

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT
AND
SWAIM ASSOCIATES LTD**

THIS COOPERATIVE PURCHASING AGREEMENT (this "Agreement") is entered into as of MAY 31, 2013, between the Rio Nuevo Multipurpose Facilities District, an Arizona tax levying public improvement district (the "District"), and Swaim Associates, Ltd., a(n) _____ (the "Swaim").

RECITALS

A. After a competitive procurement process, the City of Tucson, Arizona ("Tucson"), entered into Contract No. 090088-04 dated August 13, 2009, as amended by that certain Amendment No. Three (3) dated July 12, 2012 (collectively, the "On-Call Professional Services Contract"), for Swaim to provide architectural and design services. A copy of the On-Call Professional Services Contract, as amended, is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

B. The District is permitted, pursuant to A.R.S. Section 11-952, and the Amended and Restated Intergovernmental Agreement between the City of Tucson, the City of South Tucson and the District, dated March 22, 2011, to purchase such services under the On-Call Professional Services Contract, at its discretion and with the agreement of the awarded Swaim, and the On-Call Professional Services Contract permits its cooperative use by other public entities including the District.

C. The District and Swaim desire to enter into this Agreement for the purpose of (i) acknowledging a cooperative contractual relationship under the On-Call Professional Services Contract, (ii) establishing the terms and conditions by which Swaim may provide the District with architectural and design services, as more particularly set forth in the Scope of Work set forth in Exhibit B hereto (the "Services"), related to the Tucson Convention Center Arena Renovation Project (the "Project"), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Swaim hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2014 or upon the completion of the Project, whichever is earlier (the "Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement or the On-Call Professional Services Contract.

2. Scope of Work. The Scope of Work for this Agreement on the Project is set forth in Exhibit B hereto.

3. Compensation. The District shall pay Swaim, solely for Phase 1 of the Services, an amount not to exceed \$51,348.00 at the unit rates as set forth in the On-Call Professional Services Contract. Subsequent Phases for the Services shall be approved via Task Order or Amendment to this Agreement as deemed appropriate by the District.

4. Payments. The District shall pay Swaim monthly, based upon Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (i) contain a reference to this Agreement and the On-Call Professional Services Contract, and (ii) document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the On-Call Professional Services Contract will be subject to rejection and may be returned.

5. Records and Audit Rights. To ensure that Swaim and its subcontractors are complying with the warranty under Section 6 below, Swaim's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Swaim and its subcontractors' employees who perform any work or Services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the District, to the extent necessary to adequately permit (i) evaluation and verification of any invoices, payments or claims based on Swaim's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement, and (ii) evaluation of Swaim's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 6 below. To the extent necessary for the District to audit Records as set forth in this Section, Swaim and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the District shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the District to Swaim pursuant to this Agreement. Swaim and its subcontractors shall provide the District with adequate and appropriate workspace so that the District can conduct audits in compliance with the provisions of this Section. The District shall give Swaim or its subcontractors reasonable advance notice of intended audits. Swaim shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

6. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, Swaim and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Swaim's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the District.

7. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, Swaim certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this section the term “scrutinized business operations” shall have the meaning set forth in ARIZ. REV. STAT. §§ 35-391 or 35-393, as applicable. If the District determines that Swaim submitted a false certification, the District may impose remedies as provided by law including terminating this Agreement.

8. Conflict of Interest. This Agreement may be canceled by the District pursuant to ARIZ. REV. STAT. § 38-511.

9. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Pima County, Arizona.

10. Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the District shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The District shall be the sole judge and authority in determining the availability of funds under this Agreement and the District shall keep Swaim fully informed as to the availability of funds for this Agreement. The obligation of the District to make any payment pursuant to this Agreement is a current expense of the District, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the District. If the District governing board fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the District and Swaim shall be relieved of any subsequent obligation under this Agreement.

11. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any District-approved Work Orders, invoices and the On-Call Professional Services Contract, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the On-Call Professional Services Contract (collectively, the “Unauthorized Conditions”), other than the District’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the District of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the On-Call Professional Services Contract shall not alter or relieve Swaim from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

12. Rights and Privileges. To the extent provided under the On-Call Professional Services Contract, the District shall be afforded all of the rights and privileges afforded to Tucson and shall be the “City” (as defined in the On-Call Professional Services Contract) for the purposes of the On-Call Professional Services Contract.

13. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 12 above, the District shall be afforded all of the insurance coverage and

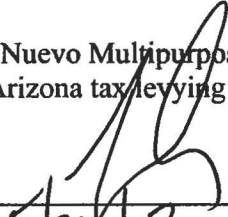
indemnifications afforded to the City to the extent provided under the On-Call Professional Services Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the District under this Agreement including, but not limited to, Swaim's obligation to provide the indemnification and insurance. In any event, Swaim shall indemnify, defend and hold harmless the District and each governing board member, officer, employee or agent thereof (the District and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or Services of Swaim, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

"District"

Rio Nuevo Multipurpose Facilities District,
an Arizona tax/levying public improvement district



5/30/13

ATTEST:

 5/31/13

Clerk/Secretary

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Swaim"

Swaim Associates, Ltd.,

a(n) _____

By: _____

Name: Phil Swaim

Title: President

STATE OF ARIZONA)

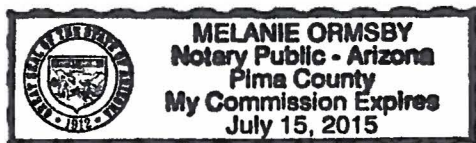
) ss.

County of Pima)

On this, the 22nd day of MAY, 2013, before me, personally appeared Phil Swaim, the PRESIDENT of Swaim Associates, Ltd. whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the foregoing Cooperative Purchasing Agreement between Rio Nuevo Multipurpose Facilities District, an Arizona tax levying public improvement district, on behalf of the District, and Swaim Associates, Ltd., a(n) ARIZONA CORPORATION.

Melanie Ormsby
Notary Public

(Affix notary seal here)



**EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE DISTRICT
AND
SWAIM ASSOCIATES, LTD.**

[On-Call Professional Services Contract]

(See following pages)



DEPARTMENT OF PROCUREMENT
DESIGN, CONSTRUCTION AND SERVICES CONTRACTING DIVISION

CONTRACT NO. 090088-04
On-Call Professional Architectural Services

Swaim Associates
7350 E Speedway Blvd
Tucson, AZ 85710

Phone: 520.326.3700
Fax: 520.326.1148

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I. INTRODUCTION

This contract is issued pursuant to Request for Qualifications (RFQ) number 090088 issued to select up to five qualified consultants to provide On-Call Architectural Design Services.

This is to establish nonexclusive "services-on-demand" retainer type professional service contracts. The contracts will be based on a negotiated hourly billing rate. A scope of work and a total not-to-exceed fee amount will be negotiated as each project arises. These contracts will reduce the administrative burden associated with multiple short form professional service contracts, provide adjunct consultant services to accelerate the design process, and furnish auxiliary construction administration for small projects.

II. TIME OF PERFORMANCE

1. The term of this contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended. The Consultant agrees that the parties shall have the right, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the parties exercise such rights, all terms, conditions, and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.
2. Per project schedules shall be agreed upon prior to issuance of notice-to-proceed for each individual project.

III. FINANCIAL CONSIDERATIONS

1. In consideration of the services performed under this contract, the City shall pay the Consultant in accordance with hourly rates negotiated in EXHIBIT 2: FEE ESTIMATE SUMMARY. The level of effort required to complete each project along with any other direct expenses shall be negotiated prior to issuance of notice-to-proceed. Individual projects including all phases and sub-consultants shall not exceed \$ 100,000 unless the Director of Procurement or his designee approves a waiver prior to issuance of notice-to-proceed. The negotiated fee can be based upon cost plus fixed fee or lump sum.
2. Consultants shall not be reimbursed for normal business use mileage within Pima County. Work requiring travel outside of Pima County shall include reimbursement for travel and per diem expenses paid per current City of Tucson allowances. Vehicle usage, lodging, and per diem expenses for out of town consultants must be identified and approved in the consultant's cost proposal.
3. Consultant shall consider normal computer usage for daily activities as a part of overhead. Computer time for complex graphics, computer dedicated to field activities

- or computer time for numerical modeling as needed for a specific task must be identified and approved in the consultant's cost proposal.
4. The City will pay the Consultant following the submission of itemized invoice(s). Each itemized invoice must bear a written certification by an authorized City representative confirming the services for which payment is requested.
 5. The invoice shall be submitted monthly based upon work completed and direct costs incurred and shall include a ten percent (10%) retainage of the amount billed. Upon completion of the project to the satisfaction of the City and acceptance of the work, final payment and release of retention shall be made.
 6. Direct expenses shall be paid at cost to consultant and shall include no markup.
 7. The City will review fully documented requests for rate adjustment only after this contract has been in effect for one (1) year. Any rate adjustment will only be made at the time of contract renewal and will be a factor in the renewal review process. The City will determine whether the requested rate adjustment or an alternate option, is in the best interest of the City. Any rate adjustment will be effective upon the effective date of the contract renewal.

IV. SPECIAL TERMS AND CONDITIONS

1. SOFTWARE COMPATABILITY: For the purposes of aiding the Consultant in the performance of their obligation under this Contract, the City shall furnish upon request all relevant data in the City's possession and shall direct City officers, agents and employees to render all reasonable assistance to Consultant in connection with Consultants performance under this Contract. The provision of such aid, assistance, information or services as received from the City shall in no way relieve the Consultant from obligations under this Contract. The City does not warrant the compatibility of City furnished data, either electronic or in any form, with the Consultant's software. All costs associated with data conversion or software upgrades and conversions shall be borne by the Consultant.

2. INSURANCE PROVISIONS

COVERAGE AFFORDED

Worker's Compensation

Commercial General Liability
Insurance
Including:

- A. Products & Completed Operations
- B. Blanket Contractual
- C. Premises-Operations-Personal Injury

Professional Liability
Insurance (Errors and Omissions)

LIMITS OF LIABILITY

Statute

\$1,000,000 – Bodily Injury
Combined Single Limit
\$100,000 Property Damage

\$ 1,000,000 (Minimum)
Combined Single Limit

(See Special Conditions)

The following Automobile Liability Insurance coverage will also be required for all professional services contracts which include surveying and/or construction surveillance.

Comprehensive Automobile Liability
Insurance including: non-owned, and
Hired vehicles

\$1,000,000 - Bodily Injury
Combined Single Limit
\$100,000 Property Damage

SPECIAL CONDITIONS:

- A. THE CITY OF TUCSON WILL BE ADDED AS ADDITIONAL INSURED UNDER THE COMMERCIAL GENERAL LIABILITY AND COMPREHENSIVE AUTOMOBILE LIABILITY POLICIES.
 - B. Policies will not be cancelled or reduced in coverage without ten (10) days written notice to the City of Tucson, Department of Procurement, A/E Contracts Division, P.O. Box 27210, Tucson, Arizona 85726-7210.
 - C. Deductibles will be stated on the certificate of insurance and are subject to the review and approval of the City.
 - D. Professional liability insurance limits will be increased for projects or contracts based upon the degree of risk to which the City is exposed.
 - E. Professional liability insurance carried by the consultant must cover all elements of the project including professional services performed by subcontractors. If the consultant's professional liability insurance does not provide coverage for work performed by subcontractors, separate project insurance will be required to comply with the professional liability insurance requirement. The City may require a copy of the professional liability insurance policy to verify coverage.
3. **OTHER CONTRACTS:** The City may, as its sole option, enter into Contracts for additional work related to this project. The Consultant shall fully cooperate with other contractors and consultants and with City employees to accommodate such other work. The Consultant shall not commit or permit any act that interferes with the performance of such work by other contractors.
4. **COMPENSATION AND METHOD OF PAYMENT:** In consideration of the performance of the services described in the Scope of Services, the City shall pay the Consultant in accordance with the negotiated contract rates, and the Consultant shall charge the City only in accordance with those same rates.

The City will pay the Consultant following the submission of itemized invoice(s). Each itemized invoice must bear a written certification by an authorized City representative confirming the services for which payment is requested.

5. EMPOWERMENT ZONE: The Tucson Empowerment Zone is designed to reduce your federal tax burden and reduce your cost of doing business in the zone. If you are doing any work in the Empowerment Zone and have employees that live in the zone, you can receive a federal tax credit for a percentage of the wages you pay while doing the work. For more information, contact the City of Tucson's office of Economic Development at www.cityoftucson.org/oed or call 791-5093.

6. SMALL/MINORITY/WOMAN BUSINESS ENTERPRISE: Consultant agrees to give Small/Minority/Woman Businesses the maximum practical opportunity to participate in this Contract when possible, by obtaining supplies, materials, and services from such firms.

7. CONFLICT OF INTEREST: Subconsultants who design and/or develop specifications for materials for this project will be precluded from contract award for that item if a solicitation is issued for the item.

8. PROJECT AWARD: Individual Projects under this contract shall be awarded in any way deemed to be in the best interest of the City. The City may request proposals for individual projects under this contract prior to issuance of Notice to Proceed. The City shall not reimburse consultants for the cost of proposal preparation. Each project shall be negotiated and approved by the City Project Manager or designee prior to issuance of Notice to Proceed. The consultant shall not begin any work prior to receipt of Notice to Proceed.

V. STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE CONTRACT

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of the offer.

Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide recommended information, the City may, at its sole option, ask the offeror to provide the information.

May: Indicates something that is not mandatory but permissible.

For purposes of this contract, the following definitions shall apply:

- a) **City** - The City of Tucson, Arizona, 255 W. Alameda, Tucson, AZ 85701
- b) **Agency or User Department** – Used interchangeably to mean the City department or division responsible for managing the professional services contract for the project.
- c) **Consultant or Firm** – Used interchangeably in referring to the architect, engineer, landscape architect, or land surveyor organization offering professional services to the City of Tucson.

