

MEDICAL ARTS HOSPITAL

Request for Qualifications (“RFQ”)

Architectural/Engineering Design Services Remediation of Medical Arts Hospital Building

I. General Information & Requirements.

A. Request for Qualifications. The Dawson County Hospital District d/b/a Medical Arts Hospital (“Owner”) requests statements of qualifications from qualified Architect/Engineering firms or project teams (“A/E”) for professional design and contract administration services to be performed for the Project described below.

B. Project Remediation of the Medical Arts Hospital Building

Background: The Medical Arts Hospital facility construction was completed in 2009. Since completion, several issues that need to be corrected have been identified. These include site drainage, roofing and HVAC. Additional information on the remediation work required may be obtained from the Letha Stokes, the Hospital CEO, as described in Section H. The amount available for all construction work (Construction Budget) is \$2,800,000.

The Hospital will remain in operation while the remediation work is being performed. The planning and sequencing of the activities will be critical, and the selected A/E or appropriate team members should have experience with the procedures outlined in the CDC document *Guidelines for Environmental Infection Control in Health-Care Facilities*.

C. Scope of Services. The design team of licensed architects and engineers is to evaluate the existing facility and work with the Owner to design corrective measures within the budget allocated. The selected A/E will assist Owner in determining the areas of expertise in which consultant services will be required, and, at Owner’s request, provide assistance in selecting consultants for participation on the team.

Contract administration services during construction. It is anticipated that the Construction Manager at Risk method will be used for construction.

Post construction services during the one-year construction warranty period to assist Owner with construction problems and to perform an on-site review prior to expiration of the warranty period.

D. Eligibility. Each A/E must present a statement of qualifications in order to be considered as a candidate, and an authorized representative of the A/E must sign the statement of qualifications.

- E. Licensure. All Respondents must have legally required licensure so that all services required from them may be delivered in accordance with applicable law. Although proof of licensure is not required as a part of this RFQ, Respondents are encouraged to provide information on relevant current licenses.
- F. Selection Process. This Request for Qualifications is the first step in a two-step process for selecting an A/E.
1. Step 1. The initial Qualification Statement provides the information necessary for consideration and initial ranking by the Owner. Based upon the initial ranking, the Owner may select one (1) or more of the top ranked qualified Respondents to provide additional information for Step 2.
 2. Step 2. In Step 2, the Owner may ask one or more Respondents to provide more detailed and project-specific information and possibly attend an interview with the Owner. The Owner will select one or more finalists for a final ranking based on the selection criteria set forth below. The Owner will endeavor to negotiate a contract with the first ranked Respondent on fair and reasonable terms. If an agreement cannot be reached, Owner will terminate negotiations with that Respondent and may pursue negotiations with the other Respondents in the order of ranking. The Owner's governing body will make the final selection and award.
- G. Selection Criteria. The Owner will determine, in its sole discretion, the Respondent or Respondents that are best qualified to perform the required services, based on the following criteria:
1. Demonstrable recent successful experience in the design of and contract administration for similar types of projects for medical or hospital facilities, or for projects similar in scope, complexity or magnitude to the Project, particularly those involving remediation of medical facilities that will remain in operation during remediation.
Total of 20 points.
 2. Professional references demonstrating the following:
 - i) Quality of work.
 - ii) Keeping within established budgets.
 - iii) Timely completion of projects.Total of 30 points.
 3. Commitment and ability to perform services in a timely manner.
Total of 20 points.
 4. Financial ability of Respondent to perform services reliably.

Total of 25 points.

5. Other relevant information that provides evidence of Respondents ability to successfully perform the Services.

Total of 5 points

- H. Inquiries. Owner will try to answer written inquiries concerning this RFQ, but shall not be obligated to do so. If an A/E believes the scope of work to contain an error or is unclear, then the A/E shall make a written inquiry by email as provided below. Answers may be delivered by email, so written inquiries should contain the name and an email address of the person to whom the response should be made. The foregoing shall not limit Owner's right to (i) issue addenda to the this RFQ prior to opening, or (ii) delay the date and time of opening in order to ensure that all firms are aware of and have had sufficient time to consider the addenda. The final date for questions and inquiries is August 5, 2014, at 12:00 Noon CDT.

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

Letha Stokes, CEO

Email Address: lstokes@medicalartshospital.org

- I. Waiver of Formalities. Owner reserves the right to reschedule, extend, or cancel this RFQ at any time. Owner reserves the right to reject any or all responses, and to waive formalities or irregularities in connection with this RFQ and may consider submissions not made in compliance with this request for qualifications if it elects to do so, to the extent permitted by law, although the Owner will have no obligation for such consideration.
- J. No Reimbursement for Costs. Respondent acknowledges and accepts that any costs incurred from the Respondent's participation in this RFQ shall be at the sole risk and responsibility of the Respondent.
- K. Architect Contract. If a selection is made, A/E and Owner will enter into a contract which sets out the scope of services and the agreed-upon fees and reimbursable expenses prior to any services being performed. The contract will be substantially in the form attached hereto as Exhibit "A" modified to the extent necessary to reflect the terms for this Project. Architect should note any exceptions it may have to any terms of the Contract at the time that the Statement of Qualifications is submitted.
- L. Insurance Requirements: Insurance requirements are set out in the attached Contract form.
- M. Deadline for Submission of Qualifications.

QUALIFICATION STATEMENTS MUST BE RECEIVED BY OWNER ON OR BEFORE August 13, 2014 at 12:00 p.m. Noon, LOCAL TIME AT

LAMESA, TEXAS. Statements of Qualification should be sent to Letha Stokes, CEO of Medical Arts Hospital by mail, hand delivery, facsimile or email as follows. The envelope, facsimile cover sheet or email should conspicuously state: "RFQ Statement of Qualifications for Remediation for Medical Arts Hospital Building."

By Hand-delivery or mail:

Medical Arts Hospital
2200 N. Bryan Avenue
Lamesa, TX 79331
Attn.: Letha Stokes, CEO

By Facsimile:

(806) 872-0823

By Email: lstokes@medicalartshospital.org

Each Respondent bears the entire risk that its Statement of Qualifications is received by Owner by the Submission Deadline.

II. Step 1 Statement of Qualifications.

- A. Provide a response showing the business name, principal business address and telephone and fax numbers of the Respondent, and include the name of the individual representing the Respondent with regard to this RFQ, and that person's title, phone number and email address.
- B. Provide a statement of interest for this RFQ including a narrative description of the Respondent's unique qualifications as they pertain to the Scope of Services and this Project.
- C. Provide a statement of availability and commitment of the Respondent and its principal(s) and assigned professionals to undertake the services described in this RFQ.
- D. Provide work experience and professional registration information for professional team members who will be assigned to this Project.
- E. Provide a brief description of the experience of the Respondent on three projects within the last five (5) years where one or more of the services performed were within the Scope of Services described for this Project. Include a description of the type of services provided on each Project (for example, design services,

project management services), and the type of building or project involved, including whether the project was a hospital or medical facility.

- F. Provide a brief history of the Respondent and each consultant proposed for the project. The Response should include a list of proposed MEP and civil engineering subconsultants proposed to be used by Respondent.
- G. Provide an organizational chart of the project team, identifying the lead firm and each consultant proposed for the Project and clearly delineating the primary point of contact.
- H. The Respondent must provide the Owner with (i) copies of Respondent's financial statements for the past three (3) years, and (ii) any other information reasonably requested by the Owner to demonstrate the Respondent's financial ability to provide the services required in this RFQ.
- I. Provide a specimen Certificate of Insurance showing the amount and types of insurance coverage currently maintained by the Respondent.
- J. Provide a response to the following questions:
 - i) Has your firm, or any principals or professionals of your firm been involved in a dispute involving mediation, arbitration and/or litigation, or an investigation by a professional board arising in connection with a design or professional services contract or in connection with services performed?

