's possession concerning the Project shall be the property of the City from the time of preparation. The Contractor shall also furnish one set of digital files representing the final as-built mylars.

ARTICLE X
Warranty, Indemnification & Release

- 10.01 As an experienced and qualified design professional, the Contractor warrants that the information provided by the Contractor reflects high professional and industry standards, procedures, and performances. The Contractor warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. The Contractor warrants that the Contractor will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Contractor, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Contractor, its employees, associates, agents, or subcontractors.
- 10.02 The Contractor shall promptly correct any defective designs or specifications furnished by the Contractor at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Contractor's services hereunder or of the Project itself shall in no way alter the Contractor's obligations or the City's rights hereunder.
- 10.03 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Contractor shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Contractor shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Contractor shall have ultimate control over the execution of the professional services. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors.
- 10.04 The Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Contractor, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- 10.05 Indemnity. The Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agents (separately and collectively referred to in this paragraph as "Indemnatee"), from and against any and all claims, losses,**

damages, causes of action, suits, judgments, settlements made by Indemnitee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Contractor, any of its subcontractors of any tier, or of any employee or invitee of Contractor or of any such subcontractors, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Contractor or by any such subcontractors of any tier, under this Contract.

10.06 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 10.05, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

10.07 Release. The Contractor releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's work to be performed hereunder. Both the City and the Contractor expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Contractor or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Contractor, or any third party.

ARTICLE XI

Insurance

11.01 The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, limits and endorsements required are as set forth on Exhibit C.

ARTICLE XII

Use of Drawings, Specifications and Other Documents

12.01 The Drawings, Specifications and other documents prepared by the Contractor and Contractor's consultants for this Project shall become the property of the City whether the

Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Contractor's Drawings, Specifications and other documents.

- 12.02 The documents prepared by Contractor may be used as a prototype for other facilities by the City. The City may elect to use the Contractor to perform the site adaptation and other architectural services involved in reuse of the prototype. If so, the Contractor is obligated to perform the work for an additional compensation that will fairly compensate the Contractor and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect to perform the site adaptation and other architectural services involved in reuse of the prototype, that architect will be entitled to use Contractor's consultants on the same basis that Contractor would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Contractor will not be responsible for errors and omissions of a subsequent architect. The Contractor shall commit its consultants to the terms of this subparagraph.
- 12.03 In the event of termination of this Agreement for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.
- 12.04 Only the details of the drawings relating to this Project may be used by the Contractor on other projects, but they shall not be used as a whole without written authorization by the City. The City furnished forms, conditions, and other written documents shall not be used on other projects by the Contractor.

ARTICLE XIII

Termination

- 13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Contractor's receipt of such notice, the Contractor shall cease work immediately. The Contractor shall be compensated for the services satisfactorily performed prior to the termination date.
- 13.02 If, through any cause, the Contractor fails to fulfill its obligations under this Contract, or if the Contractor violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Contractor **five (5)** calendar days written notice to the Contractor. The Contractor will be compensated for the services satisfactorily performed before the termination date.
- 13.03 No term or provision of this Contract shall be construed to relieve the Contractor of liability to the City for damages sustained by the City because of any breach of contract and/or negligence by the Contractor. The City may withhold payments to the Contractor

for the purpose of setoff until the exact amount of damages due the City from the Contractor is determined and paid.

ARTICLE XIV
Miscellaneous Terms

14.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

14.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of College Station
Attn: Daniel Beamon
P.O. Box 9960
College Station, Texas 77842

Contractor:

14.03 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

14.04 This Contract represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

14.05 This Contract and all rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of the City.

14.06 If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

14.07 The Contractor, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of College Station, and with all applicable rules and regulations promulgated by local, state, and

national boards, bureaus, and agencies. The Contractor must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

14.08 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

14.09 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.

14.10 **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.

[INSERT NAME OF CONTRACTOR]

CITY OF COLLEGE STATION

By: _____
Printed Name: _____
Title: _____
Date: _____

By: _____
Mayor
Date: _____

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____

City Attorney
Date: _____

Chief Financial Officer

Exhibit A
Scope of Services

Exhibit B

Payment Terms

SELECT ONE:

Compensation is based on **actual** hours of work/time devoted to providing the described professional services. The Contractor will be paid at a rate of \$_____ per hour, or at the rates per service or employee shown below. The City will reimburse the Contractor for **actual**, non-salary expenses at the rate of _____ percent (____%) above the Contractor's actual costs, or at the rates set forth below. Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract (\$_____).

The Contractor must submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

-OR-

Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Schedule of Payment for each phase:

Exhibit C

Insurance Requirements

During the term of this Agreement all Contractor's insurance policies shall meet the following requirements:

- I. Standard Insurance Policies Required:
 - A. Commercial General Liability
 - B. Business Automobile Liability
 - C. Workers' Compensation
 - D. Professional Liability
- II. For each of these policies, the Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.
- III. The Contractor shall include all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- IV. General Requirements Applicable to All Policies
 - A. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
 - B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a "per occurrence" basis for property damage only.
 - C. "Claims made" policies will not be accepted, except for Professional Liability insurance.
 - D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested.
 - E. Upon request, certified copies of all insurance policies shall be furnished to the City.
 - F. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following

provisions and warranties:

1. that the insurance company is licensed and admitted to do business in the State of Texas
2. that the insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
3. all endorsements and coverages according to the requirements of this Contract
4. the form of notice of cancellation, termination, or change in coverage provisions
5. original endorsements affecting coverage required by this Contract.
6. The City of College Station, its officials, employees, and volunteers are named as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, employees, and volunteers.

V. Commercial (General) Liability requirements:

- A. Coverage shall be written by a carrier with an "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- C. Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall include but not be limited to: premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- F. The City shall be named as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

VI. Business Automobile Liability requirements:

- A. Coverage shall be written by a carrier with an "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- D. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.

VII. Workers Compensation Insurance requirements:

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. The worker's compensation insurance shall include the following terms:
1. Employer's Liability limits of \$1,000,000 for each accident is required.
 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 3. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- C. Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Agreement, the bid specifications, this Agreement, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the

project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - (2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*

- H. *The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- I. *The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
 - (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
 - (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - (4) obtain from each other person with whom it contracts, and provide to the Contractor:*
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and*
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
 - (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
 - (7) contractually require each person with whom it contracts, to*

perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.

- J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."*

VIII. Professional Liability requirements:

- A. Coverage shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of College Station when requested.
- C. For "claims made" policies, a two-year extended reporting period shall be required.

Exhibit “D”

Certificate(s) of Insurance