- d) **Evaluation Committee** – The committee established to formally evaluate proposals according to the evaluation criteria listed herein.
 - e) **Joint Venture** – Two or more persons or entities combining their property, money, skills, and knowledge to form a distinct legal entity to carry out a single business enterprise for profit, pursuant to a written agreement.
 - f) **Contract** - The legal agreement executed between the City of Tucson, AZ and the Consultant/Firm.
 - g) **City Project Manager** - The City employee specifically designated as responsible for monitoring and overseeing the Consultant's performance under this Contract. Also referred to as City Designated Contract Representative.
 - h) **Director of Procurement** - The contracting authority for the City of Tucson, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Tucson, AZ.
2. **NOTICE TO PROCEED:** The Consultant agrees to render professional services promptly and diligently upon receipt of written notice to proceed with any or all of the services set forth herein.
3. **RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of Consultant or any and all of Consultant's sub-consultants. Said audit shall be limited to this Contract and its scope of services.
4. **PRINCIPAL CONSULTANT'S RESPONSIBILITY:** The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Contract. The Consultant shall without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services. Additionally, when modification to a construction contract is required because of an error or deficiency in the services provided under this architectural-engineering Contract, the City shall consider the extent to which the Consultant may be reasonably liable.

Neither the City's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Consultant shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Consultant's negligent performance of any of the services furnished under this Contract.

If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

The Consultant agrees that the work to be performed pursuant to this agreement shall be under the full authority and responsible charge of the undersigned principal of the firm or officer of the corporation who must be the holder of a current Arizona Certificate of Registration issued by the Board of Technical Registration for the practice of architectural and/or engineering in the State of Arizona.

Any drawings, plans, specifications, and estimates to be prepared pursuant to this agreement shall be prepared by or under the personal direction of the undersigned qualified holder of an Arizona Certificate of Registration issued by the Arizona Board of Technical Registration.

The Consultant shall be responsible for the completeness and accuracy of all services rendered and correction of all errors of omission or commission on the drawings, specifications, and other documents notwithstanding prior approval by the City.

By signing the Contract, the Consultant affirms that it has the ordinary skill, knowledge, and judgement possessed by members of its profession, and that it will use reasonable and ordinary care and diligence in performing the work.

5. ADDITIONAL COMPENSATION

The Consultant shall submit a written proposal and secure the City Director of Procurement's written approval of same prior to the performance by the Consultant of any work for which additional compensation will be requested.

Without the City Director of Procurement's prior written approval of the proposed work and the fee therefor, the City will not consider payment of any sums other than those already set forth under this Contract.

- 6. EXCLUSIVE POSSESSION:** All work of authorship, including but not limited to calculations, designs, drawings, specifications, graphics, text, and all copywritable works resulting from this Contract shall become property of the City. Additionally, all services, information, computer program elements, reports, plans, specifications, and other deliverables, which may be created under this Contract, are the sole property of the City of Tucson. Property of the City shall not be used or released by the Consultant or any other person except with prior written permission by the City.

All designs, inventions, or other intellectual property, and any refinement, modification, or improvement on any design, invention, or other intellectual property, conceived, created, or first reduced to practice as part of, or a result of, and activity undertaken by the Consultant pursuant to this agreement, shall become the exclusive property of the City. It is the intent of this paragraph that the City shall have exclusive ownership of all intellectual property created as a result of this Contract. The Consultant shall cooperate with the City in securing patents, or other certificates of property rights, and shall make such assignments to the City as are needed to effect the purposes of this paragraph.

- 7. DRAWING, STANDARD DETAILS, ETC.:** City of Tucson drafting standards, standard details, specifications, and office procedures are to be used in the preparation of items

- required under this Contract unless directed otherwise by the City. The City will furnish the Consultant with copies of the necessary standard City documents. All final documents shall be prepared by such methods and of such quality of workmanship as will permit the making of satisfactory reproductions.
8. **ADVICE AND CONSULTATION:** The Consultant shall be available to the City for advice and consultation on the interpretation of the plans and specifications on questions, which may arise during the course of this Contract.
9. **PUBLIC HEARINGS:** The Consultant shall upon request, attend any public hearing on matters related to the scope of professional services set forth in this Contract.
10. **TIME RECORDS:** The Consultant shall maintain complete, current and daily records covering all hours actually worked on this project by the various classes of workers. The City shall have the right to audit and/or examine such records at any time during the progress of this Contract and shall withhold payment if such documentation is found by the City to be incomplete or erroneous.
11. **PROTEST PROCEDURE:** Should a firm believe that the City has not properly followed the selection procedures as outlined in the Tucson Procurement Code, the firm may file a protest as described in Article IX of the Tucson Procurement Code.

A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Qualification and/or Request for Proposal shall be received at the Department of Procurement before the solicitation opening date. A protest of a proposed award or of an award shall be filed within ten days after the protestor knows or should have known the basis of the protest. A protest shall include:

- a) The name, address, and telephone number of the protestor;
 - b) The signature of the protestor or its representative;
 - c) Identification of the solicitation number;
 - d) A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and,
 - e) The form of relief requested.
12. **CERTIFICATION:** By signature in the offer section of the Offer page, Consultant certifies:
- a) The submission of the offer did not involve collusion or other anti-competitive practices.
 - b) The Consultant shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.
 - c) The Consultant has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
 - d) Consultant certifies by signing that if a design is required for this project, the design being furnished will contain no specifications for tropical hardwood excluded from consideration of purchase by the City of Tucson. A list of tropical hardwood may be obtained from the City's Department of Procurement. Consultants knowingly violating the

tropical hardwood restriction may be barred from any further contracting with the City of Tucson.

- e) The Consultant submitting the offer hereby certifies that the individual signing the offer is an authorized agent for the Consultant and has the authority to bind the Consultant to the Contract.

13. TERMINATION OF CONTRACT:

- a) The City may terminate this Contract in whole or, from time to time, in part, for the City's convenience or because of the failure of the Consultant to fulfill the Contract obligations. Upon receipt of the notice of termination, the Consultant shall 1) immediately discontinue all services affected (unless the notice directs otherwise), and 2) deliver to the Department of Procurement all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.
- b) If the termination is for the convenience of the City, the City shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.
- c) If the termination is for failure of the Consultant to fulfill the contract obligations, the City may complete the work by contract or otherwise, and the Consultant shall be liable for any additional cost incurred by the City.
- d) If, after termination for failure to fulfill contract obligations, it is determined that the Consultant has not failed, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.
- e) The rights and remedies of the City provided in this clause are in addition to any other rights or remedies provided by law or under this Contract.

14. SUSPENSION OF WORK:

- a) The City may order the Consultant, in writing, to suspend, delay, or interrupt all or any part of the work under this Contract for the period of time that the City determines appropriate for the convenience of the City.
- b) The Consultant agrees that no charges or claims for damages shall be made against the City for any delays or hindrances during the progress of this Contract. Such delays or hindrances, if any will be covered by an extension of time for such reasonable period as mutually agreed upon between the parties. It is agreed and understood, however, that permission to proceed with the Contract after the established completion date shall not be construed as a waiver by the City of any of the rights herein.

- 15. ARBITRATION:** It is understood and agreed that no provision of the Contract relating to arbitration or requiring arbitration shall apply to or be binding upon the City except by the City's express written consent given subsequent to the execution of the Contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be

resolved as provided for in A.R.S. Sec. 12-1501, et seq. Consultant shall continue to render the services required by this Contract without interruption, notwithstanding the provisions of this section.

16. **INDEPENDENT CONSULTANT:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

Consultant shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the City, and that such days do not accumulate for the use of same at a later date.

The City of Tucson will not provide any insurance coverage to Consultant, including Worker's Compensation coverage. The Consultant is advised that taxes or social security payments shall not be withheld from a City payment issued hereunder and that Consultant should make arrangements to directly pay such expenses, if any.

17. **HUMAN RELATIONS:** Consultant agrees to abide by the provisions of the Tucson Code Chapter 28, Article XII, Section 28-138, Provision against discrimination required in all City contracts.

18. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from a solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

19. **DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Consultant shall ensure that, whenever practicable, all printed materials produced by the Consultant in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.

20. **PATENT INFRINGEMENT:** The Consultant and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark or copyright and the Consultant shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Consultant shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or replace same with

noninfringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes noninfringing.

If appropriate, the Consultant shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

21. **AFFIRMATIVE ACTION:** Contractor agrees to abide by the provisions of the Tucson Code Chapter 28, Article XII Sections 28-137 to 28-144, Affirmative Action by City Contractors. Contractor, your subcontractor(s) and supplier(s) agree to adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, promote and upgrade the position of employees regardless of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status, or marital status and who agree and are responsive to the City's goals.

Specifically, the Contractor agrees to submit the following reports to the City's Office of Equal Opportunity Programs before contract award:

- a) A copy of their Federal EEO-1 Report, if Contractor was ever required to file one with the Federal Government;
- b) A completed City of Tucson Affirmative Action Questionnaire;
- c) An Affirmative Action Plan.

All such reports on file with the Office of Equal Opportunity Programs will be updated at least annually. The Office of Equal Opportunity Programs may for good cause recommend to the City's Director of Procurement that failure to comply with the requirements of this subsection be waived and that the offer be accepted **contingent** upon receipt of the required reports before a notice to proceed is issued.

22. **AMERICANS WITH DISABILITIES ACT:** The Consultant shall comply with all applicable provisions of the Americans with Disabilities Act, Public Law 101-336, 42 U.S.C. 12101-12213, and applicable federal regulations under the Act.

23. **CONFIDENTIALITY OF RECORDS:** The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.

24. **GRATUITIES:** The City may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant, to any officer or employee of the City amending. In the event this Contract is canceled by the City pursuant to this

provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant the amount of the gratuity.

25. **APPLICABLE LAW:** This Contract shall be governed by the law of the State of Arizona, and suits pertaining to this Contract shall be brought only in Federal or State courts in the State of Arizona.
26. **CONTRACT:** The Final Contract document shall be written and shall be based upon the Request for Qualifications and/or the Request for Proposal issued by the City, the offer submitted by the Consultant in response to the Request for Qualifications and/or the Request for Proposal, and any negotiations entered into and changes agreed upon by both parties. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Qualifications and/or the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Consultant; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Consultant relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.
27. **LEGAL REMEDIES:** All claims and controversies shall be subject to the Tucson City Charter and Code.
28. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
- A) Amend the contract or enter into supplemental verbal or written agreements;
 - B) Grant time extensions or contract renewals;
 - C) Otherwise modify the scope or terms and provisions of the contract.
- The contract shall only be modified with the approval of the Department of Procurement. Except in the case of documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Department of Procurement through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.
29. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.
30. **SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.

31. **INTERPRETATION - PAROL EVIDENCE:** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.
32. **ASSIGNMENT – DELEGATION:** No right or interest in this Contract shall be assignable in whole or in part without the written consent of the parties hereto, and no delegation of any duty of Consultant shall be made without prior written permission of the City's Procurement Director. This Contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto. The City shall not unreasonably withhold approval of assignment/delegation and shall notify the Consultant of the City's position within 15 days of receipt of written notice by the Consultant.
33. **SUBCONTRACTS:** No subcontract shall be entered into by the Consultant with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Procurement Director. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the sub-consultant were the Consultant referred to herein. The Consultant is responsible for contract performance whether or not sub-consultants are used. The City shall not unreasonably withhold approval and shall notify the Consultant of the City's position within 15 days of receipt of written notice by the Consultant.
34. **RIGHTS AND REMEDIES:** No provision in this document or in the Consultant's response shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
35. **ACKNOWLEDGMENTS:** Consultant acknowledges that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Consultant or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.
36. **INDEMNIFICATION:** To the fullest extent permitted by law, Consultant, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including

but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Consultant relating to work or services in the performance of this Contract, including but not limited to, any Subconsultant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and Subconsultant's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City.

37. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Consultant hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.
38. **RIGHT TO ASSURANCE:** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.
39. **ADVERTISING:** Consultant shall not advertise or publish information concerning this Contract without prior written consent of the City.
40. **RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of a Consultant or sub-consultant which is related to the performance of any contract as awarded or to be awarded.
41. **WORK SCHEDULE:** The Consultant shall adhere to any and all work schedules developed under this contract. The work schedule will provide for the completion of services within a specified number of consecutive calendar days following the starting date established by a written notice to proceed. If the Consultant is unable to adhere to the accepted schedule, they shall prepare a justification letter with a proposed revised schedule and submit the same to the City for review and approval. It shall be the sole option of the City to approve any such requests. The City shall be furnished two (2) copies of the original work schedule and two (2) copies after each revision, if any, is approved.
42. **FORCE MAJEURE:**
Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means a major occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a sub-consultant unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the

- commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
43. **INSPECTION:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at Consultant's risk and may be returned to the Consultant. If so returned, all costs are the responsibility of the Consultant. Noncompliance shall conform to the cancellation clause set forth in this document.
44. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.
The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.
45. **BUSINESS LICENSES AND PERMITS:** Consultant shall maintain in current status all Federal, State, and local registrations, licenses and permits required for the operation of the business conducted by the Consultant as applicable to this Contract.
46. **PROJECT LICENSES AND PERMITS:** Consultant shall ensure that all licenses and permits, applicable to the work as specified herein, are maintained and current. Some examples of permits that may apply are:
- a) Army Corp of Engineers 404 Permit
 - b) ADOT Permits
 - c) Southern Pacific Railroad permits
 - d) Arizona Department of Water Resources dewatering permit
 - e) City of Tucson permits
 - f) Federal, State and City authorizations
 - g) ADEQ Permits
 - h) Agricultural and Horticultural permits
 - i) FAA permits
47. **COST OF PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing, presenting, or providing any response to a solicitation. Offers submitted for consideration should be prepared simply and economically providing adequate information in a straightforward and concise manner.