If the answer to (i) is "Yes", provide a detailed explanation of the events, the basis for the dispute or complaint, and the resolution.
 - ii) Have the professional services of your firm ever been terminated prior to completion of a Project due to a failure to perform the required services in accordance with the terms of your contract with the Owner? If the answer to (ii) is "Yes", provide a written explanation.
- K. Provide a list of all staff members who perform services in connection with projects, including, but not limited to, staff architects (other than the architect principally responsible for performing the design services), BIM engineers, compliance personnel, CAD operators, estimators, etc.
- L. If requested by the Owner, the Respondent must promptly provide the Owner with any additional information reasonably required by Owner to assist it in making a decision on the qualifications of the Respondent.
- M. Public Information. Owner is a governmental body subject to the Texas Public Information Act. Any information submitted to Owner is presumed to be public

information and available to the public. Any information or materials submitted to Owner that the Respondent considers confidential must be clearly marked "CONFIDENTIAL". If an individual or entity requests review or copies of the information marked Confidential under the Texas Public Information Act, Owner will endeavor to advise the Respondent of the request. If requested by the Respondent, the Owner will request an Open Records Decision or Ruling from the Texas Attorney General's Office, but the Respondent, at Respondent's sole cost and expense, will be responsible for asserting any appropriate exceptions to disclosure and information to support the Respondent's position. The Owner will abide by the decision of the Texas Attorney General.

III. Qualifications Statement Format.

- A. All submittals must be on "8 ½ x 11" paper, typed with at least 12 pt. font, single-spaced, with a maximum of 15 pages.
- B. Each Respondent should submit one original Response, signed by a duly authorized representative of the Respondent, and 4 copies of the Statement of Qualification.
- C. The Response should contain all of the information required in Section III above.

IV. Step 2 Additional Information.

- A. Owner will notify a Respondent if the Owner has (i) selected the Respondent to participate in Step 2 of the selection process, or (ii) selected the Respondent as a candidate based solely on the RFQ, or (iii) decided to terminate the selection process.
- B. If Owner notifies Respondent that it has been selected to participate in Step 2, the Owner will provide Respondent with instructions for submitting additional information or participating in an interview.

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

END OF INSTRUCTIONS

**EXHIBIT "A"
CONTRACT FORM**

AGREEMENT BETWEEN OWNER AND ARCHITECT
(Where Contractor is a Construction Manager at Risk)

This Agreement made as of the date of the last party to sign "Effective Date").

Between:

Dawson County Hospital District d/b/a Medical Arts Hospital
2200 N. Bryan Avenue
Lamesa, TX 79331
Attn.: Letha Stokes, CEO

Office Phone: _____
Email: _____
Cell phone: _____

hereinafter referred to as "Owner,"

and the Architect:

Attn.: _____

Office Phone: _____
Email: _____
Cell phone: _____
hereinafter referred to as "Architect,"

For the following Project

Remediation of the Medical Arts Hospital Building in Lamesa, Texas

Estimated Construction Budget: \$2,800,000

Owner will establish a Fixed Construction Budget for the Project as provided in this Agreement.

Architect is represented in this Agreement by _____, the Project Principal for this Project.

The Owner is represented in this Agreement by Letha Stokes, CEO or such other representative as may be subsequently authorized by the Owner in writing. Architect will obtain direction from Owner's Representative, and will not make modifications to the plans unless authorized by Owner's Representative after any required approval or authorization by the Owner.

The Owner and the Architect agree to the following terms and conditions of Agreement:

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

The terms and provisions of the AIA General Conditions of the Contract for Construction, A201 2007 Edition, as amended by Owner and agreed upon by the Construction Manager at Risk ("General Conditions of Agreement") are incorporated herein. To the extent of any conflict between the provisions of this Agreement and the provisions of the General Conditions of Agreement, the provisions of this Agreement shall control.

SECTION 1 - ARCHITECT'S RESPONSIBILITIES

1.0 BASIC SERVICES

1.0.1 The Architect will serve as the Owner's professional consultant in those phases of the Project to which this Agreement applies, and will consult and advise the Owner during the performance of the Architect's services. Architect's services under this Agreement shall be performed in accordance with a high standard of professional care and responsibility. The Architect will assist the Owner in the selection of a Construction Manager at Risk for the Project ("Construction Manager").

1.0.2 The Architect's Basic Services consist of the six phases described in Subsections 1.1 through 1.6 and include programming, normal architectural services; structural, mechanical (including plumbing), electrical, and civil engineering services; assistance in selecting a Construction Manager at Risk if requested by Owner; and any other services included in Section 14 as part of Basic Services.

1.0.3 The Architect agrees to retain subconsultants approved by the Owner and not to modify subconsultants' designs after subconsultants' seals have been affixed except with consent of the subconsultant. The approved consultants are shown on **Exhibit "A"** attached hereto and incorporated herein.

1.0.4 The Architect's employees and the Architect's associated subconsultants to be employed in the performance of the Project shall not be changed except with the Owner's prior written acknowledgment and concurrence, which shall not be unreasonably withheld.

1.0.5 The Architect agrees to record in writing the major proceedings of each Project conference and submit them to the Owner within seven (7) days of the date of the conference. Reports may be handwritten provided they are clear and legible.

1.0.6 The Architect shall prepare and submit at the appropriate times all applications, drawings, specifications and other documents in the name of the Owner to utility companies and providers and governmental authorities having jurisdiction over the Project and shall assist in efforts to obtain all approvals and all development and building permits necessary to complete the Project in accordance with the Production Schedule described in Section 4. Development and permitting fees may be paid for in one of the following methods as mutually agreed:

1. Paid by Architect and billed to Owner as a reimbursable expense, or
2. At Owner's discretion, provide Owner with 10 days prior notice of the cost and party to whom payment is due and Owner will provide a check for payment.

1.0.7 The Architect agrees to make presentations to Owner and any committee designated by Owner, as reasonably required, as part of the Basic Services.

1.0.8 The Architect shall not knowingly specify, request or approve for use any asbestos containing materials or lead-based paint without the Owner's written approval. For materials specified on the basis of performance criteria, the Architect shall include a requirement in the specifications effectively stating that "No asbestos containing materials or lead-based paint shall be incorporated in the project." When a specific product is specified, the Architect shall endeavor to verify that the product does not include asbestos containing material. If requested by the Owner, the Architect agrees to execute a Statement of Non-Inclusion of Asbestos Containing Material, on a form provided by Owner, both prior to design and upon completion of the Construction Documents Phase.

1.0.9 The Architect shall assist the Owner with the selection of colors for finishes, equipment, etc. included in the Work. The Architect shall prepare and submit a color board for the Owner's review and approval which clearly illustrates the Architect's recommended color scheme.

1.1 PROGRAMMING AND SCHEMATIC DESIGN PHASES

1.1.1 As part of the Programming and Schematic Design Phase (sometimes hereinafter collectively referred to as the "Schematic Design Phase"), the Architect shall establish an architectural design program narrative describing major functional elements, space requirements and relationships between the elements, requirements within each space (environmental, acoustical, lighting, electrical, communications, cabinetry, security, etc.), site development requirements, code requirements, aesthetic requirements and other special considerations. Unless otherwise provided for by separate Agreement or under Section 14 of this Agreement, "Other Services," the Basic Services of the Architect shall include programming efforts such as reviewing existing building and site conditions, making measured drawings of existing construction as needed for renovation documents, interviewing personnel, attending meetings and taking other actions as necessary to establish the scope of the Project as dictated by the Owner's needs.