48. **PUBLIC RECORD:** All proposals submitted in response to this request shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.
49. **SUBSEQUENT EMPLOYMENT:** The City may cancel this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a Consultant to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when written notice from the Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
50. **MINORITY/WOMAN BUSINESS ENTERPRISE:** Consultant agrees to give Minority/Woman Businesses the maximum practical opportunity to participate in this Contract when possible, by obtaining supplies, materials, and services from such firms.
51. **PROJECT COMPLIANCE:** At a minimum, the project shall be designed to comply with all applicable Federal, State and Local regulations and any amendments thereto which are adopted during the life of this Contract. Therefore, the Consultant should be aware that any of the following may apply to this project. Compliance with these is required and it shall be the responsibility of the Consultant to alert the City of any deviation from this requirement. (Note: It is the Consultant's sole responsibility to ensure that they comply with all applicable Federal, State and Local regulations. The inclusion of this list is for informational purposes only and is not intended to be all-inclusive).

FEDERAL:

- a) The Hazard Communication Act, CFR 1910-1200- handling hazardous materials
- b) Resource Conservation and Recovery Act, 42 USC 6901 et. Seq.- Hazardous waste disposal
- c) 36 CFR 800 – Protection of Historical and Cultural Properties
- d) National Historic Preservation Act of 1966
- e) 23 CFR 771 – Environmental Impact and Related Procedures
- f) Americans with Disabilities Act (ADA), PL 101-336
- g) Section 4(f) of the Department of Transportation Act
- h) Executive Order 11988 (Floodplain Management)
- i) FHPM 7-7-3 - Procedures for Abatement of Highway Traffic Noise and Construction Noise
- j) FHPM 7-7-9 – Air Quality Guidelines
- k) National Environmental Policy Act of 1969, 1973 and supplements
- l) Executive Order 11990 (Protection of Wetlands)
- m) Wild and Scenic Rivers Act of 1968
- n) Section 404 of the Clean Water Act of 1977
- o) Federal Farmlands Act of 1981
- p) FHWA Technical Advisory T6640.8m, "Guidance Material for the Preparation of Environmental Documents"

- q) Section 1424 (e) of the Safe Drinking Water Act (Sole Source Aquifer Review).
- r) 36 CFR 60 – Determinations of Eligibility for Inclusion in the National Register of Historic Places
- s) Public Law – 91-646 – Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- t) Wilderness Act of 1964, Public Law 88-577
- u) Arizona Desert Wilderness Act of 1990, Public Law 101-628
- v) Resource Conservation and Recovery Act (RCRA)
- w) Comprehensive Environmental Response, Compensation and Recovery Act of 1980 (CERCLA)
- x) Superfund Amendments and Reauthorization Act (SARA)
- y) Service, Integrated Resource Management (3rd Edition), August 1990
- z) Endangered Species Act
- aa) Other Authorities: OSHA, Occupational Safety & Health Administration
- bb) Other governmental authorities having jurisdiction over the design or implementation of the Project.

STATE:

- a) Arizona Revised Statutes (ARS) Title 34 Section 34-104 - Use of proprietary specifications
- b) ARS Title 41 Section 41-844 - Findings of subsurface archaeological remains
- c) ARS Title 34 Section 34-401 - Designing for the physically disabled
- d) Arizona Native Plant Law
- e) Arizona Historic Preservation Law
- f) State Water Quality Law
- g) ADOT Action Plan
- h) ADOT Highways Division Policy and Implementation Memorandum 89-05, "Preservation of Arizona's Wetlands," August 1, 1989
- i) Noise Abatement Policy for State Funded Projects
- j) Arizona Environmental Quality Act (EQA)
- k) Hazardous Waste Management Act (HWMA)
- l) Underground Storage Tank Act of 1986

LOCAL:

- a) The Building Code of the City of Tucson
- b) Drainage Report and/or Grading Permit
- c) Industrial Wastewater Discharge Permit
- d) Native Plant Preservation Ordinance
- e) Local codes and ordinances relating to air quality, noise, dust abatement, light, etc.

52. **CONTINUITY:** Consultant shall maintain all pertinent files, records, and documents that relate to the delivery of the services provided in this Contract. Consultant shall retain supporting documents, files, and records for at least five (5) years after the termination of this Contract.
53. **FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

54. **CERTIFICATION OF COMPLIANCE WITH A.R.S. SEC. 35-397:** By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-397. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Tucson Procurement Code up to and including termination of this contract.
55. **CHILD/SWEAT-FREE LABOR POLICY:** The Consultant shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.

CITY OF TUCSON DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P. O. BOX 27210, TUCSON, AZ 85726-7210
DAN.LONGANECKER@TUCSONAZ.GOV

CONTRACT NO. 090088-04
PAGE 19 OF 20
CONTRACT OFFICER: DAN LONGANECKER
PH: (520) 837-4125 / FAX: (520) 791-5875

OFFER TO THE CITY OF TUCSON:

The Consultant hereby offers to provide the services listed in the attached contract and based upon the Request for Qualifications, including all terms, conditions, specifications, scope of work, amendments, offers and subsequent negotiations, as accepted by the City.

Swaim Associates
Company Name

7350 E. Speedway Blvd
Address

Tucson AZ 85710
City State Zip

Kevin A. Barber
Signature of Person Authorized to Sign

KEVIN A. BARBER
Printed Name

ASSOCIATE PRINCIPAL
Title

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

The Consultant is now bound to provide the services listed in the attached contract and based upon the Request for Qualifications, including all terms, conditions, specification, scope of work, amendments, the Consultants Offer and subsequent negotiations, as accepted by the City.

This contract shall henceforth be referred to as Contract No. 090088-04. The Consultant has been cautioned not to commence any billable work or to provide any material or service under this contract until Consultant receives a purchase order, or is otherwise directed to do so in writing by the undersigned.

CITY OF TUCSON, a municipal corporation

Approved as to form this 17th day of Aug, 2009.

[Signature]
As Tucson City Attorney and not personally

Awarded this 13 day of Aug, 2009.

[Signature]
Mark A. Neihart, C.P.M., CPPB, CPM
As Director of Procurement and not personally

CITY OF TUCSON DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P. O. BOX 27210, TUCSON, AZ 85726-7210
DAN.LONGANECKER@TUCSONAZ.GOV

CONTRACT NO. 090088-04
PAGE 20 OF 20
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VI. EXHIBITS:

EXHIBIT 1 – SCOPE OF PROFESSIONAL SERVICES

EXHIBIT 2 – FEE ESTIMATE SUMMARY

EXHIBIT 3 – HUD FORM 51915

EXHIBIT 4 – INSURANCE

CITY OF TUCSON DEPARTMENT OF PROCUREMENT



**DESIGN, CONSTRUCTION & SERVICES
CONTRACTING DIVISION**

**CONTRACT 090088
On-Call Professional Architectural Services**

EXHIBIT 1 – SCOPE OF PROFESSIONAL SERVICES

CONTRACT 090088

REQUIRED SCOPE OF SERVICES

I. INTRODUCTION AND DESCRIPTION OF SCOPE OF SERVICES

The City of Tucson wishes to award up to five (5) contracts to provide on-call architectural services on an "as-needed" basis. This is to establish nonexclusive "services-on-demand" retainer type professional service contracts. The contracts will be based on a negotiated hourly billing rate. A scope of work and a total not-to-exceed fee amount will be negotiated as each project arises. These contracts will reduce the administrative burden associated with multiple short form professional service contracts, provide adjunct consultant services to accelerate the design process, and furnish auxiliary construction administration for small projects.

PROJECT: Professional Architectural Services for Miscellaneous Projects

LOCATION: Various

FEE BASIS: Negotiated Hourly Billing Rates

AMOUNT OF CONTRACT: Not to exceed one hundred thousand (\$100,000.00) per project.

PAYMENT FOR SERVICES: Pay requests may be submitted monthly and will be certified for payment for services performed and approved by the Project Manager, consistent with City procedures.

ARTICLE 1: THE PROJECT

- 1.1 Design Criteria:
 - 1.1.1 Preliminary design program requirements for each increment of service (project) are compiled from information provided by the User Department(s). The Project requirements are not all inclusive and are only presented in an effort to relate the general Project and the scope of the design problem. The Consultant shall use this data as a basis to establish the detailed space requirements and functional relationships required for development of a definitive Architectural Design Program and Long-Range Site Development Plan, if required.
 - 1.1.2 The basic Project requirements that determine the design of the facilities shall be a product of the Consultant's detailed analysis and research of the needs and requirements of the facility with direction provided by the General Services Department A/E Division and the User Department(s).
- 1.2 Goals and Objectives:

- 1.2.1 If required, preparation of a community supported Architectural Design Program for development of the Project, and areas directly adjacent to these facilities that take into consideration any future development component selected by the City.
- 1.2.2 Evaluating the proposed facilities for compliance with the Americans With Disabilities Accessibility Guidelines (ADAG) and providing good traffic flow for ease of circulation, mobility, and accessibility in and around the site.
- 1.2.3 Improving and expanding the services of the User Department(s) and making new facilities functional for the staff and inviting to the public.
- 1.2.4 Preparation of construction documents which satisfy the functional requirements as described by the General Services Department A/E Project Manager and the User Department(s) and as established in the approved Architectural Program Statement and Long-Range Site Development Plan (if required) as attainable within the budgeted funds.
- 1.3 Architectural Character:
 - 1.3.1 Facilities designed under this Contract must be as barrier free, as safe, and accessible to the staff as possible and be expressive of the functional activities taking place within and around the facility. The resulting design should reflect a character corresponding to the spirit of the facility while being responsive to the project budget and environmental considerations. The Consultant is to provide innovative guidance in the design approach with the selection of materials, orientation, and structural systems that respond to today's need for the conservation of energy and water while being responsive to the project budget.
 - 1.3.2 Careful consideration should be given to service circulation as well as security of and around City facilities in the Project design. Vehicular traffic and parking requirements are to be analyzed with the design solution reflecting the results of this analysis without sacrificing the architectural character of the proposed facilities.
 - 1.3.3 City facilities should reflect the commitment to public service through the provision of a functional, flexible facility that is operationally cost effective in terms that minimize staffing requirements and maximize energy conservation.
- 1.4 General Requirements:
 - 1.4.1 Mechanical Equipment: The Consultant shall design spaces large enough to accommodate the required mechanical equipment with ample room for performance of maintenance and service functions and in compliance with all applicable codes. Requirements include, but are not limited to, the following:
 - .1 All conditioned spaces shall have forced air heating and refrigerated cooling.
 - .2 All lavatories, sinks, and showers shall have both hot and cold water, with provisions that meet or exceed ADA requirements.

- .3 Locate drinking fountains which meet or exceed ADA requirements.
 - .4 Provide adequate filter storage room.
- 1.4.2 Communications and Electrical Equipment: The Consultant shall design spaces large enough to accommodate the following:
 - .1 A computer system which interfaces with the City's central system,
 - .2 Electrical equipment with ample room for the performance of maintenance functions, and
 - .3 Communications equipment, such as telephone, alarm, etc.
- 1.4.3 Public Participation: Public participation is an important aspect of Projects. Consultant shall participate with the City for any required public meetings.
- 1.4.4 Trees for Tucson: Tree plantings should be responsive to the "Trees for Tucson" program endorsed by the City's Mayor and Council.
- 1.4.5 Landscaping: Shade is important for outdoor public areas and parking. Required landscaping should be integrated to meet zoning requirements and be designed to enhance the new facility.
- 1.4.6 Parking/Service: Analysis of parking lot circulation, surfacing, striping, lighting, landscaping and the entry and exiting process will be based upon the accessing and the servicing of the new facility. Areas of primary importance are:
 - 1.4.6.1 Parking spaces and loading space(s) as required by code with required landscape buffering to accommodate the facility's multiple uses as well as the physically disabled;
 - 1.4.6.2 Drop-off area at facility entrance;
 - 1.4.6.3 Refuse dumpster area with visual screening;
 - 1.4.6.4 Bicycle racks/lockers;
 - 1.4.6.5 Covered walkways;
 - 1.4.6.6 Grounds maintenance facility.
- 1.5 Special Considerations:
 - 1.5.1 Energy And Water Efficiency:
 - 1.5.1.1 The facilities designed under this Contract shall be designed for maximum efficiency in the use of both energy and water. In connection with this requirement, the air conditioned areas of each building envelope shall be designed to meet or exceed the standards set forth in the latest edition of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc. (ASHRAE) Standards 90.1 and the latest edition of the CABO Model Energy Code. The Model Energy Code, 1995 edition, was partly modified by

the Sustainable Energy Standard dated April 22, 1998. The January 12, 1998, Resolution by City of Tucson Mayor and Council supports commitment in meeting the Sustainable Energy Standard and must be used to determine design issues.

- 1.5.1.2 The Consultant shall provide written technical analysis of energy conservation measures listed below. The analysis must include, but not be limited to, added construction costs, energy and cost savings, changes to annual maintenance costs and life-cycle cost analysis.

- .1 Proper solar orientation of buildings
- .2 Efficient configuration of interior spaces to maximize daylighting
- .3 Motion and light sensors for conference and rest rooms
- .4 Passive water harvesting
- .5 High efficiency heating and cooling
- .6 High efficiency skylighting in interior rooms
- .7 Insulated roof at R38
- .8 Insulated glass with thermal break window system
- .9 High efficiency lighting
- .10 Daylight step-down ballasts with photocells for lighting
- .11 East/West shade walls
- .12 North/South solar controlled design
- .13 Waterless urinals
- .14 Instantaneous water heating for lavatories
- .15 Native, deciduous tree shading at ground level
- .16 Tucson Sustainable Energy requirements

- 1.5.1.3 Building orientation and sun control shall be such that no direct sunlight strikes the exterior glass of spaces cooled by refrigerated air conditioning. At a minimum, double glazing of exterior openings shall be used. Mechanical equipment shall be housed in equipment rooms within the buildings. Roof penetrations shall be kept to an absolute minimum. No mechanical equipment shall be placed on the roof. Occupancy sensors shall be used in common use areas.