1.1.2 The Architect shall provide a preliminary evaluation of the Owner's operating program and the Project budget requirements, each in terms of the other, and shall review with the Owner alternative approaches to design and construction of the Project.

1.1.3 Based on mutually agreed upon program and Project budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of site plan, architectural floor plans, building sections, exterior elevations, mechanical/electrical systems, subconsultant schematic drawings, description of Project components, and a Statement of Probable Construction Cost based on current area, volume or other unit costs. The Architect will work cooperatively with the Construction Manager during pre-construction to enable the Construction Manager to effectively perform the preconstruction services required in its contract with Owner, a copy of which has been, or will be, after execution, provided to the Architect, and will be responsible for providing the Construction Manager with sufficient information to enable the Construction Manager to develop reliable estimates at each phase of the design.

1.2 DESIGN DEVELOPMENT PHASE

1.2.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program or Fixed Construction Budget, the Architect shall prepare for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to the architectural design and components, civil, structural, mechanical, plumbing, electrical and special systems and components, materials, equipment and such other elements as may be appropriate.

1.2.2 The Architect shall submit outline specifications on the entire Project to Owner.

1.2.3 The Architect shall submit to the Owner and Construction Manager a written Statement of Probable Construction Cost at 100% completion of the Design Development Documents. The Architect will compare its cost estimates with those of the Construction Manager, and will resolve with the Construction Manager any discrepancies in their respective estimates. The Architect will promptly notify the Owner if there is an increase in the Probable Construction Cost.

1.2.4 The Construction Manager will be required to provide a Guaranteed Maximum Price proposal for the Work at the end of Design Development Phase or at such other time as the Owner, Architect and Construction Manager may agree upon. The Architect will provide sufficient information in its documents to enable the Construction Manager to establish a Guaranteed Maximum Price at the completion of the Design Development Phase that is within the Fixed Construction Budget. The Architect will review the Construction Manager's Guaranteed Maximum Price proposal and verify that the clarifications and qualifications are reasonable relative to the design intent for the Project and the Construction Documents.

1.3 CONSTRUCTION DOCUMENTS PHASE

1.3.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Fixed Construction Budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and a Project Manual setting forth in detail the requirements for the construction of the Project in compliance with applicable ordinances, codes and laws of the City, State and federal government. Drawings shall include plan views, sections and details clearly defining and describing the intent of the improvement, limits of work, sequencing requirements, access routes, environmental-protection requirements, and contractor staging and storage areas. The Project Manual shall include current versions of the Owner's Contract Documents provided by Owner for inclusion.

1.3.2 Construction Document Drawings shall be prepared with computer aided design and drawing technology utilizing the following standard format: DWG (.dwg). The guidelines established in CAD LAYER GUIDELINES, Recommended Designations for Architecture, Engineering, and Facility Management Computer-Aided Design published by the American Institute of Architects Press, shall be used for sheet layering. Drawing sheet size shall be either 24" X 36" or 30" x 42," and minimum lettering size shall be 3/32" unless otherwise approved. Sheet layout shall be in accordance with good drafting practice, providing neat, uncrowded, uncluttered and easy-to-read documents.

1.3.3 Design, Drawings and Specifications shall be provided by each subconsultant for its portion of the Project.

1.3.4 The Architect shall assist the Construction Manager in the preparation of necessary bidding information and bidding forms for the selection of subcontractors. As used in this Agreement, the terms "bid" and "bidding" refer to any selection process used by Owner, or the Construction Manager, including requests for proposal.

1.3.5 The Architect shall incorporate into the design, the standards, specifications and guidelines and regulations of governmental entities having jurisdiction over such matters, and applicable standards, codes, regulations and laws, including guidelines for the construction of barrier free buildings and facilities applicable to the Owner as a governmental entity, as required in (1) the Americans with Disabilities Act of 1990, the 2010 ADA Standards for Accessible Design, and all applicable regulations, and (2) Chapter 469, Texas Government Code, The Architectural Barriers Act, including the 2012 Texas Accessibility Standards (TAS), effective date March 15, 2012, as amended from time to time. The Architect shall record in writing the major proceedings of each planning conference with the Architectural Barriers Office and Texas Department of Licensing and Registration, and submit reports, including written Waivers of Requirements, to the Owner for filing.

1.3.6 The Architect will furnish to Owner ____ set(s) of the proposed Construction Documents (review set) at the Architect's expense, for the Owner's review and approval before reproducing copies for bidding purposes. All other sets will be billed at cost as a reimbursable expense.

1.3.7 Following the return of marked up Construction Documents (or separate critique list) from the Owner and/or Construction Manager, the Architect shall perform final modifications and corrections to Construction Documents as called to the Architect's attention by the Owner and/or Construction Manager; and the Architect shall return marked up Construction Documents to the Owner. If, in the opinion of the Architect, implementation of the Owner's or Construction Manager's review comments will have an adverse effect on the Project, the Architect shall immediately notify the Owner in writing of its objections; the Owner may respond to those objections in writing.

1.3.8 Final Bid Documents shall be furnished to the Construction Manager at least one week prior to advertising the Project for bids. Bid Documents shall not be printed until Owner authorizes the Architect to do so.

1.3.9 Acceptance and approval of the Construction Documents by the Owner shall not constitute nor be deemed a release of the responsibilities and liability of the Architect for the accuracy and competency of its designs, Drawings, Specifications or other documents and services performed under this Agreement. No approvals or acceptance by or on behalf of the Owner shall be deemed to be an assumption of such responsibility by the Owner for any defect, error or omission in said designs, Drawings, Specifications or other documents prepared by the Architect. The Architect agrees to rework documents as necessary to correct designs, Drawings, Specifications or documents found to be in error at Architect's expense.

1.3.10 The Architect shall, upon completion of Construction Documents, provide basic schematic drawings for the Owner's use in publicizing the Project. Drawings shall be 8-1/2" X 11" as follows: (1) location map; (2) floor plan(s) naming major spaces and noting the total square footage; (3) major building elevation; and (4) site plan. In the event that the Project scope does not involve floor plan, site plan and elevation considerations, schematic drawings illustrative of the scope shall be provided.

1.4 BIDDING PHASE

1.4.1 The Architect, following the Owner's approval of the Construction Documents and the latest Statement of Probable Construction Cost, shall cooperate with the Construction Manager in the solicitation for and selection of subcontractors, including, but not limited to, providing information, clarifications and/or responses to questions raised by subcontractors involving Architect's instruments of services or documents. The term "subcontractors" shall be deemed to include suppliers. The Architect shall assist the Owner in reviewing the Construction Manager's proposed subcontractors. The Architect will promptly notify Owner if it has objections to any of the proposed subcontractors.

1.4.2 The Architect will assist the Owner in evaluating the Guaranteed Maximum Price proposal submitted by the Construction Manager. In the event that Owner rejects the proposal, Owner will have the right to terminate this Agreement by giving Architect written notice of termination. Upon provision of such notice, the Owner shall be liable to Architect only for payment for the Architect's services performed in accordance with this Agreement to the date of termination, and reimbursable expenses incurred as of the date of termination.

1.5 CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.5.1 The Construction Phase will commence with the issuance to the Construction Manager of a notice to proceed with construction.

1.5.2 Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Architect shall provide administration of the Contract for construction as set forth below and in the General Conditions of Contract Documents.

1.5.3 The Architect shall be responsible for making sure that any payment and performance bonds required by Owner and insurance certificate(s) required by the Contract Documents have been provided to and approved by Owner prior to the commencement of construction. The Architect shall participate in any preconstruction conference.

1.5.4 The Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Construction Manager shall be forwarded through the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement.

1.5.5 The Architect shall visit the site to observe the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents.

1.5.6 The Architect's visits to the site shall be at intervals appropriate to the stage of construction, but in no event less frequently than _____. The Architect shall record observations made on each job site visit and shall submit a written report to the Owner. In addition, the Architect's subconsultants shall visit the site at appropriate stages of the Work related to their areas of specialty, shall record observations made on each job site visit and shall submit written reports to the Architect and the Owner. The Architect's subconsultants shall also attend those progress meetings when the Construction Manager's Application for Payment includes requests for areas of Work related to their disciplines.

1.5.7 Reports, if handwritten, shall be written legibly; typed reports are preferred. Information reported shall reflect to the best of the Architect's or subconsultants' knowledge, information and belief, the following items, as necessary: trades at work, approximate manpower, temperature/weather conditions, variations from Contract Documents, defective work, general information on the progress of the Work, and other meaningful information. Reports for periods when no Work is in progress shall state "No Work in Progress."

1.5.8 The Architect agrees to furnish timely reports to the Owner and avoid late reports. A late report is defined as a report on a given week's activities which is not available to the Owner or postmarked within five working days.

1.5.9 On the basis of on-site observations the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Construction Manager.

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

1.5.11 The Architect shall determine the amounts owing to the Construction Manager based on observations at the site and on evaluations of the Construction Manager's Application for Payment, and recommend approval of payment by Owner in such amounts that Architect deems appropriate, as provided in the Contract Documents. The Architect will promptly notify Owner if it believes that the Owner should withhold all or part of a requested payment, and the reason for such recommended action.

1.5.12 The issuance of an Application for Payment, signed by the Architect, shall constitute a representation by the Architect to the Owner that the Work has progressed to the point indicated; that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents and that the Construction Manager is entitled to payment in the amount certified. However, such issuance shall not be a representation that the Architect has 1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; 2) reviewed construction means, methods, techniques, sequences or procedures; or 3) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Amount.

1.5.13 The Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Construction Manager, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the Owner and the Construction Manager relating to the execution or progress of the Work or the interpretation of the Contract Documents.

1.5.14 Interpretations and decisions of the Architect shall be in written or graphic form.

1.5.15 The Architect shall recommend to the Owner in writing rejection or other action deemed appropriate by the Architect, for any Work that does not conform to the Contract Documents. If in the Architect's opinion, special inspection or testing of the Work is advisable or necessary, the Architect shall recommend that the Owner require such inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work has been fabricated, installed, or completed.

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

1.5.17 The Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work that are consistent with the intent of the Contract Documents, but do not involve an adjustment to the Contract Amount or an extension of the Contract Time.

1.5.18 Upon receipt of notification by the Construction Manager that the Work has been substantially completed and receipt of the Construction Manager's punchlist, the Architect and its subconsultants shall conduct an on-site review and prepare a list of corrections needed to render the Project substantially completed. After the Construction Manager has performed the corrections, the Architect shall notify the Owner in writing that the Work has been completed and is ready for inspection by the Owner. The Owner will schedule an inspection and the Architect and its subconsultants shall accompany the Owner. The Architect shall review all warranties, guarantees, bonds, equipment operating instructions, and similar required material and documents for general compliance with the Contract Documents and shall present them to the Owner. After ascertaining that requirements of the Contract Documents have been met, the Architect shall prepare and issue a Certificate of Substantial Completion utilizing AIA Document G704 stating that the Project is in substantial compliance with the requirements of the Contract Documents.

1.5.19 Upon receipt by the Architect of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment from the Construction Manager, the Architect will promptly make an on-site review and, when the Work is found to be acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly sign the final Application for Payment signifying that the Work has been completed in general accordance with the terms and conditions of the Contract Documents and that final payment is due the Construction Manager.

1.5.20 Upon receipt from the Construction Manager of details of deviations from Contract Documents and as-built drawings, Architect shall produce within sixty (60) calendar days record documents for the Owner's use. The Architect cannot and does not warrant the accuracy of the information provided by the Construction Manager of which Architect has no actual knowledge.

1.5.21 The Architect is responsible for performing the obligations contained in this Agreement. The Architect shall not have control over, or charge of, and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Construction Manager's responsibility under the contract for construction. The Architect shall not be responsible for the Construction Manager's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Construction Manager, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

1.6 WARRANTY PERIOD ASSISTANCE

1.6.1 Under Basic Services, the Architect shall assist and represent the Owner through the one-year warranty period provided by the Contract Documents on matters involving malfunctions or deficiencies of the Work. The Architect shall communicate with and assist the Construction Manager as necessary to correct all deficiencies in a timely manner and to reduce inconvenience to the Owner during this period.

1.6.2 The Architect agrees to require its subconsultants to provide their assistance as necessary during the warranty period stipulated in the preceding Subsection 1.6.1.

1.6.3 The scope of assistance referenced in this Subsection 1.6 shall include, but not be limited to, the following: (1) Notifying the Construction Manager of deficiencies or failures in labor and materials and requesting corrective action; (2) Preparing correspondence and other written data as necessary to document, clarify, and resolve discrepancies; and (3) Meeting with the Construction Manager at the Project site or other location when requested by the Owner.

1.6.4 The Architect shall accomplish an on-site review of the Work accompanied by its subconsultants approximately one month before the expiration of the one-year warranty period. As a result of this on-site review, the Architect shall prepare a list of items needing correction and request the Construction Manager to resolve them. After reviewing the Construction Manager's corrective actions and determining that deficiencies have been corrected, the Architect shall so notify the Owner in writing. This notification by the Architect does not release the Construction Manager from its responsibilities set forth in the Contract Documents.

1.7 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.7.1 If the Owner and Architect agree that more extensive representation at the site than is described in Subsection 1.5 shall be provided, the Architect shall provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

1.7.2 Such Project Representatives shall be selected with the written approval of the Owner, employed and directed by the Architect, and the Architect shall be compensated therefore as mutually agreed between the Owner and the Architect.

1.7.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such Project representation shall not modify the rights, responsibilities or obligations of the Architect as described in Subsection 1.5.

1.8 ADDITIONAL SERVICES

The services described below are **not** included in Basic Services unless so identified in Section 14. Additional Services shall be provided if authorized in writing by the Owner, as provided herein, and shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. Additional Services authorized by the Owner shall form an attachment to this Agreement, and all applicable articles of the Agreement shall apply to the authorized Additional Services.