1.5.2 Operation And Maintenance Costs:

- 1.5.2.1 Provide HVAC, lighting and electric load calculations, and develop estimates of the cost of operating and maintaining the facilities designed under this Contract. The estimated operation and maintenance costs are to be projected for each of the five (5) consecutive fiscal years following acceptance of the facilities by the City.

1.5.3 Handicapped Accessibility:

- 1.5.3.1 City facilities, as public buildings, shall be designed and constructed for accessibility and use by the physically disabled. In this connection the most restrictive requirements of the Americans With Disabilities Accessibility Guidelines (ADAG), the Arizona Revised Statutes (ARS), Occupational Safety & Health Administration (OSHA), all applicable Building Codes and American National Standards Institute, Inc. (ANSI) shall determine the design

criteria to be used for the design of these facilities to ensure accessibility and compliance. The specific design criteria applicable to provisions for the physically handicapped shall be incorporated in the Architectural Design Program document for the facility.

1.6 Site Requirements:

1.6.1 If required, the Consultant shall conduct a complete site analysis to clearly identify problems and opportunities connected with the development of the site. Included in this analysis are all existing facilities, zoning, and other legal requirements. The functional and visual relationship between all site components, both the existing and the proposed facilities, will be studied, and design options on their total integration will be presented for approval and development as part of this project. Alterations to the site circulation, paving and landscaping to accommodate the new facility as well as the physically disabled is of primary importance.

1.7 Project Budget:

1.7.1 The Architectural Program Statement (if required) prepared by the Consultant will provide an estimate of all probable costs for the development of a suitable new facility and related improvements. Construction documents will be prepared for those facilities and improvements that can be completed for the amount budgeted.

1.7.2 The final project budget will be established as a result of the cost analysis provided by the Consultant and reviewed and approved by the User Department(s). The budget is to provide for the construction of the facilities and site improvements that are determined as the highest priority by the User Department(s).

1.7.3 All parties understand that the City of Tucson, as a public entity, has limited funds for each project. Therefore, City facilities are to be designed so that the completed facilities represent quality consistent with wise budget management.

ARTICLE 2: SCOPE OF PROFESSIONAL SERVICES

2.1 General Description:

2.1.1 The basic services anticipated under this Contract are primarily modifications and renovations common to building construction projects. The typical types of projects and services anticipated are:

- .1 Building construction
- .2 Building modifications and remodels
- .3 Building additions
- .4 In-house building and facility design
- .5 Miscellaneous studies and estimates
- .6 Inspections for owner acceptance of construction

- .7 Damage assessments
- .8 Construction cost estimating
- .9 Shop drawing review
- .10 Review and critique of designs and construction documents for major building projects
- .11 Preventive maintenance recommendations
- .12 Special systems design, including the services provided by a Registered Communications Distribution Designer (RCDD)
- .13 Inspections for structural integrity.

- 2.1.2 The specific services being furnished during the life of this Contract shall be rendered by Architects and/or Engineers registered to practice in their particular field of endeavor within the State of Arizona. The professional and associated services provided shall be rendered by personnel pre-approved by the City, which reserves pre-approval rights for any personnel substitutes, and shall be rendered promptly and diligently upon receipt of written Notice to Proceed with any or all of the services herein.
- 2.1.3 Consultant shall be responsible for the completeness and accuracy of all services rendered under this Contract and correct all errors of omission or commission on the drawings, specifications and other documents notwithstanding prior acceptance by the City.
- 2.1.4 Consultant shall be available to accept new jobs for the City on an as-needed basis and be able to meet strict deadlines for the completion of those jobs. Unavailability to assume specific jobs, or inability to meet the City's schedule as required, may result in termination by the City.
- 2.1.5 Consultant understands and accepts that this is neither an exclusive Contract nor a commitment that services will be required by the City. The City reserves the right to contract with other consultants and to request service assignments where the City solely determines the situation justifies other Contracts and service assignment.
- 2.1.6 Record Drawings: Consultant shall furnish General Services Department A/E Division one (1) set of mylar transparent copies of the final detailed working drawings which reflect "as-built" conditions within thirty days of the Consultant's receipt of the as-built drawings from the Contractor. Record drawings shall be prepared and provided to the City in conformance with Operations A/E CAD Standards¹. Refer to General Services Department A/E CAD Standards for description of drawing standards and deliverables.
- 2.1.7 Submittal Requirements: All submittals made under this contract shall be in accordance with the latest version of the General Services Department A/E Division Design² and CAD Standards. The Consultant shall develop a Submittal Log and include the Log in the Specifications.

¹ Operations A/E CAD Standards will be provided at the time of fee negotiation

² Operations A/E Design Standards will be provided at the time of fee negotiation

- 2.2 Requirements for each Increment of Service (Project):
- 2.2.1 Consultant shall prepare a not-to-exceed fee proposal for the accomplishment of each Project based on the contract billing rates. Your service proposal shall be approved by the Project Manager prior to Your proceeding with that particular service. Your work proposal shall provide for the completion of Your service within a specific number of calendar days, if authorized to proceed.
- 2.2.2 The Project Manager shall review the proposal, and if complete and acceptable, issue a written Notice to Proceed. The proposal shall become a part of this contract and all services provided under the proposal shall be done in accordance with the covenants and conditions of this Contract. The approved proposal fee amount for the services required shall be a not-to-exceed amount. Upon receipt of the Notice to Proceed, You shall provide the specified services in a prompt and diligent manner.
- 2.2.3 Your proposal shall include all services for design and construction administration, if applicable, and shall include all additional services and reimbursable expenses. Any fee amount over and above that on your proposal and the subsequent written Notice to Proceed requires issuance of an additional written Notice to Proceed. The City is not responsible for any Consultant fees over and above the amount on the written Notice(s) to Proceed for each individual Project.
- 2.2.4 Confirmation of the Project Requirements shall be accomplished by the Consultant arranging through the Project Manager Pre-Design conferences with interested parties to confirm the requirements of the Project. The Project Management Team concerned with the development of the Project may include, but is not limited to, the following:
- .1 User Department Project Manager
 - .2 User Department Director or designated alternate
 - .3 Operations A/E Division Project Manager
 - .4 Technical Planning and Resources Energy Management
 - .5 User Department Design Team
 - .6 Office of Environmental Management
 - .7 Development Services
 - .8 Procurement
- 2.3 Work Schedule:
- 2.3.1 Refer to General Services Department A/E Division Design Standards.
- 2.3.2 Consultant shall prepare a work schedule within ten (10) calendar days of the Notice-To-Proceed in a format that shall present information in monthly increments as required for the accomplishment of the various tasks involved in providing professional services under this Contract and will include at a minimum:
- .1 The events which will satisfy each of the professional services.

- .2 The dates each event will start and be completed.
 - .3 The dates of each public meeting and design review meetings.
 - .4 The elements that will hinder normal progress.
 - .5 The names of persons responsible for each event.
- 2.4 Architectural Design Program (if required):
- 2.4.1 Refer to General Services Department A/E Design Standards.
- 2.4.2 The Consultant shall prepare a formal comprehensive Architectural Design Program for the proposed facilities, clearly stating services, circulation and functional relationships in and adjacent to the facility; delineating size and types of the components; alternative approaches to the possible growth and change for the various functions; developing probable construction costs and Project budget recommendations; documenting interviews with designated City personnel and other interested parties; and providing necessary detailed data to enable Design to be undertaken upon completion of the document. This Program will be planned in conjunction with designated personnel.
- 2.4.3 Site Analysis: The Consultant will develop a complete site analysis based on the Architectural Design Program to include evaluation of the existing site elements, traffic and parking considerations, topography analysis, environmental contamination survey, archeological survey, drainage analysis, geotechnical investigation, zoning, utility easements and other legal restrictions, and future site enhancements.
- 2.4.4 Consultant shall prepare a preliminary estimate of the Cost of the Work, updated and refined as the design process progresses, and evaluated against the project budget in order to keep costs within budget while accommodating project needs.
- 2.4.5 The Architectural Design Program is to be submitted for analysis, review, comment, and approval prior to proceeding with Basic Design Services for design of the facilities.
- 2.4.6 The Architectural Design Program, in general terms, shall include the following:
- .1 Establish the project **GOALS** - a documentation of what the City wants to do and why it wants to do it.
 - .2 Collect, organize and analyze the **FACTS** - organize and analyze the program facts to reveal their relative importance and meaning.
 - .3 Uncover and test program **CONCEPTS** - test programmatic concepts related to ideas intended mainly as functional solutions to the design and operational problems of the Project.
 - .4 Determine Facility and Staff **NEEDS** - space requirements, quality of construction and money.

- .5 State the design **PROBLEM** - after evaluating all the information derived from the above, develop the most important statements that can be made regarding the problem.
- 2.4.7 The Architectural Design Program is viewed by the City staff as a formal document to be used as the basis for making decisions concerning the Project and should be designed for ease of communication. The final program document will be arranged in a format established in consultation with the General Services Department A/E Project Manager.
- 2.4.8 Long-Range Site Development Plan:
- 2.4.8.1 Special Consideration -- In the site analysis and development plan formulation, the Consultant shall give special consideration to the impact of the facilities and related improvements upon the surrounding neighbors. Such considerations shall include, but not be limited to, architectural compatibility, traffic patterns, noise and light levels, visual impact, and other concerns.
- 2.4.8.2 Site Analysis -- The consultant shall develop a complete site analysis to include evaluation of the existing site elements; traffic and parking considerations; topography analysis based on available information; zoning and other legal restrictions; overall site analysis; and future site enhancements.
- 2.4.8.3 Development Plan -- The Consultant shall also compile, analyze and refine information derived from the interviews with the Using Agency and other interested parties and a survey consisting of research and investigation of existing site as well as other similar facilities for incorporation in the design program. The Consultant shall develop from this information a definitive site development program for the building site and related improvements that is compatible with the long-range plans and goals established by the Using Agency. The site development plan shall be arranged in a format agreed to with the Project Manager.
- 2.4.8.4 Deliverables -- The product of the services to be provided under this heading shall include the Consultant's recommendations as to the most functional and feasible Long-Range Development Plan; along with drawings and supporting documents as required to graphically illustrate the uses of the site for future expansion of activities to be administered by the Using Agency. An implementation schedule and a statement of probable costs of the development is to be included as a part of the Long-Range Development Plan documentation.
- 2.5 Schedule I - Basic Design Services
- 2.5.1 Refer to General Services Department A/E Design Standards.
- 2.5.2 Confirmation of Project Requirements: Continuation with this phase of the Professional Services Contract will be contingent on the satisfactory

completion of the Architectural Design Program and authorization to proceed with the design of the facilities as defined in the approved Architectural Design Program.

- 2.5.3 Schematic Design: Essentials of the approved Project requirements document (Architectural Design Program Document) shall be carefully analyzed and be in compliance with regulations and codes studied by the Consultant. Consultant shall prepare and present such schematic design drawings together with general description of the Project, including a summary of circulation including public and City staff on and adjacent to the site, a consideration of all pending and long-range plans, available energy efficiency measures and proposed construction materials, as may be necessary to illustrate possible design solutions to the Project Manager who will arrange for reviews, conferences, and acceptance.
- 2.5.3.1 The Schematic Design submittal shall indicate the area(s) in which construction is proposed, along with the requirements for soils investigations prepared by the structural engineer for the Design Development phase. Consultant shall submit an opinion of probable construction costs based on current unit costs for similar construction.
- 2.5.4 Design Development: The Design Development phase will proceed after written acceptance by the General Services Department A/E Project Manager of the Schematic Design. Consultant will proceed with the Design Development, and prepare plans, elevations, sections and other drawings as required to firmly fix the Project in all its architectural, structural, civil, mechanical, electrical, graphics, landscape and other technical design essentials. Consultant will prepare a site plan indicating general locations and nature of all site improvements, provide an outline specification to establish the basic materials of construction, prepare a summary of the design features including energy measures incorporated in the design and an itemized construction cost estimate to enable the Project Manager to appraise the economic value of the Project design to the City. Consultant shall submit these items in one package to the Project Manager for review and acceptance.
- 2.5.5 Construction Documents: The Construction Documents phase will proceed after written acceptance of the Design Development package by the General Services Department A/E Project Manager. Consultant will proceed with the Construction documents as follows:
- 2.5.5.1 Prepare working drawings and specifications for the construction of the facilities described in the accepted Design Development documents. Consultant shall leave room on all drawings in the bottom right-hand part of each sheet for plan approval stamps.
- 2.5.5.2 Submit these drawings to the Project Manager for review, comment and acceptance when they are about 90% complete.
- 2.5.5.3 Complete detailed working drawings and specifications. All final documents shall be prepared by such methods and be of such quality of workmanship as

will permit the making of satisfactory reproductions for efficient execution of the construction work and for record purposes.

- 2.5.5.4 Stipulate the number and types of material and/or equipment tests as formally approved by the Project Manager.
- 2.5.5.5 Complete a Code Review Analysis, Building Permit Application and Plan Review Record for submission to the City of Tucson Development Services Department, and obtain approvals and permits from all governmental authorities having jurisdiction over the project upon acceptance of the final plans, specifications and supporting documents by the Project Manager. Consultant is obligated to closely monitor and follow-up on the Building Permit application (plans, specifications, and supporting documents) as required to ensure the application does not expire by limitation (UBC Sec. 304 (c)). Consultant shall request an extension of the time for action on the application, if necessary, to comply with the expiration of plan review limitation. Consultant will be responsible for making modifications to the plans, specifications and supporting documents as required to obtain all required building permits.
- 2.5.5.6 Prepare an opinion of the probable construction costs for the base bid and alternates to the base bid when final designs, details, working drawings and specifications are accepted by the City. Submit five (5) signed copies of the final opinion of the probable construction cost to the Project Manager.
- 2.5.6 Evaluation of Budget and Cost of the Work:
 - 2.5.6.1 When the Project requirements have been sufficiently identified, the Consultant shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Consultant shall update and refine the preliminary estimate of the Cost of the Work. The Consultant shall advise the Operations A/E Project Manager of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Consultant's estimate of the Cost of the Work exceeds the Project budget, the Consultant shall make appropriate recommendations to the Project Manager to adjust the Project's size, quality or budget, and the Project Manager and the Using Department shall cooperate with the Consultant in making such adjustments.
 - 2.5.6.2 Evaluations of the Project budget, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Consultant represent the Consultant's judgment as a design professional familiar with the construction industry. It is recognized, however, that the Consultant, the Project Manager and/or the Using Department have no control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions.