ANY PROVISION IN THIS AGREEMENT OR IN THE CONTRACT DOCUMENTS TO THE CONTRARY NOTWITHSTANDING, IN THE EVENT ARCHITECT BELIEVES THAT IT IS BEING REQUESTED TO PERFORM ADDITIONAL SERVICES, OR THAT THERE IS A NEED FOR IT TO PERFORM ADDITIONAL SERVICES, ARCHITECT MUST FIRST NOTIFY OWNER IN WRITING THAT IT IS BEING REQUESTED TO OR THAT IT NEEDS TO PERFORM ADDITIONAL SERVICES, AND THE ESTIMATED COST OF SUCH SERVICES, BEFORE PERFORMING SUCH ADDITIONAL SERVICES. IF OWNER APPROVES SUCH ADDITIONAL SERVICES, OWNER AND ARCHITECT SHALL ENTER INTO A WRITTEN AMENDMENT TO THIS AGREEMENT DESCRIBING THE ADDITIONAL SERVICES TO BE PERFORMED AND THE COST FOR SUCH ADDITIONAL SERVICES. **OWNER SHALL NOT BE OBLIGATED TO PAY ARCHITECT FOR ANY ADDITIONAL SERVICES NOT SO COVERED IN A WRITTEN AMENDMENT TO THIS AGREEMENT.**

1.8.1 Providing Detailed Estimates of Construction Cost, analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor.

1.8.2 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment, other than those services included in Subsection 1.0.9.

1.8.3 Preparing Drawings, Specifications and supporting data and providing other services in connection with Change Orders, provided such Change Orders are required by causes not the fault of, or within the control of, the Architect.

1.8.4 Making revisions in Drawings, Specifications or other documents when such revisions are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.

1.8.5 Providing design services of subconsultants for other than normal architectural; structural, mechanical, electrical, plumbing and civil engineering services for the Project for the scope of services described in this Agreement.

1.8.6 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted, regional architectural practice including but not limited to the following items:

- Land feasibility studies.
- Contacts with neighborhood associations, boards, committees related to land acquisition issues, beyond that described in Section 1.
- Engineering of and coordination of off-site construction.
- Special subconsultant services (environmental, archaeological, acoustical, asbestos removal, hydrological, traffic, etc.)

- Legal proceedings, except where the Architect is a party.

1.8.7 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with or contradict prior approvals or instructions given to the Architect by the Owner in previous phases, except where such revisions are pursuant to Subsection 3.5, Responsibility for Fixed Construction Budget, of this Agreement.

SECTION 2 – OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide information regarding requirements for the Project including a statement of goals and objectives for the Project (including any special characteristics), operational program narrative, and description of unique requirements of functions or equipment.

2.2 The Owner shall provide a Fixed Construction Budget for the Project.

2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations for the site of the Project, and a written legal description of the site as agreed upon by Owner and Architect. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees, and other special data or conditions not included in Basic Services, all of which information the Architect may reasonably rely upon in the performance of their services under this Agreement, provided that Architect promptly notifies Owner in writing of any observed errors, inconsistencies, or questions that it may have regarding the information before relying on the information to perform services.

2.4 The Owner shall furnish the services of soil engineers or other consultants when such services are deemed necessary by the Architect and Owner. The quantity and scope of the services to be provided shall be determined by Owner after consultation with the Architect. Such services may include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests, including necessary operations for determining subsoil, air and water conditions, with reports and appropriate professional recommendations.

2.5 The Owner shall review the Construction Documents and return marked up Construction Documents (or separate critique list) to the Architect.

2.6 The Owner shall furnish required information and services and shall render approvals and decisions within a reasonable time so as not to delay the services of the Architect and of the Work.

2.7 The Owner, to assist the Architect in responding promptly, shall, upon the request of Architect, require the Construction Manager to make submissions in an orderly manner and not allow the submissions to accumulate prior to submission to the Architect.

2.8 The Owner shall assist Architect in gaining entry to public and private property as may be required by the Architect or its consultants in performance of their services under this Agreement.

2.9 The Owner shall bear all costs incident to compliance with the requirements of this Section 2.

SECTION 3 - FIXED CONSTRUCTION BUDGET

3.1 The Fixed Construction Budget for the Project shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect, as described in Section 3.2.

3.2 The Fixed Construction Budget shall include the cost at current market rates of labor and materials to be furnished by the Construction Manager, including general condition costs, plus the Construction Manager's fee for construction phase services as provided in Construction Manager's Guaranteed Maximum Price proposal, and a reasonable allowance for contingencies for market conditions at the time of bidding.

3.3 The Fixed Construction Budget shall be established by the Owner and shall be adjusted only by written approval of the Owner.

3.4 The Fixed Construction Budget shall not include the compensation of the Architect and the Architect's subconsultants, the cost of the land, easements, or other costs that are the responsibility of the Owner as provided in Section 2.

3.5 RESPONSIBILITY FOR FIXED CONSTRUCTION BUDGET

3.5.1 To accommodate the Fixed Construction Budget, the Architect shall determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, may make reasonable adjustments in the scope of the Project, and may include in the Bid Documents alternative bids. Architect is responsible for ensuring that the Construction Manager has adequate information for estimating the construction costs throughout the Project.

3.5.2 It is recognized that neither the Architect, the Construction Manager nor the Owner has control over the cost of labor, materials or equipment, and that the Architect and Owner do not have control over the Construction Manager's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. However, the Architect is required to compare its estimates with those of the Construction Manager at regular intervals, and to work cooperatively with the Construction Manager in achieving a design that meets the requirements of this Agreement. The Architect has the responsibility to provide a design for the Project which can be constructed within the Fixed Construction Budget, and has the alternatives described in 3.5.1 to achieve that responsibility. Therefore, any provision to the contrary notwithstanding, it is understood and agreed that the Architect and Construction Manager shall be jointly and severally liable for ensuring that the total cost of all Work to be performed by the Construction Manager, as measured by the lowest bona fide Guaranteed Maximum Price proposal, does not exceed the Fixed Construction Budget. If the total cost of all Work to be performed by the Construction Manager, as measured by the lowest bona fide Guaranteed Maximum Price proposal, does exceed the Construction Manager's portion of the Fixed Construction Budget, the Owner has the rights described in Subsections 3.5.3 through 3.5.6.

3.5.3 If the Fixed Construction Budget as described in Section 3.2 is exceeded by the Construction Manager's lowest bona fide Guaranteed Maximum Price proposal, then the Owner may either (1) give written approval of an increase in such fixed limit, (2) authorize rebidding of the Project within a reasonable time, (3) terminate this agreement or abandon the Project, or (4) cooperate in revising the Project scope and quality as required to reduce the construction cost. If Owner selects option 4, the Architect, without additional charge to Owner, shall modify the Drawings and Specifications as necessary to comply with the Fixed Construction Budget, and Construction Manager shall re-perform all preconstruction services while the modifications to the Drawings and Specifications are being performed, at no additional cost to Owner. In addition to the foregoing, Owner shall not be responsible for paying any reimbursable expenses to Architect in connection with the redesign services, and Construction Manager shall pay for all costs of printing, readvertising and rebidding the Project as redesigned. Architect shall endeavor to make as few changes to the scope and quality of the Project as necessary. Owner shall reasonably cooperate with Architect and Construction Manager in the modification of the Plans and Specifications. Owner's approval is required for all modifications to the Plans or Specifications.

3.5.4 If Owner gives written approval of an increase in the fixed limit as provided in Section 3.5.3 (1), the Architect's Fee for services as provided in this Agreement shall not be increased by any increase in the Construction Costs over the Fixed Construction Budget.

3.5.5 Should the Architect prepare documents for alternative bids as a means to keep the Project cost within the Fixed Construction Budget of the Agreement, compensation shall remain at the established fee amount irrespective of the outcome of bids. In the event the base bid is not within the Fixed Construction Budget, Subsection 3.5.2 of this Agreement shall govern. Should the Owner accept the base bid and alternative bid(s), compensation to the Architect shall be based upon the established fee amount, without increase for the cost of the Work, if any.