- 2.5.6.3 In preparing estimates of the Cost of the Work, the Consultant shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Project budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the City and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.
- 2.5.6.4 If bidding or negotiation has not commenced within 90 days after the Consultant submits the Construction Documents to the General Services Department A/E Project Manager, the budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the construction industry.
- 2.5.6.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the Project Manager and Using Department may:
- .1 give written approval of an increase in the budget for the Cost of the Work; or
 - .2 authorize rebidding or renegotiating of the Project within a reasonable time; or
 - .3 terminate in accordance with contract provisions contained in Standard Terms and Conditions, Section 13; or
 - .4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.
- 2.5.6.6 If the City chooses to proceed under Clause 2.4.6.5.4, the Consultant, without additional compensation, shall modify the documents for which the Consultant is responsible under the Contract as necessary to comply with the budget for the Cost of the Work.
- 2.5.7 The Consultant is required to include the design services for geotechnical engineering.
- 2.5.8 The Consultant is required to obtain written approval for all necessary permits for construction, including, but not limited to, the Federal Stormwater Quality National Pollutant Discharge Elimination System (NPDES), the Environmental Protection Agency (EPA), National Environmental Policy Act (NEPA), Arizona Department of Environmental Quality (ADEQ) (Aquifer Protection Permit), Pima County Department of Environmental Quality (PDEQ) (Air Quality Permit) and Pima County Waste Water Management (Industrial Wastewater Control Permit). Consultant shall prepare Stormwater Pollution Prevention Plans (SWPPP) for construction activities and on-going operational and maintenance activities. Design, construction and operation shall comply with the City's Municipal Stormwater NPDES Permit as issued by the EPA.
- 2.6 Schedule II - Services during Bidding and Construction

- 2.6.1 Consultant agrees to render the following professional services promptly, diligently and in accordance with General Services Department A/E Design Standards upon receipt of written Notice to Proceed with the services in Schedule II herein:
- 2.6.2 Construction Contract Administration: The Construction Contract Administration phase will proceed after receipt of written acceptance by the General Services Department A/E Project Manager of the construction documents. Consultant shall provide administration of the construction contract between the owner and the contractor as set forth below and in the general conditions of the construction contract. Consultant shall:
- 2.6.2.1 Print and distribute contract documents to bidders, issue addenda following approval by General Services Department A/E Division, and review requests for approval of alternative products.
- 2.6.2.2 Assist in obtaining competitive bids and in the analysis and evaluation of the bids or proposals received for the award of a construction contract based upon the plans and specifications completed under this Contract.
- 2.6.2.3 Serve as the Construction Administrator providing day-to-day administration of the Construction Contract; act as the agent of the City to the extent provided in the Construction Contract documents, hereby incorporated by reference; and advise and consult with the General Services Department A/E Project Manager concerning the progress and quality of the work.
- 2.6.2.4 Consultant shall prepare minutes of all meetings attended and supply the Project Manager and Contractor with a typed copy within three working days. (Contractor shall also maintain and distribute minutes of all meetings.)
- 2.6.2.5 Consultant shall provide advice and consultation on the interpretation of the plans and specifications and in response to any questions which may arise before and during the course of construction and until 60 days after the Project receives final acceptance by the City.
- 2.6.2.6 Consultant shall review all shop drawings, working drawings, sketches, product details, samples, etc., submitted by Construction Contractor(s) or suppliers of material and equipment for conformance with Project design and compliance with the construction documents. Consultant shall maintain a record of, and copies of, submittals supplied by the contractor and will provide one copy to the Project Manager at completion of the Project.
- 2.6.2.7 Consultant shall prepare such supplemental drawings and Change Orders with supporting documentation and data as deemed necessary for the City's approval and execution. Consultant shall not authorize the Construction Contractor(s) to proceed with any change in the Project without a written, fully executed Change Order. Consultant may authorize minor changes in the work which involve neither additional costs nor extensions of time and which are not inconsistent with the intent of the Construction Documents but are rather an interpretation, correction for field conditions, or clarifications.

- 2.6.2.8 Consultant shall be responsible for the completeness and accuracy of all services rendered under this Contract and correct all errors of omission or commission on the drawings, specifications and other documents notwithstanding prior acceptance by the City.
- 2.6.2.9 Consultant shall assist in preparation of completion reports including Certificate of Substantial Completion, punch list and record (as-built) drawings, administer all Requests for Information and preparation of Change Orders, Consent of Surety, and evaluate the Construction Contractor's payment requests.
- 2.6.2.10 Consultant shall coordinate owner training in equipment and facility operation.
- 2.7.3 Field Administration:
- 2.7.3.1 Field administration shall be furnished by the Consultant and Sub-Consultants for the construction of the Project, until sixty days after final acceptance by the City. Consultant shall make not less than weekly periodic visits to the site so as to be thoroughly familiar with the progress and with the quality of the Work and to determine whether, in Consultant's opinion, all phases of the Work conform with the Construction Documents and the most recently revised and approved operational schedule. Sub-Consultants shall make periodic visits to the site to thoroughly familiarize themselves with the progress and with the quality of the Work and to determine whether, in their opinion, all phases of the Work conform with the Construction Documents and the most recently revised and approved operational schedule. On the basis of the Consultant's on-site observations as an architect/engineer, Consultant shall immediately inform the City of defects and deficiencies observed in the executed work of the Construction Contractor.
- 2.7.3.2 Consultant shall make such on-site observations which are commensurate with the progress of the Project.
- 2.7.3.3 Consultant shall schedule and conduct weekly meetings to discuss construction progress and construction administration issues, verify work schedules and notify the Project Manager of any possible problems and/or conflicts. Consultant shall prepare and distribute meeting minutes and weekly progress reports in an approved form showing the progress of the construction work, outlining any miscellaneous items and site issues that happened throughout the week, reporting the justifications for deviations from the current, approved operational schedules, if any, and the estimated progress during the next reporting period.
- 2.7.3.4 Consultant shall conduct any additional meetings and/or site visits as required to deal with critical issues throughout construction that may affect the project.
- 2.7.3.5 Consultant is required, on a weekly basis, to review the Contractor's as-built set of drawings, verify they are current, report discrepancies to the City and help resolve any discrepancies.

- 2.7.3.6 Consultant shall maintain a diary recording observations of the activities related to the Project including weather conditions, nature and location of work being performed, equipment on site, trades on site, materials stored on site, problems encountered, work accomplished, and verbal instructions and interpretations given to the Construction Contractor. The diary shall be available for review by the Project Manager and will be provided to the Project Manager upon completion of construction. Consultant shall photograph any possible problems and/or conflicts and maintain an on-going, 3-ring binder of the photographs labeled with dates, who the problem/conflict was discussed with, and what the problem or issue is.
- 2.7.3.7 Consultant shall submit, when their phase of the Work is in progress, weekly progress reports for the civil, structural, mechanical, electrical, landscape, irrigation and other special phases of the construction signed by the professional(s) responsible for the design of these elements. Consultant shall furnish signed copies of each weekly and periodic progress report to the Project Manager promptly.
- 2.7.3.8 Consultant shall prepare and maintain a log and copy of all final, approved Submittals, Requests for Information, Change Orders, Proposal Requests and Supplemental Instructions, testing and inspections, and pay applications; and shall assemble (from the Contractor) maintenance agreements for the warranty period, review for completeness, and provide to the City. Consultant shall also provide to the City copies of all final, approved submittals.
- 2.7.4 Materials And Equipment Testing: General Services Department A/E Division will provide an independent testing agency to make investigations and tests which have been previously authorized by the Project Manager to safeguard compliance with the contract documents. Consultant shall prepare and maintain a project testing log and will immediately report by fax or email all non-conformities of materials, equipment and workmanship to the Project Manager, again within three (3) days after the observation and then after the correction is made. Consultant shall monitor the testing and initial operation of mechanical and electrical equipment, report marginal or doubtful areas of conformance with the contract documents, in writing, to the Project Manager and furnish all professional services in support of proper operation. Consultant shall also review, approve and forward to the City, all pay applications from the testing agency.
- 2.7.5 Payments For Construction: Consultant shall review requests by the Construction Contractor for partial and final payments for all phases of construction, issue certification for payment and maintain a record of Contractor payment applications.
- 2.7.6 Certificate Of Substantial Completion: Consultant shall prepare the Certificate of Substantial Completion, punch list report and a recommendation for acceptance of the Project.

2.7.7 **Duration Of Construction Contract Administration Services:** The Consultant shall provide basic Construction Contract Administration services until sixty days after final acceptance by the City. Consultant shall provide services as required to meet final Completion and shall coordinate permanent utility hook-up. Consultant shall conduct a warranty review of the project just prior to the end of the warranty period as provided in the construction contract.

2.8 Additional Services

2.8.1 Consultant may be requested to include the following services:

2.8.2 **Furnishings:** Refer to General Services Department A/E Design Standards.

2.8.3 **Graphics:** This service shall include the design, drawings, specifications, cost estimates and direction of the placement of the exterior graphics required for the Project. Graphics design shall cover exterior treatment as required to ensure the proper functioning of the facilities developed under this contract. Vandalism of the graphics employed on City projects has been a continuing problem. Special consideration in the design of the project graphics is to be directed toward signing that will discourage vandalism. All graphics shall comply with ADA requirements. These graphics shall include, but not be limited to:

- .1 Monument signs at entrance to property
- .2 Site directional signs
- .3 Building identification signs
- .4 Building address numbers
- .5 Hazardous Material signs
- .6 Building identification numbers
- .7 Interior lobby directories
- .8 Room names

2.8.4 **Hydrology Report:** An allowance is made for the Consultant to obtain detailed engineering design services to include the preparation of definitive Site Drainage Analyses and Retention Reports with Civil Engineering Design in accordance with the requirements of the City of Tucson Floodplain Ordinance. This comprehensive hydrologic/hydraulic analysis and design shall address existing drainage conditions affecting the site in the 2, 10, and 100 year return events.

2.8.4.1 The findings and results of the hydrologic/hydraulic analysis and design shall be detailed in a comprehensive report for approval by the City Engineering Department. Resulting detailed design plans shall be included as part of this task and shall be coordinated with other project disciplines and functions. The detailed engineering design services shall provide for the design, construction documents, services during construction, and a warranty review as required for the site engineering portion of the project. In this connection the Consultant shall coordinate the services of others in their preparation of a detailed survey of existing Site conditions.

2.8.5 Storm Drainage System Design: The Consultant is to provide the detailed engineering design services for the integration of the Storm Drainage System into the existing system in accordance with the requirements of the City of Tucson Floodplain Ordinance, the National Pollutant Discharge Elimination System (NPDES) requirements, and Pima County Wastewater Management Standards.

2.8.5.1 The Consultant shall provide a site drainage and storm drain analysis for the selected facility improvements identified in the Architectural Design Program Document. The Storm Drainage System Analysis shall address measures to minimize pollutants in the stormwater runoff generated at the facility. These measures shall include, to the maximum extent practicable, practices typical of modern industry standards including: secondary containment of bulk liquids, directing flows away from material storage and waste disposal areas, spill control staging areas, and other practices designed to prevent stormwater pollution during facility operation. The findings and results of the Storm Drainage System analysis and design shall be detailed in a comprehensive report for approval by the City and the County coordinated with other project disciplines and functions.

2.8.5.2 Resulting detailed design plans shall be included as part of this task and shall be coordinated with other project disciplines and functions. The detailed engineering design services shall provide for the following:

- .1 Design,
- .2 Construction Documents including all plans and documents necessary to meet the requirements of the NPDES Stormwater Permit for Construction Sites that disturb more than 5 acres,
- .3 Services During Construction,
- .4 and a Warranty Review as required for the site engineering portion of the project.

In this connection the Consultant shall coordinate the services of others in their preparation of a detailed survey of existing Site conditions.

2.8.6 Development Plan, if required

2.8.7 Community Development Review Committee (CDRC) review, if required

2.8.8 Registered Communications Distribution Designer (RCDD): Design and locate the communications distribution to the building(s).

2.8.9 Quantity Take-Off Cost Estimates: Shall be prepared and provided to the City in conformance with Architecture & Engineering Division's Building Design and Maintenance Standards.

2.8.10 Warranty Review: Conduct a warranty review of the project just prior to the expiration of the warranty period provided in the construction contract.