3.5.6 Should the Architect, at the Owner's request, prepare documents for alternative bids for Work that the Architect advises is not within the Fixed Construction Budget, the Owner shall compensate the Architect for preparing Bid Documents for those alternatives in accordance with the following: (1) If the cost of the alternatives requested by the Owner is bid within the Fixed Construction Budget, the Architect's established fee amount shall remain unchanged, (2) if a portion of the cost of the alternatives requested by the Owner falls within the Fixed Construction Budget, the Owner shall negotiate a reasonable fee to be paid to the Architect for the remaining portion of the alternatives beyond the Fixed Construction Budget, and (3) if the cost for the alternatives requested by the Owner fall beyond the Fixed Construction Budget, the Owner shall negotiate a reasonable fee to be paid to the Architect for its services on those alternatives.

SECTION 4 - PRODUCTION SCHEDULE

The Architect agrees to complete phases of services described in Subsections 1.1 through 1.6 of this Agreement in accordance with the provisions of this Agreement. Within a reasonable period of time after the Effective Date, Owner and Architect shall agree in writing on a production schedule for the Project. The production schedule shall contain the following information:

4.1 PROGRAMMING AND SCHEMATIC DESIGN PHASE: The Architect shall commence the provision of services upon receipt of written authorization from the Owner to proceed with this phase of the services as described in Subsection 1.1 of this Agreement and agrees to complete all services required on or before _____.

4.2 DESIGN DEVELOPMENT PHASE: The Architect shall commence the provision of services upon receipt of written authorization from the Owner to proceed with this phase of the services as described in Subsection 1.2 of this Agreement and agrees to complete all services required on or before _____.

4.3 CONSTRUCTION DOCUMENTS PHASE: The Architect shall commence the provision of services upon receipt of written authorization from the Owner to proceed with this phase of the services as described in Subsection 1.3 of this Agreement and agrees to complete all services required on or before _____.

4.4 Should the Owner sustain actual damages as a result of the failure of the Architect to furnish services in compliance with this production schedule described in this Section 4 and subsequent approved extensions in accordance with Subsection 4.5, the Architect agrees to compensate the Owner for the cost of such damages, itemized costs of which shall be provided to the Architect by the Owner. The Owner agrees to provide the Architect written notification of such damages as the cost is being incurred, or as Owner becomes aware of such costs.

4.5 The Architect shall not be liable or responsible for Owner delays or postponements that are not caused by Architect's fault. If the Architect is delayed through no fault of its own, written time extension requests may be submitted to the Owner, and the Owner, through its review of these requests, may approve them. These requests shall be reviewed only if submitted to Owner within thirty (30) days from the discovery by the Architect of any event that would cause the production schedule to be extended.

4.6 Should the Architect fail substantially to provide services in compliance with this production schedule and subsequent approved time extensions, Owner may elect to invoke Section 15 of this Agreement.

4.7 The time periods described in Subsections 4.1 through 4.4 include time for Owner to review and Architect to make adjustments. The time period provided to the Owner for review shall include time necessary to present the matters to its governing body for approval.

SECTION 5 - REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to Compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and subconsultants in the interest of the Project for the expenses listed in the following Subsections:

5.2 By prior written approval of the Owner, reasonable transportation and living expenses in connection with out-of-town travel other than to the project site; long distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project. Such expenses shall be reimbursed based on pricing determined from the following source:

5.3 Reproduction expenses for final drawings and specifications required for bidding, files of Architect, Construction Manager, and Owner, and other parties approved by the Owner.

5.4 Expense of renderings, models and mock-ups requested by the Owner.

5.5 Expense of reproducing record drawings for the Owner in electronic format.

5.6 Reproduction expense for drawings, specifications and other documentation required for submission to utility owners and governmental authorities having jurisdiction over the Project.

Reproduction expenses for drawings, specifications, and other documentation for use by Architect or its subconsultants are not reimbursable expenses.

SECTION 6 - PAYMENTS TO THE ARCHITECT.

6.1 PAYMENTS ON ACCOUNT OF BASIC SERVICES

6.1.1 Payments for Basic Services shall be made monthly in proportion to services performed within each Phase of services, on the basis set forth in Section 13.

6.2 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

6.2.1 Payments on account of the Architect's Additional Services as defined in Subsection 1.8 and for Reimbursable Expenses as defined in Section 5 may be made once monthly upon presentation by Architect of a statement of Additional Services rendered and/or expenses incurred; each statement shall have invoices, time sheets, and other evidence of expense as requested by the Owner.

6.3 PAYMENTS WITHHELD

The Owner may withhold, amend, or nullify any request for payment by the Architect under conditions that include those described in Subsections 6.3.1 through 6.3.8 below.

6.3.1 On Owner's receipt of evidence that the Architect's subconsultants have not been duly paid for their services in connection with this Project subsequent to the Owner having disbursed compensation to the Architect in consideration of and stemming from efforts extended by the subconsultants.

6.3.2 In the event Owner incurs, or will incur, losses or costs as a result of the failure of the Architect to render any service required by this Agreement, or to render any such services within the time period required, or if none is required, within a reasonable time period. The Architect shall be liable to Owner for the losses and costs incurred.

6.3.3 Upon failure of the Architect to submit timely records of Project conference proceedings as specified in Subsection 1.0.5.

6.3.4 Upon failure of the Architect to submit timely reports of its job site observations containing detailed information as specified in Subsection 1.5.6. Timely reports are those provided within a reasonable period of time after the site visit, but in no event later than two (2) weeks thereafter. Architect will promptly notify Owner if Architect detects a problem or cause for concern at the site.

6.3.5 Upon failure of the Architect to provide updated record drawings within 60 days after details of deviations from Contract Documents and as-built drawings have been provided to the Architect by the Construction Manager.

6.3.6 Upon failure of the Architect to design for compliance with the laws of City, State and federal governments as specified in Subsection 1.3.1. Architect shall be liable to the Owner for the cost incurred by Owner in bringing any such work into compliance.

6.3.7 Upon failure of the Architect to make final modifications to original Construction Documents subsequent to the Owner having provided marked-up Construction Documents (or separate critique list) to the Architect prior to bidding, and failure of the Architect to return marked-up Construction Documents to the Owner.

6.3.8 In the event Owner incurs, or will incur, losses and costs as a result of errors or omissions in the design, working drawings, specifications or other documents prepared by the Architect. The Architect shall be liable to Owner for increased costs resulting from the error or from the correction of an error, incurred without regard to whether the error or the correction for the error, results in a "betterment."

6.4 PAYMENT ON ACCOUNT OF PROJECT SUSPENSION OR TERMINATION

6.4.1 If the Project is suspended or abandoned in whole or in part for more than three months, the Architect shall be compensated for all services performed prior to receipt of written notice from the Owner of such suspension or abandonment, together with Reimbursable Expenses then due. If the Project is resumed after being suspended for more than three months, then the Architect's compensation may be equitably adjusted through negotiation.

SECTION 7 – ARCHITECT'S ACCOUNTING RECORDS

7.1 The Architect agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the Project for a period of three years after final payment for completed services and all other pending matters concerning this Agreement have been closed. The Architect further agrees that the Owner shall have access during normal business hours to any and all books, documents, papers and records of the Architect which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits and examinations.

SECTION 8 - OWNERSHIP AND USE OF DOCUMENTS

8.1 Original Drawings and Specifications shall remain the property of the Architect. The Owner shall be provided digital computer document copies on CD-ROM or in electronic format of updated record drawings and reproducible copies of specifications per Subsection 1.5.20.