- 2.8.11 Public Art: The City may choose to include Public Art in the Project, and the Consultant will be asked to participate in the selection process.
- 2.9 Reimbursable Expenses
- 2.9.1 Aerial Topographic And Property Survey: An allowance is made for the Consultant to obtain all aerial and ground survey work necessary to establish horizontal and vertical controls including the existing utilities, existing construction, restrictions, easements and other rights affecting the property. The survey and mapping shall extend a sufficient distance beyond the Project boundaries for all design purposes. The survey shall include benchmark(s) on City datum in the vicinity of the proposed construction. The horizontal controls shall be tied to the City of Tucson monumentation system.
- 2.9.2 Presentation Media: The Consultant shall provide presentation media of the subject facilities to convey the proposed design for the Project. The presentation media shall be of a size and scale agreed to between the Consultant and the Project Manager, and the completed presentation media shall be subject to the approval of the Project Manager. The allowance for presentation media shall include funds for providing photographs of the final product.
- 2.9.3 Printing: An allowance will be provided for the reproduction of copies of the Architectural Design Program, Schematic Documents, and Design Documents; of copies of the final Construction Documents; and one set of the mylar transparent copies of the final record ("as-built") drawings and electronic media as required in the General Services Department A/E AutoCAD Standards.
- 2.9.4 Travel Costs And Expenses: An allowance will be provided for expenditures made by the Consultant or his employees in the interest of the Project for transportation and living when traveling out of Tucson in connection with the Project and for long distance calls and overnight mailings. All such travel shall be at the City's established per diem rates and shall have the prior approval of the Project Manager.
- 2.9.5 Public Meetings: Consultant shall participate with the City, and be available for, public meetings dealing with this Project that may require presentation of the proposed facility design and its potential impact on the surrounding area.
- 2.9.6 Internet On-line Project Hub: Consultant may be required to retain the services of a company providing Internet service that can post the Consultant's contract documents online for retrieval at all times by the Sub-Consultants, Project Manager, and selected individuals associated with the project. The Consultant shall post the revised documentation on a basis consistent with the progress of the work.

ARTICLE 3: CITY-FURNISHED SUPPORT SERVICES

3.1 General

3.1.1 For purposes of aiding the Consultant in the performance of the obligations under this Contract, the City shall furnish the Consultant, upon request, all relevant data in the City's possession and shall direct City officers, agents, and employees to render all reasonable assistance to the Consultant in connection with the Consultant's performance under this Contract. The provision of such aid, assistance, information or services as the Consultant receives from the City shall in no way relieve the Consultant from obligations under this Contract including any obligation to screen information, which the Consultant incorporates into the design.

3.2 Support Services

3.2.1 The City will:

- .1 Assign a Project Manager who shall be the representative of the General Services Department A/E Division and the staff person responsible for the day-to-day coordination and administration of all matters pertaining to Consultant's fulfillment of the terms of this Contract.
- .2 Compensate The Consultant in accordance with the terms and schedules as described in **ARTICLE FOUR**.
- .3 Provide basic design criteria and scope of services required for each Project in sufficient detail to enable the Consultant to provide a not-to-exceed proposal within the required timeframe for provision of the requested services.
- .4 Provide upon the Consultant's request available information pertinent to the Project. It must be noted that the present information on file may be outdated and may lack accuracy. This information (including as-built drawings) will require the Consultant's field verification to ensure reliability.
- .5 Provide reasonable access to and make all provisions for Consultant's entry to public and private property as the Consultant requires to perform services.
- .6 Review, comment on, and provide final acceptance of all studies, reports, sketches, drawings, specifications, proposals and other documents Consultant presents, within a mutually agreed upon time, so as not to delay Consultant's services. Such reviews, comments, and acceptances by the City shall not be deemed to be for review of the technical accuracy of the Consultant's work which responsibility shall be the Consultant's under this Contract but shall be for monitoring progress, clarifying User Agency questions, certifying payments, determining that Consultant's work complies with the overall Project requirements, and meets an acceptable standard of care.

- .7 Provide personnel knowledgeable with regard to existing site and systems to accompany The Consultant during orientation and data collection tasks as necessary and by mutual agreement.
- .8 Conduct a Consultant Performance Evaluation at the completion of each Project. These evaluations will be utilized by the City in determining the feasibility of contract extension as provided for herein.
- .9 Materials Testing: The City will provide for materials testing to include provisions for the soils and construction materials testing services required during construction of the Project.
- .10 Bear all costs incident to City's compliance with the requirements of this Article.

ARTICLE 4: FINANCIAL CONSIDERATION

4.1 Compensation and Method of Payment

- 4.1.1 For performance of the services described in **ARTICLE 2**, the City shall pay the Consultant based on the negotiated hourly billing rates which include overhead, profit and all other costs associated with performing services under this Contract. The Consultant's negotiated billing rates will be used by the Consultant in developing the "not-to exceed" proposal amounts for each Project submitted for approval to the Project Manager. Consultant shall not commence any work until the proposal is approved and a Notice to Proceed is issued.
- 4.1.2 Consultant's proposal shall include all necessary consultant services for the performance of each Project, to include, as applicable: programming, site development, basic design services, services during bidding and construction, additional services and reimbursable expenses.
- 4.1.3 Progress payments will be made consistent with City procedures and in compliance with General Services Department A/E procedures. The Consultant shall prepare Pay Requests for the amount representing the actual value of the services rendered and submit these forms to the Project Manager for approval and processing.
- 4.1.3.1 **Schedule I - Basic Design Services**: Progress payments will be made consistent with the percent of work complete for each payment period. Final payment for Schedule I services may be made when the construction contract is awarded.
- 4.1.3.2 **Schedule II - Services During Bidding and Construction**: The Consultant shall prepare Pay Requests for submittal to the Project Manager for professional services rendered as of the first day of each calendar month in terms of the estimated percentage of construction completed by the Construction Contractor at the time of Consultant's billing. Final payment may be made when the construction contract is declared satisfactorily accomplished, mylar

and electronic as-builts have been forwarded to and approved by the City, and copies of all final, approved submittals have been forwarded to the City.

- 4.1.3.3 **Additional Services:** The City shall pay the Consultant only the authorized amounts for the complete performance of each of the required additional services.
- 4.1.3.4 **Reimbursable Expenses (which are all not-to-exceed allowances):** Pay Requests shall be submitted with documentation of incurred expenses for reimbursement as approved expenses are incurred but not to exceed the amount agreed upon by the Consultant and the City.

CITY OF TUCSON DEPARTMENT OF PROCUREMENT



DESIGN & CONSTRUCTION CONTRACTING DIVISION

**DESIGN, CONSTRUCTION & SERVICES
CONTRACTING DIVISION**

**CONTRACT 090088
On-Call Professional Architectural Services**

EXHIBIT 3 – HUD FORM 51915

**U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing**

OMB Approval No. 2577-0015(exp.09/30/2005)

On-Call Architect Services

City of Tucson

Contract Number 090088

Previous editions are obsolete

form HUD-51915 (9/98)
ref. Handbooks 7417.1, 7450.1 & 7460.8

**Between City and
Design Professional**
U. S. Department of Housing
and Urban Development

Office of Public and Indian Housing
Model Form of Agreement

OMB Approval No. 2577-0015 (exp. 7/31/98)

Public reporting burden for this collection of information is estimated to average 0.26 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0015), Washington, D.C. 20503. Do not send this completed form to either of the above addressees

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Introduction to Agreement

Agreement made as of the _____ day of _____ in the year of _____.

Between the City (Name & Address)

City of Tucson
P.O.Box 27210
Tucson, AZ 85726-7210

and the Design Professional (Name, Address and Discipline)

-
-
-

For the following Project (include detailed description of Project, Location, Address, Scope and Program Designation)

City and Design Professional agree as set fourth below.

Article A: Services

A. 1.0 Design Professionals' Basic Services

1.1 Areas of Professional's Basic Services. Unless revised in a written addendum or amendment to this Agreement, in planning, designing and administering construction or rehabilitation of the Project, the Design Professional shall provide the City with professional services in the following areas:

- Architectural
- Site Planning
- Structural Engineering
- Mechanical Engineering
- Civil Engineering
- Landscape Architecture
- Cost Estimating
- Construction Contract Administration

A. 1.2 Phases and Descriptions of Basic Services.

A.1.2.1 Schematic Design/Preliminary Study Phase. After receipt of a Notice to Proceed from the City, the Design Professional shall prepare and deliver Schematic Design/Preliminary Study Documents. These documents shall consist of presentation of the complete concept of the Project, including all major elements of the buildings(s), and site design(s), planned to promote economy both in construction and in administration and to comply with current program and cost limitations. The Design Professional shall revise these documents consistent with the requirements and criteria established by the City to secure the City's written approval. Additionally, the Design Professional shall make an independent assessment of the accuracy of the information provided by the City concerning existing conditions. Documents in this phase shall include:

- Site plan(s)
- Schedule of building types, unit distribution and bedroom count
- Scale plan of all buildings, and typical dwelling units
- Wall Sections and elevations
- Outline specifications
- Preliminary construction cost estimates
- Project specific analysis of codes, ordinances and regulations.
- Three dimensional line drawings

A. 1.2.2 Design Development Phase. After receipt of written approval of Schematic Design/Preliminary Study Documents, the Design Professional shall prepare and submit to the City Design Development Documents. The Design Professional shall revise these documents consistent with the requirements and criteria established by the City to secure the City's written approval. These documents shall include the following:

- Drawings sufficient to fix and illustrate project scope and character in all essential design elements
- Outline specifications

- Cost estimates and analysis
- Recommendations for phasing of construction
- Site plan(s)
- Landscape Plans
- Floor Plans
- Elevations, building and wall sections
- Updated three dimensional line drawings
- Engineering drawings

A. 1.2.3 Bidding, Construction and Contract Document Phase. After receipt of the City's written approval of Design Development Documents, the Design Professional shall prepare Construction documents. After consultation with the City and City's attorney, if requested by the City, the Design Professional shall also prepare and assemble all bidding and contract documents. The Design Professional shall revise these Bidding, Construction and Contract Documents consistent with the requirements and criteria established by the City to secure the City's written approval. They shall include, in a detailed manner, all work to be performed; all material; workmanship; finishes and equipment required for the architectural, structural, mechanical, electrical and site work; survey maps furnished by City; and direct reproduction of any logs and subsurface soil investigations. These documents shall include:

- Solicitation for Bids
- Form of Contract
- Special Conditions
- General Conditions
- Technical Specifications
- Plans and drawings
- Updated cost estimates

A. 1.2.4 Bidding and Award Phase. After written approval of Bidding, Construction and Contract Documents from the City, the Design Professional shall assist in administering the bidding and award of the Construction Contract. This shall include:

- Responding to inquiries
- Drafting and issuing addendum approved by City
- Attending prebid conference(s)
- Attending public bid openings
- Reviewing and tabulating bids
- Recommending list of eligible bids
- Recommending award
- Altering Drawings and specifications as often as required to award within the Estimated construction Contract Cost

A. 1.2.5 Construction Phase. After execution of the Construction Contract, the Design Professional shall in a prompt and timely manner administer the Construction Contract and all work required by the Bidding, Construction and Contract Documents. The Design Professional shall endeavor to protect the City against

defects and deficiencies in the execution and performance of the work. The Design Professional Shall:

- Administer the Construction Contract.
- Conduct a pre-construction conference and attend dispute resolution conferences and other meetings when requested by the City.
- Review and approve contractor's shop drawings and other submittals for conformance to the requirements of the contract documents.
- At the City's written request, and as Additional Service, procure testing from qualified parties.
- Monitor the quality and progress of the work and furnish a written field report based upon the individual demands of each individual project, and at the frequency agreed upon during the negotiation process for each individual project. This service shall be limited to a period amounting to 110% of the construction period as originally established under the construction contract unless construction has been delayed due to the Design professionals' failure to properly perform its duties and responsibilities. The City may direct additional monitoring but only as Additional Services.
- Require any sub-consultant to provide the services listed in this section where and as applicable and to visit the Project during the time that construction is occurring on the portion of the work related to its discipline and report in writing to the Design Professional.
- Review, approve and submit to the City the Contractor Requests for Payment.
- Conduct all job meetings and record action in a set of minutes which are to be provided to the City.
- Make modifications to Construction Contract Documents to correct errors, clarify intent or to accommodate change orders.
- Make recommendations to City for solutions to special problems or changes necessitated by conditions encountered in the course of construction.
- Promptly notify City in writing of any defects or deficiencies in the work or of any matter of dispute with the Contractor.
- Negotiate, prepare costs or price analysis for and countersign change orders.
- Prepare written punch list, certificates of completion and other necessary construction close out documents.
- Prepare a set of reproducible record prints of Drawings showing significant changes in the work made during construction, including the locations of underground utilities and appurtenances referenced to permanent surface improvements, based on marked-up prints, drawings and other data furnished by the contractor to the Design Professional.

A. 1.2.6 Post Completion/Warranty Phase. After execution of the Certificate of Completion by the City, the Design Professional shall:

- Consult with and make recommendations to City during warranties regarding construction, and equipment warranties.
- Perform an inspection of construction work, material systems and equipment no earlier than nine months and no later than ten months after completion of the construction contract and make a written report to the City. At the City's request, and by Amendment to the Additional Services section of this contract, conduct additional warranty inspections as Additional Services.
- Advise and assist City in construction matters for a period up to eighteen months after completion of the project, but such assistance is not to exceed forty hours of service and one nonwarranty trip away from the place of business of the Design Professional.

A. 1.3 Time of Performance. The Design Professional's schedule for preparing, delivering and obtaining City's approval for Basic Services will vary based on the demands of each individual project and shall be determined prior to issuance of and stated in the Notice to Proceed.

A. 2.0 Design Professional's Additional Services.

A. 2.1 Description of Additional Services. Additional Services are all those services provided by the Design Professional on the Project for the City that are not defined as Basic Services in Article A, Section 1.2 or otherwise required to be performed by the Design Professional under this Agreement. They include major revisions in the scope of work of previously approved drawings, specifications and other documents due to causes beyond the control of the Design Professional and not due to any errors, omissions, or failures on the part of the Design Professional to carry out obligations otherwise set out in the Agreement.

A. 2.2 Written Addendum or Contract Amendment. All additional services not already expressly required by this agreement shall be agreed to through either a written addendum or amendment to this Agreement.

Article B: Compensation and payment

B. 1.0 Basic Services.

B. 1.1 Negotiated Fee for Basic Services. The City will pay the Design Professional a Negotiated Fee for each individual project plus Reimbursable Expenses identified in Article B. 2.0. The Notice To Proceed for each project shall state the Negotiated Fee for that project and the basic services to be provided. The Negotiated Fee shall be established by multiplying the number of hours required per Staff Category to complete each individual project (as mutually agreed upon by the Design Professional and the City during the negotiation phase) by the Dollar per hour rates as listed in Exhibit A. This information shall be compiled in a Fee Estimate Summary and included in the Notice to Proceed.

B. 1.2 Payment Schedule. Progress payments for Basic Services for each phase of work shall be made in proportion to services

form HUD-51915 (9/98)

performed. Each phase of work and its scheduled value shall be listed in the Notice To Proceed

2.0 Reimbursables

B. 2.1 Reimbursable Expenses. The City will pay the Design Professional for the Reimbursable Expenses listed below up to a Maximum Amount dependent upon the scope of work for each individual project as determined during the Negotiated Fee process. Reimbursable Expenses are in addition to the Negotiated Fee for Basic Services and are for certain actual expenses incurred by the Design Professional in connection with the Project as enumerated below.

B. 2.1.1 Travel Costs. The Reasonable expense of travel costs incurred by the Design Professional when requested by City to travel to a location that lies outside of a 45 mile radius of either the Project site, Design Professional's office (s), and City's office.

B. 2.1.2 Long Distance Telephone Costs. Long distance telephone calls and long distance telefax costs.

B. 2.1.3 Delivery Costs. Courier services and overnight delivery costs.

B. 2.1.4 Reproduction Costs. Reproduction and postage costs of required drawings, specifications, Bidding and Contract documents, excluding the cost of reproductions for the Design Professional or Subcontractor's own use.

B. 2.1.5 Additional Reimbursables. The Design Professional and City may agree in an addendum or amendment to this Agreement include certain other expenses not enumerated above as Reimbursable Expense. These Reimbursables shall not be limited by the Maximum Amount agree to above. A separate maximum Amount for these Reimbursables shall be established.

B. 3.0 Additional Services.

B. 3.1 Payment for Additional Services. The City will pay the Design Professional only for Additional Services agreed to in an addendum or amendment to this Agreement executed by the City and the Design Professional pursuant to A.2. Payment for all such Additional Services shall be in an amount and upon the terms set out in such amendment or addendum and agreed upon by the parties. Each such amendment or addendum shall provide for a fixed price or, where payment for such Additional Services is to be on an hourly basis or other unit pricing method, for a maximum amount; each such amendment or addendum shall also provide for a method of payment, including, at a minimum, whether payment will be made in partial payments or in lump sum and whether it will be based upon percentage of completion or services billed for.

B. 4.0 Invoicing and Payments

B. 4.1 Invoices. All payments shall require a written invoice from the Design Professional. Invoices shall be made no more frequently than on a monthly basis. Payments for Basic Services shall be in proportion to services completed within each phase of work. When requesting such payment, the invoice shall identify phase and the portion completed. All invoices shall state the Agreement, name and address to which payment shall be made, the services completed and the dates of completion, and whether the invoice requests payment for Basic Services, Reimbursable Expenses or Additional Services. Invoices seeking payment for

Reimbursable Expenses or Additional Services must provide detailed documentation.

B. 4.2 Time of Payment. Upon the Design Professional's proper submission of invoices for work performed or Reimbursable Expenses the City shall review and, if the work is in conformance with the terms of the Agreement, make payment within thirty days of the City's receipt of the invoice.

Article C: Responsibilities

C. 1.0 Design Professional's Responsibilities

C. 1.1 Basic Services. The Design Professionals shall provide the Basic Service set out in Article A.1.0.

C. 1.2 Additional Services. When required under this Agreement or agreed to as set out in A.2.0, the Design Professional shall provide Additional Services on the Project.

C. 1.3 General Responsibilities. The Design Professional shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other services, furnished by the Design Professional under this Agreement. The City's review, approval, acceptance of, or payment for Design Professional services shall not be construed as a waiver of any right under this Agreement or of any cause of action for damages caused by Design Professional's negligent performance under this Agreement. Furthermore, this Agreement does not restrict or limit any rights or remedies otherwise afforded the City or Design Professional by law.

C. 1.4 Designing Within Funding Limitations. The Design Professional shall perform services required under this Contract in such a manner so as to cause an award of a Construction Contract(s) that does not exceed an amount to be provided by the City in writing to the Design Professional prior to the commencement of Design Professional services. This fixed limit shall be called the Maximum Construction Contract Cost. The amount may be increased by the City, but only with written notice to the Design Professional. If the increase results in a change to the scope of work, an amendment to this Agreement will be required. The Design Professional and the City may mutually agree to decrease the Maximum Construction Contract Cost, but only by signing a written amendment to this Agreement. Should bids for the Construction Contract(s) exceed the Maximum Construction Contract Cost, the City has the right to require the Design Professional to perform redesigns, rebids and other services necessary to cause an award of the Construction Contract within the Maximum Construction Contract Cost without additional compensation or reimbursement.

C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations. The Design Professional shall perform services that conform to all applicable Federal, State and local laws, codes, ordinances and regulations except as modified by any waivers which may be obtained with the approval of the City. The Design Professional shall certify that Contract Documents with conform to all applicable laws, codes, ordinances and regulations. The Design Professional shall prepare all construction documents required for approval by all governmental agencies having jurisdiction over the project. The Design Professional shall make all changes in the Bidding and Construction Documents necessary

to obtain governmental approval without additional compensation or reimbursement, except in the following situations. If subsequent to the date the City issues a notice to proceed, revisions are made to applicable codes or non-federal regulations, the Design Professional shall be entitled to additional compensation and reimbursements for any additional cost resulting from such changes. The Design Professional, however, is obligated to notify the City of all significant code or regulatory changes within sixty(60) days of their change, and such notification shall be required in order for the Design Professional to be entitled to any additional compensation or reimbursement.

C. 1.6 Seal. Licensed Design Professionals shall affix their seals and signatures to drawings and specifications produced under this Agreement when required by law or when the project is located on an Indian Reservation.

C. 1.7 Attendance at Conferences. The Design Professional or designated representative shall attend project conferences and meetings involving matters related to basic services covered under this contract. Attendance at community wide meetings shall be considered an additional service.

C. 2.0 City's responsibilities.

C. 2.1 Information. The City shall provide information regarding requirements for the project, including a program that shall set forth the City's objectives and schedule. The City shall also establish and update the Maximum Construction Cost. This shall include the City's giving notice of work to be performed by the City or others and not included in the Construction Contract for Project. The Design Professional, however, shall be responsible to ascertain and know federal requirements and limitations placed on the Project.

C. 2.2 Notice of Defects. If the City observes or otherwise becomes aware of any fault or defect in the construction of the project or nonconformance with the Construction Contract, the City shall give prompt written notice of those faults, defects or nonconformance to the Design Professional.

C. 2.3 Contract Officer. The City shall designate a Contract Officer authorized to act on its behalf with respect to the design and construction of the Project. The Contract Officer shall examine documents submitted by the Design Professional and shall promptly render decisions pertaining to those documents so as to avoid unreasonably delaying the progress of the Design Professional's work.

C. 2.4 Duties to Furnish. The city shall provide the Design Professional the items listed below.

C. 2.4.1 Survey and Property Restrictions. The City shall furnish topographic, property line and utility information as and where required. The City may at its election require the Design Professional to furnish any of these items as an Additional Service.

C. 2.4.2 Existing Conditions. The City shall provide the Design Professional any available "as built" drawings of buildings or properties, architect surveys, test reports, and any other written information that it may have in its possession and that it might reasonably assume affects the work.

C. 2.4.3 Waivers. The City shall provide the Design Professional information it may have obtained on any waivers of local codes, ordinances, or regulations or standards affecting the design of the Project.

C. 2.4.4 Minimum Wage Rates. The City shall furnish the Design Professional the schedule of minimum wage rates approved by the U.S. Secretary of Labor for inclusion in the solicitation and Contract Documents.

C. 2.4.5 Tests. When expressly agreed to in writing by both the City and the Design Professional, the City shall furnish the Design Professional all necessary structural, mechanical, chemical or other laboratory test, inspections and reports required for the Project.

C. 2.4.6 Contract Terms. The City or its legal counsel may provide the Design Professional text to be incorporated into Bidding and Construction Contract Documents.

Article D: Contract Administration

D. 1.0 Prohibition of Assignment. The Design Professional shall not assign, subcontract, or transfer any services, obligations, or interest in this Agreement without the prior written consent of the City. Such consent shall not unreasonably be withheld when such assignment is for financing the Design Professional's performance.

D. 1.1 Ownership of Documents. All drawings, specifications, studies and other materials prepared under this contract shall be the property of the City and at the termination or completion of the Design Professional's services shall be promptly delivered to the City. In addition to hard copy, the Design Professional shall supply drawings on floppy disks to the City in Auto Desk Inc's AutoCAD computer software Release 2000.

The Design Professional shall have no claim for further employment or additional compensation as a result of exercise by the City of its full rights of Ownership. It is understood, however, that the Design Professional does not represent such data to be suitable for re-use on any other project or for any other purpose. If the City re-uses the subject data without the Design Professional's written verification, such re-use will be at the sole risk of the City without liability to the Design Professional.

D. 1.2 Substitutions.

A. The Design Professional shall identify in Exhibit A principals and professional level employees and shall not substitute or replace principals or professional level employees without the prior approval of the City which shall not unreasonably be withheld.

B. The Design Professional's personnel identified in Exhibit A are considered to be essential to the work effort. Prior to diverting or substituting any of the specified individuals, the Design Professional shall notify the City reasonably in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the contract. No diversion or substitution of such key personnel shall be made by the Design Professional without the prior written consent of the City.

D. 1.3 Suspension. The City may give written notice to the Design Professional to suspend work on the project or any part thereof. The City shall not be obligated to consider a claim for additional compensation if the Design Professional is given written notice to resume work within 120 calendar days. If notice to resume work is not given within 120 calendar days, the Design Professional shall be entitled to an equitable adjustment in compensation.

D. 1.4 Subcontracts. The Design Professional will cause all applicable provisions of this Agreement to be inserted in all its subcontracts.

D. 1.5 Disputes. In the event of a dispute arising under this Agreement, the Design Professional shall notify the City promptly in writing and submit its claim in a timely manner. The City shall respond to the claim in writing in a timely manner. The parties shall endeavor to settle disputes by mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. The Design Professional shall proceed with its work hereunder in compliance with the instructions of the City, but such compliance shall not be a waiver of the Design Professional's rights to make such a claim. Any dispute not resolved by this procedure may be determined by a court of competent jurisdiction or by consent of the City and Design Professional by other dispute resolution methods.

D. 1.6 Termination. The City may terminate this Agreement for the City's convenience or for failure of the Design Professional to fulfill contract obligations. The City shall terminate by delivering the Design Professional a Notice of Termination specifying the reason therefore and the effective date of termination. Upon receipt of such notice, the Design Professional shall immediately discontinue all services affected and deliver to the City all information, reports, papers, and other materials accumulated or generated in performing this contract whether completed or in process. If the termination is for convenience of the City, the City shall be liable only for payment for accepted services rendered before the effective date of termination.

D. 1.17 Insurance. The Design Professional shall carry Commercial or Comprehensive General Liability Insurance, Professional Liability Insurance (for a period extending two years past the date of completion of construction), and other insurance as are required by law, all in minimum amounts as set forth below. The Design Professional shall furnish the City Certificates of insurance and those shall state that a thirty day written notice of prior cancellation, change, termination or expiration will be provided to the City. The Comprehensive General Liability Insurance policy will include the City as an additional insured with respect to liability arising out of performance of this contract. The Design Professional agrees that the insurance required hereunder will be primary and that any insurance carried by the City will be excess and not contributing. Provide and maintain minimum insurance as follows:

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Workman's Compensation	Statute
Employer's Liability	\$100,000
Comprehensive General	\$1,000,000 - Bodily injury

Liability Insurance
(including: blanket
contractual and premises/
operations)

Combined Single Limit
\$1,000,00 Property Damage

Professional Liability Insurance \$1,000,000 (minimum)
combined single limit

D. 1.8 Retention of Rights. Neither the City's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Design Professional shall be and remain liable to the City in accordance with the applicable law for all damages to the City caused by the Design Professional's negligent performance of any of the services furnished under this contract.

Article E: Additional Requirements

E. 1.0 Contract Provisions Required by Federal Law or City Contract with the U.S. Department of Housing and Urban Development (HUD).

E. 1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the City shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the contract pricing provisions of 24 CFR 85.36 (f).

E. 1.2 Additional Services. The City shall perform a cost or price analysis as required by 24 CFR 85.36 (f) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the City to perform the required cost or price analysis.

E. 1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the City and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

E. 1.4 Design Certification. Where the City is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235, 905.260 and 905.639), the Design Professional shall provide such a certification to the City.

E. 1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the City, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the City or Design Professional and other subgrantees make final payments and all other pending matters are closed.

E. 1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions

to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

E. 1.7 Conflicts of interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the City and HUD, no employee, officer, or agent of the City (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

- (i) The employee, office or agent.
- (ii) Any member of his or her immediate family.
- (iii) His or her partner, or

(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the City nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the City, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the City was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the City, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interests immediately disclosed to the City and such disclosure is entered upon the minutes of the City, the City, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, that any such present member, officer, or employee of the City shall not participate in any action by the City relating to such contract, subcontract, or arrangement.

No member, officer, or employee of the City, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the City was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with

respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

E. 1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provides for such sanctions and penalties as may be appropriate.

E. 1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of \$10,000 or less, has requirements regarding termination by the City when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

E. 1.10 Interest of Members of Congress. Because of Contract agreement between the City and HUD, no member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of the Contract or to any benefit to arise from it.