8.2 The Architect agrees that items such as plans, drawings, photos, designs, studies, specifications, computer programs, schedules, technical reports, or other work products which

are specified to be delivered under this Agreement, and which are to be paid for by the Owner, are subject to the rights of the Owner described in this Agreement. These rights include the right to use, duplicate and disclose such items in whole or in part, in any manner and for whatever purpose, and to have others do so. If an item produced by the Architect is copyrightable, the Architect may copyright it, subject to the rights of the Owner. The Owner reserves the royalty-free, non-exclusive and irrevocable license to reproduce, publish, modify and use such items and to authorize others to do so. The Architect reserves the right to publish images and information about the project for promotional purposes and representation of capability and qualifications. The Architect shall include in its subconsultant contracts appropriate provisions to achieve the purpose of this Section 8.

8.3 All such items furnished by the Architect pursuant to this Agreement are considered instruments of its Services in respect to the Project. It is understood that the Architect does not represent such items to be suitable for reuse on any other project or for any other purpose(s). If the Owner reuses such items for a different site without the Architect's specific written verification or adaptation, such reuse will be at the risk of the Owner, without liability to the Architect. Any such verification or adaptation requested by the Owner shall entitle the Architect to further compensation at rates agreed upon between the Owner and the Architect.

8.4 Should the Architect be terminated under this Agreement, the Owner shall have the right to continue the Project and to have high quality reproduces and digital computer document copies on CD-ROM or in electronic format of the Drawings, Specifications, or other documents and to have them completed, corrected, revised or added to by another architect according to the Rules and Regulations of the Texas Board of Architectural Examiners. Architect shall not be liable, however, for corrections, revisions, or additions so made to the documents that are not approved or authorized by Architect.

8.5 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's rights.

SECTION 9 - INSURANCE REQUIREMENTS

9.1 The Architect shall carry insurance, at a minimum, in the types and amounts indicated below for the duration of the Agreement. Endorsements may be provided on equivalent forms only if approved by Owner:

- .1 Workers' Compensation and Employers' Liability Insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401.001 et seq. Tex. Labor Code) and minimum policy limits for Employers Liability Insurance of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. . The Architect's policy shall have these policies endorsed with the following endorsements in favor of the Owner:

(a) Waiver of Subrogation, form WC 420304.

(b) 30 day Notice of Cancellation, form WC 420601.

- .2 Commercial General Liability Insurance with a minimum combined bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions:
 - (a) Blanket contractual liability coverage for liability assumed under this Agreement and all contracts relative to this Project.
 - (b) Independent Contractors coverage.
 - (c) Owner listed as an additional insured, endorsement CG 2010 or its reasonable equivalent.
 - (d) 30 day Notice of Cancellation in favor of the Owner, endorsement CG 0205 or its reasonable equivalent.
 - (e) Waiver of Transfer Right of Recovery Against Others in favor of the Owner, endorsement CG 2404 or its reasonable equivalent.

- .3 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of the Owner:
 - (a) Waiver of Subrogation endorsement TE 2046A or its reasonable equivalent.
 - (b) 30 day Notice of Cancellation endorsement TE 0202A or its reasonable equivalent.
 - (c) Additional Insured endorsement TE 9901B or its reasonable equivalent.

- .4 Architects' Professional Liability Insurance with a minimum limit of \$1,000,000 per claim and in aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to plans, maps, drawings, analyses, reports, surveys, change orders, designs or specifications prepared or alleged to have been prepared by the assured. The policy shall provide for 30 day notice of cancellation in favor of the Owner.

The Architect will require its subconsultants to provide commercially reasonable insurance, including professional liability insurance.

9.2 GENERAL REQUIREMENTS

9.2.1 The Architect must complete and forward the Owner's standard certificate of insurance to the Owner before the Agreement is executed, as verification of coverage required in Subsections 9.1.1 through 9.1.4 above. The Architect shall not commence services until the required insurance has been obtained and until such insurance has been reviewed and approved by the Owner. Approval of insurance by the Owner shall not relieve or decrease the liability of the Architect hereunder and shall not be construed to be a limitation of liability on the part of the Architect.

9.2.2 Applicable to all insurance policies: If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The Architect shall maintain continuous coverage for the duration of this Agreement and for not less than twenty-four (24) months following substantial completion of the Project. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Project. The Architect shall, on at least an annual basis, provide the Owner with a certificate of insurance as evidence of such insurance.

9.2.3 The Architect's insurance coverage is to be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of A VII or better.

9.2.4 All endorsements additional insured, waivers, and notices of cancellation endorsements as well as the certificate of insurance shall identify the Owner as follows:

Medical Arts Hospital
2200 N. Bryan Avenue
Lamesa, TX 79331
Attn.: Letha Stokes, CEO

9.2.5 The "other" insurance clause shall not apply to the Owner where the Owner is an additional insured shown on any policy. It is intended that policies required in the Agreement, covering both the Owner and the Architect, shall be considered primary coverage as applicable.

9.2.6 If insurance policies are not written for amounts specified above, the Architect shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

9.2.7 The Owner shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

9.2.8 The Owner reserves the right to review the insurance requirements set forth during the effective period of this Agreement and to make reasonable adjustments to insurance coverage, limits and exclusions when deemed necessary and prudent by the Owner based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Architect.

9.2.9 The Architect shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Agreement or as required in the Agreement.

9.2.10 The Architect shall be responsible for payment of premiums, deductibles if any, stated in the policies. All deductibles retentions shall be disclosed on the certificate of insurance. Any provision in this Agreement to the contrary notwithstanding, self-insurance is not acceptable.

9.2.11 The Architect shall provide the Owner thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Agreement.

9.2.12 The insurance coverages required under this Agreement are required minimums and are not intended to limit the responsibility or liability of the Architect.

SECTION 10 - MISCELLANEOUS PROVISIONS

10.1 To the extent permitted by applicable law, the parties agree that venue for any litigation over any aspects of this Agreement shall be in the courts of competent jurisdiction in Austin, Travis County, Texas.

10.2 Terms in this Agreement not specifically defined herein shall have the same meaning as those in the General Conditions of construction contract.

10.3 If any word, phrase, clause, sentence or provision of this instrument, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding shall only affect such word, phrase, clause, sentence or provision, and such finding shall not affect the remaining portions of this instrument; this being the intent of the parties in entering into this instrument; and all provisions of this instrument are declared to be severable for this purpose.

10.4 To the greatest extent permitted under applicable law, the Architect hereby expressly agrees to indemnify and hold harmless the Owner, and its officers, agents and employees, from and against all claims, demands, costs, causes of action, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising directly or indirectly from, or in any way connected with, the negligent performance of services in connection with this Agreement by Architect, its officers, agents, employees, and parties with whom it contracts. The obligations under this Subsection 10.4 will survive termination or completion of this Agreement, as to matters arising prior to such termination or completion.

10.5 NOTICES

10.5.1 Any and all notices under this Agreement shall be in writing and shall be delivered to the party entitled to receive the same by hand or U.S. Certified Mail, return receipt requested, addressed to the addresses shown on the first page of this Agreement (or as amended in writing in the future).

10.5.2 Notice sent prepaid, by certified mail, return receipt requested, properly addressed as provided herein, shall be deemed delivered, whether or not actually received, three days after deposit in the U.S. mail. Notice sent by any other manner will be deemed delivered if and when actually received. Any party may change its address for notice by providing written notice of address change in the manner provided by this Section. Such change will be deemed effective 14 days after it is delivered.