E. 1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered Federal actions: the awarding of any federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

E. 1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a

notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 5 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

E. 1.13 Clean Air and Water. (Applicable to contracts in excess of \$100,000). Because of 24 CFR 85.36(i)(12) and Federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857h-4 transferred to 42 U.S.C. 7607, section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of \$100,000.

E. 1.14 Energy Efficiency. Pursuant to Federal regulations (24 CFR 85.36(i)(13)) and Federal law, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L.94-163 codified at 42 U.S.C.A. 6321 et. seq.).

E. 1.15 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

E. 1.16 Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the City's property. This prohibition shall be placed in all design professional subcontracts.

Article F: Other City Requirements

F1.0 Indemnification. Consultant shall indemnify, defend, and hold harmless the City, its Mayor and Council, appointed boards and commissions, officials, officers, and employees and insurance carriers, individually and collectively from any and all claims, demands, suits, actions, proceedings, loss, cost, subrogation's, and damages of every kind and description, attorney's fees and/or actions of any kind, which may be brought or made against or of any person, resulting from personal injury to any person (including bodily injury and death) or damages to any property, arising or alleged to have arisen out of either: (1) the Consultant's negligent performance of the terms of this Contract, or, (2) any of the Consultant's negligent acts or omissions. The Consultant's obligation under this section shall not extend to any liability caused by the sole negligence of the City or its employees. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph.

In Witness Whereof, the parties have executed three (3) identical counterpart copies of this Agreement on the date and year first written above, each of which copies shall for all purposes be deemed an original hereof.

City of Tucson, a municipal corporation

By: _____
As Procurement Director and not personally

Architect: _____

By: _____

Title: _____

Approved as to form this _____ day

of _____ 200 _____

By: _____
As City Attorney, and not personally

CITY OF TUCSON DEPARTMENT OF PROCUREMENT



**DESIGN, CONSTRUCTION & SERVICES
CONTRACTING DIVISION**

**CONTRACT 090088
On-Call Professional Architectural Services**

EXHIBIT 4 - INSURANCE



City of Tucson

Business License

Business Name and Tucson Mailing Address:

SWAIM ASSOCIATES LTD AIA
7350 E SPEEDWAY BLVD 210
TUCSON AZ 85710-1366

License Number: 1020399

Type: Architectural Services

Issue Date: January 01, 2009

Expiration Date: December 31, 2009

Owner:

SWAIN ROBERT

This license / permit is non transferable and must be posted in a conspicuous place at the business location.

THE ISSUANCE OF THIS LICENSE / PERMIT SHALL NOT BE CONSTRUED AS PERMISSION TO OPERATE IN VIOLATION OF ANY LAW OR REGULATION.

FOLD HERE

CITY OF TUCSON, ARIZONA

FINANCE DEPARTMENT

TREASURY DIVISION - LICENSE

Expiration Date: December 31, 2009



Non-Transferable

1020399

MUST BE DISPLAYED IN A
CONSPICUOUS PLACE

Occupational License

For the payment of the license fee, the person or firm below is hereby licensed to conduct business in the City of Tucson.
Tax accruing to the City of Tucson shall be paid under provisions of Ch. 19, Tucson City Code. This license is subject to revocation for violation of Ch. 7 or Ch. 19 of the Tucson City Code

Issued To: SWAIM ASSOCIATES LTD AIA

Located At: 7350 E SPEEDWAY 210, TUCSON AZ
85710

Effective: January 01, 2009

Please refer to license number in all correspondence.

By

Finance Director

ACORD. CERTIFICATE OF LIABILITY INSURANCE		OP ID GE SWAIM-1	DATE (MM/DD/YYYY) 07/28/09
PRODUCER Stuckey Ins & Assoc Agencies 5343 N. 16th Street, Suite 110 Phoenix AZ 85016 Phone: 602-264-5533 Fax: 602-279-9336		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Swaim Associates, Ltd 7350 E Speedway Blvd #210 Tucson AZ 85710		INSURERS AFFORDING COVERAGE	
		INSURER A: Hartford Fire Ins Co	NAIC # 19682
		INSURER B: Hartford Insurance Co. of	37478
		INSURER C: Hudson Insurance	25054
		INSURER D:	
INSURER E:			

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY	59SBAEK5803	01/21/09	01/21/10	EACH OCCURRENCE	\$ 2000000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10000
		<input checked="" type="checkbox"/> Contractual Liab				PERSONAL & ADV INJURY	\$ 2000000
						GENERAL AGGREGATE	\$ 4000000
						PRODUCTS - COM/OP AGG	\$ 4000000
		GEN'L AGGREGATE LIMIT APPLIES PER:					
		<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
A	X	AUTOMOBILE LIABILITY	59SBAEK5803	01/21/09	01/21/10	COMBINED SINGLE LIMIT (Ea accident)	\$ 2000000
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		<input checked="" type="checkbox"/> HIRED AUTOS					
		<input checked="" type="checkbox"/> NON OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
							\$
		<input type="checkbox"/> DEDUCTIBLE					\$
		RETENTION \$					\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	59WECYG0489	01/01/09	01/01/10	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$ 500000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 500000
						E.L. DISEASE - POLICY LIMIT	\$ 500000
C		Professional Liab	AEE71706-03	01/01/09	01/01/10	Per Claim	4000000
						Aggregate	4000000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Professional Liability - Claims Made - Retroactive Date: 01/01/1961
RE: On-Call Professional Architectural Design Services/RFQ Contract No. 090088. The City of Tucson is an additional insured per written contract with respect to General Liability and Auto. \$20,000 deductible applies to professional liability.

CERTIFICATE HOLDER

City of Tucson Department of Procurement Dan Longanecker 255 W Alameda Tucson AZ 85726-7210	CITYT-2
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CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

Larry Stuckey

ACORD 25 (2001/08)

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PO Change Order

City of Tucson
255 W Alameda - P.O. Box 27210
Tucson, AZ 85726

Page 1 of 1
PO Date: 08/19/2009
Change Order Date: 08/01/2012

V E N D O R	Vendor ID: 0744710 Phone: (520) 326-3700 Fax: (520) 326-1148 Swaim Associates LTD 7350 E Speedway Ste #210 Tucson, AZ 85710	Change Order Number 3 Blanket PO Number 33503 ALL PACKING SLIPS, INVOICES, AND CORRESPONDENCE MUST REFERENCE THIS NUMBER.
	S H I P T O Dodie Frederickson 520.791.5111 x 323	

Requisition Number	Contract Number	FOB	Terms	Delivery Date		
	090088-04,			0 Days ARO		
Catalog: Architect Services - Architect Services						
Item	Description	Quantity	Unit Price	Amount	Sales Tax	Total
4	CONTRACT 090088-04: ON CALL ARCHITECTURAL SERVICES: MISCELLANEOUS PROJECTS : PER CONTRACT AMENDMENT NO 3 CONTRACT IS RENEWED FOR THE PERIOD OF AUGUST 17, 2012 THROUGH AUGUST 16, 2013.		0.00	0.00	0.00	0.00
Previous PO Total: \$0.00				New PO Total: \$0.00		

If this purchase order is associated to a contract, the contract's terms and conditions shall apply. Otherwise, by accepting this order, vendor agrees to all terms and conditions posted on http://www.tucsonprocurement.com/bidders_landc.aspx. Terms and conditions are incorporated by reference as through fully set forth herein. Terms and conditions are also available by calling (520) 791-4217 for a mailed copy.

(Rev. 4/27/2008) PO_CHG_S.rpt

DEL

Dan Longenecker

(520) 637 - 4125

Contract Officer

Phone

CONTRACT AMENDMENT

CITY OF TUCSON DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85728
(520) 837-4126
ISSUE DATE: July 28, 2012

CONTRACT NO.: 090088-04
CONTRACT AMENDMENT NO.: Three (3)
PAGE 1 OF 1
TS
CONTRACT OFFICER: Dan Longenecker

THIS CONTRACT IS AMENDED AS FOLLOWS:

Contract 090088-04

ON-CALL ARCHITECTURAL DESIGN SERVICES

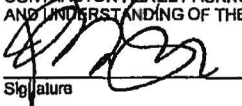
Amendment THREE (3)

ITEM ONE (1): RENEWAL

Pursuant to the contract, Section II: Time of Performance, Contract No 009088: On-Call Professional Architectural Services is hereby renewed for the period August 17, 2012 through August 16, 2013.

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF
AND UNDERSTANDING OF THE ABOVE AMENDMENT.

 7.28.12

Signature Date
Phil Swaim, AIA, President

Typed Name and Title
Swaim Associates, Ltd.

Company Name
7350 E. Speedway Blvd., Suite 210


Address
Tucson, AZ 85710

City State Zip
pswaim@swaimaia.com

Email Address

THE ABOVE REFERENCED CONTRACT AMENDMENT

IS HEREBY EXECUTED THIS 31 DAY
OF July, 2012 AT TUCSON, ARIZONA.



for Mark A. Nelhart C.P.M., CPPB, A.P.P., CPM
as Director of Procurement and not personally

**EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE DISTRICT
AND
SWAIM ASSOCIATES, LTD.**

[Scope of Work]



**CITY OF
TUCSON**
GENERAL SERVICES
DEPARTMENT

REQUEST FOR DESIGN FEE PROPOSAL

MARCH 18, 2013

Project: Rio Nuevo TCC Arena Renovations
A&E No.: 7128-RN

Please provide a Pre-Design fee proposal for the following project and scope of work. Design fee proposal to include rate and hours per task and Pre-Design schedule.

Site: Tucson Convention Center (TCC)
260 South Church Avenue
Tucson, AZ 85701

Project Description:

- Renovations to the existing Arena at the TCC.
- Initial scope of renovations identified by the Needs and Repair List – see page 2

Tasks:

1. Develop Design Standard for the TCC. Design Standard to include at a minimum paint colors for walls, ceilings and floors, flooring materials, fabrics and colors for floor and bowl seats, restroom accessories (toilet partitions, paper towel dispensers, trash receptacles, etc.), countertop materials, site furnishings, and signage and wayfinding graphics (colors, fonts, mounting, etc.).
2. Develop overall Project Schedule and identify phases of project.
3. Develop overall Project Budget.
4. Provide cost estimating for all items listed on Needs and Repair List.
5. Interview end-users and develop Programs to fully understand and define scope.
6. Develop concepts based on Needs and Repair List and defined scope.
7. Indicate positive and negative aspects of concepts for Project Team.
8. Make recommendations to Project Team regarding selection of concepts. Selected concepts will become phases of overall project.
9. Prepare feasibility study for recommended concepts / phases. Feasibility study to include costs, and design and construction schedule.
10. Coordinate all phases with TCC event schedule.
11. Include preliminary code analysis, if applicable (Building and Uniform Development Code).

Deliverable:

- Design Standard - deliverable to include five hard copies and one complete PDF. PDF to match contents of hard copies.
- Project Schedule.
- Project Budget.
- Identification of selected concepts and phases of project.

Additional Services:

- Develop 3-D model of TCC Arena.

ARCHITECTURE & ENGINEERING DIVISION
P.O. BOX 27210 • TUCSON, AZ 85726-7210
(520) 791-5111 • FAX (520) 791-5389 • TTY (520) 791-2639
www.cityoftucson.org



Needs and Repairs

March 15, 2013

Project: Rio Nuevo TCC Arena Renovations

A&E No.: 7128-RN

City of
Tucson
General Services

DRAFT

Note: Needs and repairs are grouped by specific areas throughout the building and in order of priority. As costs and phasing approaches are developed, needs and repairs may be reorganized based on TCC event schedule and additional phasing information.

	Description	Estimated Costs	Notes
--	-------------	-----------------	-------

ENTIRE FACILITY			
1.	Design Standards		
2.	Signage and wayfinding		Exterior and interior needed throughout facility.
3.	Security System		

ARENA			
1.	Bowl Seating		With cup holders
2.	Floor Chairs	\$600,000.00	Need 2000 chairs. Initial estimates: \$300.00 per chair
3.	Expansion Joint and Dasher Mounting Joints		
4.	Paint		
5.	Ceiling Tiles		
6.	Concrete Floors		
7.	Scoreboards		Total of two existing scoreboards.
8.	Sound System		
9.	Lighting Controls		
10.	Lights		
11.	Handrails		
12.	Half Curtain		
13.	Roof: Structural Upgrades		

ARCHITECTURE ENGINEERING DIVISION
4004 SOUTH PARK AVENUE • TUCSON, AZ 85714
(520) 791-5111 • WWW.CITYOFTUCSON.ORG

Rev. 03/21/13 EW

RESTROOMS			
1.	North Exhibit Hall / Arena: First Floor		New toilet partitions, mirrors, paint, accessories, lights, trash receptacles, paper towel dispensers, etc. Remove existing (in wall) trash receptacles and paper towel dispensers. Patch and repair walls. Replace with new accessible accessories. Replace existing fixture values with touchless flush values. Hard wire flush values, do not use batteries. Replace existing paper towel and soap dispensers with automatic paper towel and soap dispensers.
2.	Arena: Mezzanine Level		
3.	Arena: Ground Floor - East		
4.	Arena: Ground Floor - West		
5.	Arena: Concourse Level - East		
6.	Arena: Concourse Level - West		
7.	North Exhibit Hall: First Floor - By Admin Suite		
8.	South Exhibit Hall: Lower Level		
9.	North Exhibit Hall Ground Floor: Expansion		Full expansion and renovation of restrooms.

ARENA: FLOOR LEVEL CORRIDORS - EAST AND WEST			
1.	Lights		
2.	Paint		
3.	Concession Stands		Paint, new countertops and other cosmetic items.
4.	Phone Booth		New photo booth or replace with an ATM.

SITE			
1.	Rebuild original amphitheater at east entrance		Currently a grassy knoll.
2.	Existing fountains		Renovate and maintain
3.	Trip hazards		
4.	Site Furniture		Remove existing site furniture and replace with new furniture as needed.
5.	Existing rusty metal geckos and structure		Remove