SECTION 11 - SUCCESSORS AND ASSIGNS

11.1 The Owner and the Architect bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement with respect to all covenants and obligations of this Agreement. Neither the Architect nor the Owner shall assign, sublet or transfer any interest in this Agreement without the prior written consent of the other party.

SECTION 12 -EXTENT OF AGREEMENT

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

12.2 Any provision of this Agreement that states that it survives termination or completion of this Agreement, or that by its terms is performable or may be performed after such termination or completion, shall survive such termination or completion as to events arising prior to termination or completion.

SECTION 13 - BASIS OF COMPENSATION

The Owner shall compensate the Architect for the Scope of Services provided, in accordance with Section 6, PAYMENTS TO THE ARCHITECT, and the other Terms and Conditions of this Agreement, as follows:

13.1 No initial payment shall be paid to the Architect prior to rendering services.

13.2 BASIC COMPENSATION

13.2.1 For Basic Services, as described in Subsections 1.1 through 1.6, and any other services included in Section 14 as part of Basic Services, Basic Services shall be compensated as follows:

13.2.2 Payments for Basic Services shall be made such that Basic Compensation for each Phase shall equal the following percentages of the total Basic Compensation payable:

Programming and Schematic Design Phase: (S.D.)	_____ %
Design Development Phase (D.D.):	_____ %
Construction Documents Phase:	_____ %
Bidding Phase:	_____ %
Construction Phase:	_____ %
Warranty Period	_____ %

13.2.3 Progress payments within each Phase may be made monthly by the Owner subsequent to payment request by Architect.

13.3 COMPENSATION FOR ADDITIONAL SERVICES

13.3.1 Payment to the Architect in compensation for services rendered in connection with Change Orders may deviate from the percentage of fee to Fixed Construction Budget. Such payment may be greater than or less than the fee percentage depending upon the extent of services involved with the Change Orders; payment shall be negotiable.

13.3.2 For Project representation beyond Basic Services as described in Subsection 1.7, compensation shall be made as an Additional Service.

13.3.3 For Additional Services of the Architect and subconsultants and any other services included in Section 14 as part of Additional Services, Compensation shall be computed in accordance with the schedule attached as Attachment "A" hereto, or shall be an amount negotiated and agreed to by Owner and Architect.

13.3.3.1 Principals may bill at the hourly rate of Principals only when acting in that capacity. Principals acting in the capacity of staff shall bill at staff rates.

13.3.3.2 In-transit time for approved out-of-town travel shall be computed at one-half of the approved hourly rates.

13.3.4 For Additional Services of subconsultants, including additional structural, mechanical (including plumbing), electrical and civil engineering; roofing; and landscape architectural services; or those identified in Section 14 as part of Additional Services, the fees and expenses will be billed to Owner at actual cost, with no mark-up.

13.4 For Reimbursable Expenses, as described in Section 5, and any other items included in Section 14 as Reimbursable Expenses, the amounts charged to Owner will be at actual cost with no mark-up.

13.5 The Owner and the Architect agree in accordance with the Terms and Conditions of this Agreement that:

13.5.1 If the scope of the Project or if the Architect's Services are changed materially, compensation shall be equitably adjusted through negotiation.

13.5.2 The rates stated above shall remain in effect throughout the term of this Agreement.

13.5.3 If the services covered by this Agreement have not been completed within ___months from the date hereof, exclusive of warranty period services, through no fault of the Architect, the amounts of compensation, rates and multiples set forth herein may be equitably adjusted through negotiation.

SECTION 14 – OTHER SERVICES

A. Basic Services

14.1 In addition to the Basic Services described in Article 1, Architect shall provide the following services as Basic Services under this Agreement:

B. Additional Services.

14.2 The following services will be provided as Additional Services upon request of Owner or as required by the regulatory authority, subject to the requirements of Section 1.8 of this Agreement:

_____.

C. Other Terms.

In the event of a dispute between Architect and Owner arising in connection with this Agreement, or the services performed hereunder, the parties shall first attempt to resolve the dispute through negotiation. In the event the parties are unable to resolve the dispute through negotiation within a reasonable period of time, either party may request that the matter be submitted to mediation. The parties agree to mediate this matter in good faith prior to filing suit for damages.

SECTION 15 - TERMINATION OF AGREEMENT

15.1 This Agreement may be terminated by either party upon seven days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination. The right to terminate provided in this Section 15 shall be in addition to, and is cumulative of, all other rights and remedies available to the parties at law or in equity.

15.2 This Agreement may be terminated by the Owner upon at least seven days prior written notice to the Architect in the event that the Project is abandoned or indefinitely postponed, or if Owner terminates this Agreement, in accordance with Subsection 3.5.3. No payment shall be due to Architect in the event of a termination for the reason described in this Section 15.2.

15.3 This Agreement may be terminated at the Owner's convenience upon seven days written notice; in which event, the Architect shall be compensated for all services performed to termination date, together with Reimbursable Expenses then due, in accordance with Subsection 15.4, and the Owner shall retain the right to continue the Project consistent with Subsection 8.4

15.4 In the event of termination not the fault of the Architect, the Architect shall be compensated for all services performed to termination date, together with Reimbursable Expenses then due.

This Agreement is executed as of the dates set forth below to be effective as of _____, 2014.

Owner

Architect

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

The Texas Board of Architectural Examiners, P. O. Box 12337, Austin, Texas 78701-2337, Telephone (512) 305-9000, has jurisdiction over individuals licensed as architects under the Regulation of Architect and Related Practices, Chapter 1051 of the Texas Occupations Code.

ATTACHMENT "A"
APPROVED CONSULTANTS AND
HOURLY RATES FOR ADDITIONAL
SERVICES

HOURLY RATE OF PRINCIPAL(S) - Architect: \$ _____

PRINCIPAL(S): _____

Project Architect	\$ _____/hr.
CAD Technician	\$ _____/hr.
Clerical	\$ _____/hr.
Other ()	\$ _____/hr.

SUBCONSULTANTS:

STRUCTURAL SUBCONSULTANT: _____.

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Project Engineer	\$ _____/hr.
CAD Technician	\$ _____/hr.
Clerical	\$ _____/hr.
Other (_____)	\$ _____/hr.

MECHANICAL/ELECTRICAL/PLUMBING SUBCONSULTANT: _____

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Project Engineer	\$ _____/hr.
CAD Technician	\$ _____/hr.
Clerical	\$ _____/hr.
Other _____	\$ _____/hr.

CIVIL ENGINEERING SUBCONSULTANT:

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Project Engineer	\$ ____/hr.
Engineering Technician	\$ ____/hr.
CAD Technician	\$ ____hr.
Registered Public Surveyor	\$ ____ /hr.
Survey Technician	\$ /hr.
Survey Field Crew	\$ /hr.
Clerical	\$ ____/hr.
Other (_____)	\$ /hr.

LANDSCAPE ARCHITECTURE SUBCONSULTANT: _____

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Landscape Architect	\$ /hr.
CAD Technician	\$ /hr.
Clerical	\$ /hr.
Other (_____)	\$ /hr.

ROOFING SUBCONSULTANT: _____

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Project Manager	\$ /hr.
Technician	\$ /hr.
CAD Technician	\$ /hr.
Clerical	\$ /hr.
Other (_____)	\$ /hr.

INTERIOR DESIGN SUBCONSULTANT: _____

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

Interior Designer	\$	/hr.
CAD Technician	\$	/hr.
Clerical	\$	/hr.
Other (_____)	\$	/hr.

OTHER SUBCONSULTANT: *firm name* _____

HOURLY RATE OF PRINCIPAL(S): \$ _____

PRINCIPAL(S):

